



The basic acts of the 2021-2027 DG HOME funds: **AMIF**, **BMVI**, **ISF** and the CPR

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REGULATION (EU) 2021/1147 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 7 JULY 2021 ESTABLISHING THE ASYLUM, MIGRATION AND INTEGRATION FUND

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the ordinary legislative procedure⁽³⁾,

Whereas:

(1) In the context of the evolving migratory challenges characterised by the need to support strong reception, asylum, integration and migration systems in the Member States, to prevent and adequately handle situations of pressure in solidarity, and to replace irregular and unsafe arrivals with legal and safe pathways, investing in efficient and coordi-

nated migration management in the Union is key to realising the Union's objective of constituting an area of freedom, security and justice in accordance with Article 67(2) of the Treaty on the Functioning of the European Union (TFEU).

(2) The importance of a coordinated approach by the Union and the Member States is reflected in the European Agenda on Migration of 13 May 2015, which stressed the need for a consistent and clear common policy in order to restore confidence in the Union's ability to bring together European and national efforts to address migration and to work together in an effective way, in accordance with the principle of solidarity and fair sharing of responsibility between the Member States as set out in Article 80 TFEU; this was confirmed in the mid-term review of 27 September 2017 and the progress reports of 14 March 2018 and 16 May 2018.

(3) In its conclusions of 19 October 2017, the European Council reaffirmed the need to pursue a comprehensive, pragmatic and resolute approach to migration management that aims to ensure control of external borders and reduce irregular arrivals and the number of deaths at sea; that approach should be based on the flexible and coordinated use of all available Union and Member State instruments. The European Council further called for the ensuring of significantly enhanced returns through actions at both Union and Member State level, such as effective readmission agreements and arrangements.

(4) In order to support efforts to ensure a comprehensive approach to the management of migration that is grounded on mutual

⁽¹⁾ OJ C 62, 15.2.2019, p. 184.

⁽²⁾ OJ C 461, 21.12.2018, p. 147.

⁽³⁾ Position of the European Parliament of 13 March 2019 (OJ C 23, 21.1.2021, p. 356) and position of the Council at first reading of 14 June 2021 (OJ C 259, 2.7.2021, p. 1). Position of the European Parliament of 6 July 2021 (not yet published in the Official Journal).

trust, solidarity and fair sharing of responsibility among Member States and Union institutions, with the objective of ensuring a common sustainable Union policy on asylum and immigration, Member States should be supported by adequate financial resources in the form of an Asylum, Migration and Integration Fund (the 'Fund').

(5) All actions funded under the Fund, including those carried out in third countries, should be implemented in full compliance with the rights and principles enshrined in the Union *acquis* and the Charter of Fundamental Rights of the European Union (the 'Charter'), and should be in line with the international obligations of the Union and the Member States arising from the international instruments to which they are party, in particular by ensuring compliance with the principles of gender equality, non-discrimination and the best interests of the child.

(6) The best interests of the child should be a primary consideration in all actions or decisions concerning children in migration, including returns, taking full account of the right of the child to express his or her views.

(7) The Fund should build on the results achieved and investments made with the support of its predecessors: the European Refugee Fund established by Decision No 573/2007/EC of the European Parliament and of the Council⁽⁴⁾ for the period 2008-2013, the European Fund for the Integration of third-country nationals established

by Council Decision 2007/435/EC⁽⁵⁾ for the period 2007-2013, the European Return Fund established by Decision No 575/2007/EC of the European Parliament and of the Council⁽⁶⁾ for the period 2008-2013 and the Asylum, Migration and Integration Fund established by Regulation (EU) No 516/2014 of the European Parliament and of the Council⁽⁷⁾ for the period 2014-2020. It should at the same time take into account all relevant new developments.

(8) The Fund should support solidarity and fair sharing of responsibility between Member States and the efficient management of migration flows, inter alia, by promoting common measures in the area of asylum, including Member States' efforts in receiving persons in need of international protection through resettlement and humanitarian admission and the transfer between Member States of applicants for international protection or beneficiaries of international protection, by enhancing the protection of vulnerable asylum seekers such as children, by supporting integration strategies and by developing and strengthening legal migration policy, for example, through the provision of

⁽⁴⁾ Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' and repealing Council Decision 2004/904/EC (OJ L 144, 6.6.2007, p. 1).

⁽⁵⁾ Council Decision 2007/435/EC of 25 June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' (OJ L 168, 28.6.2007, p. 18).

⁽⁶⁾ Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme 'Solidarity and Management of Migration Flows' (OJ L 144, 6.6.2007, p. 45).

⁽⁷⁾ Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (OJ L 150, 20.5.2014, p. 168).

safe and legal avenues of entry to the Union, which should also help to ensure the Union's long-term competitiveness and the future of its social model and reduce incentives for irregular migration through a sustainable return and readmission policy.

(9) Given the internal nature of the Fund and that the Fund is the main funding instrument for asylum and migration at Union level, the Fund should primarily support actions serving internal Union policy on asylum and migration in line with the Fund's objectives. However, given that certain actions taken outside the Union contribute to the achievement of the Fund's objectives and, under certain circumstances, may bring Union added value, the Fund should support the strengthening of cooperation and partnership with third countries for the purpose of managing migration in order to reinforce avenues of legal migration and enhance effective, safe and dignified return and readmission, as well as to promote initial reintegration in third countries. Support provided under the Fund would be without prejudice to the current voluntary nature of resettlement and relocation of applicants for international protection and beneficiaries of international protection under the legal framework of the Common European Asylum System that applies at the time of adoption of this Regulation.

(10) In order to benefit from the expertise of relevant decentralised agencies, the Commission should ensure that their knowledge and experience is taken into account as regards the areas of their competence in the development of Member States' programmes. Furthermore, it should be possible for the Fund to complement the following activities supported by the European Asylum Support Office (EASO), established by Regulation (EU) No 439/2010 of the European

Parliament and of the Council⁽⁶⁾, with a view to facilitating and improving the functioning of the Common European Asylum System: strengthening practical cooperation, in particular information exchanges regarding asylum and good practices; promoting Union and international law and contributing to the uniform implementation of Union law on asylum on the basis of high standards for international protection procedures, for reception conditions and for the assessment of protection needs across the Union; enabling the sustainable and fair distribution of applications for international protection; facilitating convergence in the assessment of applications for international protection across the Union; supporting the resettlement efforts of the Member States; and providing operational and technical assistance to Member States for the management of their asylum and reception systems, in particular those whose systems are subject to disproportionate pressure.

(11) The Fund should support the efforts of the Union and the Member States to enhance the Member States' capacity to develop, monitor and evaluate their asylum policies in the light of their obligations under Union law.

(12) The Fund should support the Member States' and the Union's efforts to fully implement and further develop the Common European Asylum System, including its external dimension.

(13) Partnerships and cooperation with third countries are an essential component of Union policy for managing migration. The Fund should contribute to replacing unsafe

⁽⁶⁾ Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).

and irregular arrival with legal and safe arrival in the territory of the Member States of third-country nationals or stateless persons in need of international protection, expressing solidarity with countries in regions to which or within which a large number of persons in need of international protection have been displaced by helping to alleviate the pressure on those countries, and should effectively contribute to global resettlement initiatives with the Union and Member States speaking with one voice in international fora and with third countries. The Fund should provide support, in the form of financial incentives, to efforts made by Member States to provide international protection and a durable solution for refugees and displaced persons who have been admitted under resettlement or humanitarian admission programmes.

(14) Considering the migration flows to the Union and the importance of ensuring integration and inclusion for persons coming to Europe for local communities and for the long-term well-being of our societies and the stability of our economies, it is crucial to support Member States' policies for the integration of legally-staying third-country nationals, including in the priority areas identified in the Action Plan on Integration and Inclusion 2021-2027. The Fund should support integration measures that are tailored to the needs of third-country nationals, as well as horizontal measures aimed at building Member States' capacity to develop integration strategies, to strengthen exchange and cooperation, and to promote contact, constructive dialogue and acceptance between third-country nationals and the receiving society.

(15) In order to increase efficiency, to achieve the greatest Union added value and to ensure the consistency of the Union's response in terms of fostering the integration of third-country nationals, actions financed under

the Fund should be consistent with and complementary to actions financed under other Union instruments, in particular external instruments, the European Social Fund Plus (ESF+), established by Regulation (EU) 2021/1057 of the European Parliament and of the Council⁽⁹⁾, and the European Regional Development Fund (ERDF), established by Regulation (EU) 2021/1058 of the European Parliament and of the Council⁽¹⁰⁾. The Fund should support measures tailored to the needs of third-country nationals that are generally implemented in the early stages of integration, as well as horizontal measures supporting Member States' capacities in the field of integration, whereas interventions for third-country nationals with a longer-term impact should be financed under the ESF+ and ERDF. In this context, the authorities of the Member States responsible for the implementation of the Fund should be required to cooperate and coordinate with the authorities identified by Member States for the purpose of the management of the interventions of the ESF+ and the ERDF and, wherever necessary, to cooperate and coordinate with their managing authorities and with the managing authorities of other Union funds contributing to the integration of third-country nationals.

(16) The scope of the integration measures should also cover beneficiaries of international protection in order to ensure a comprehensive approach to integration, taking into account the specificities of that target group. Where integration measures are com-

⁽⁹⁾ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (OJ L 231, 30.6.2021, p. 21).

⁽¹⁰⁾ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60).

bined with reception, actions should, where appropriate, also allow asylum seekers to be included.

(17) The implementation of the Fund in the area of integration should be consistent with the Union's common basic principles on integration, as specified in the Action Plan on Integration and Inclusion 2021-2027.

(18) It should be possible for those Member States that so wish to provide in their programmes for integration measures to include immediate relatives of third-country nationals, thus supporting family unity, to the extent that doing so is necessary for the effective implementation of such measures. The term 'immediate relative' should be understood as meaning spouses, partners and any person having direct family links in the descending or ascending line with the third-country national targeted by the integration measure and who would not otherwise be covered by the scope of the Fund.

(19) Considering the crucial role played by Member States' authorities and civil society organisations in the field of integration, and in order to facilitate the access of those entities to funding at Union level, the Fund should facilitate the implementation of actions in the field of integration by national, regional and local authorities and civil society organisations, including through the use of the thematic facility and through a higher co-financing rate for those actions. In that regard, a minimum of 5 % of the initial allocation to the thematic facility should target the implementation of integration measures by local and regional authorities.

(20) In addition to the co-financing rate provided by the Fund for projects, Member States are encouraged to provide funding from the budgets of their public authorities where such funding is essential for a project to be

carried out, particularly when the project is implemented by a civil society organisation.

(21) Considering the long-term economic and demographic challenges faced by the Union and the increasingly globalised nature of migration, it is crucial to establish well-functioning channels for legal migration to the Union in order to maintain the Union as an attractive destination for regular migration, in accordance with Member States' economic and social needs, and to ensure the sustainability of welfare systems and growth of the Union economy, while protecting migrant workers from labour exploitation.

(22) The Fund should support Member States in setting up strategies and strengthening and developing policies for legal migration, and in enhancing their capacity to develop, implement, monitor and evaluate immigration and integration strategies, policies and measures for legally staying third-country nationals, in particular Union legal instruments for legal migration. The Fund should also support the exchange of information, best practices and cooperation between different administrative departments and levels of government, and between Member States.

(23) An efficient and dignified return policy is an integral part of the comprehensive migration approach pursued by the Union and its Member States. The Fund should support and encourage efforts by Member States with a view to the effective implementation and further development of common standards on return, in particular as set out in Directive 2008/115/EC of the European Parliament and of the Council⁽¹¹⁾, with an emphasis on

⁽¹¹⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

voluntary returns, and of an integrated and coordinated approach to return management. For sustainable return policies, the Fund should equally support related measures in third countries, such as measures to facilitate and guarantee safe and dignified return and readmission and sustainable reintegration of returnees, including through the provision of cash or in-kind support.

(24) Member States should give preference to voluntary return and should ensure effective, safe and dignified return. In order to promote voluntary return, Member States should envisage incentives such as preferential treatment in the form of enhanced return assistance and initial reintegration support. That kind of voluntary return is in the interest of both returnees and authorities in terms of its cost-effectiveness.

(25) While voluntary return should take priority over forced return, they are nevertheless interlinked, with a mutually reinforcing effect, and Member States should therefore be encouraged to reinforce the complementarities between those two forms of return. The possibility of removals is an important element that contributes to the integrity of the asylum and legal migration systems. The Fund should therefore support actions by Member States to facilitate and carry out removals in accordance with standards laid down in Union law, where applicable, and with full respect for the fundamental rights and dignity of returnees.

(26) Specific support measures for returnees, with particular attention to their humanitarian and protection needs in the Member States and in the countries of return, can improve conditions of return and enhance the reintegration of returnees. Particular attention should be paid to vulnerable persons.

(27) Effective readmission of illegally staying third-country nationals by third countries

is an integral component of the Union return policy and a central tool for the efficient management of migration flows, as it facilitates the swift return of irregular migrants. Readmission cooperation is an important element in the framework of dialogue and cooperation with third countries of origin and the transit of irregular migrants, and its implementation in third countries should be supported in the interests of effective return policies at national and Union level.

(28) In addition to supporting the return of persons as provided for in this Regulation, the Fund should also support other measures to counter irregular migration and the trafficking of migrants and to encourage compliance with legal migration rules, thereby safeguarding the integrity of Member States' immigration systems.

(29) The employment of irregular migrants undermines the development of a labour mobility policy built on legal migration schemes and endangers the rights of migrant workers, making them vulnerable to rights violations and abuse. The Fund should therefore support Member States, either directly or indirectly, in their implementation of Directive 2009/52/EC of the European Parliament and of the Council⁽¹²⁾, which prohibits the employment of illegally staying third-country nationals and provides for sanctions against employers who infringe that prohibition.

(30) The Fund should support Member States, either directly or indirectly, in their implementation of Directive 2011/36/EU of the

⁽¹²⁾ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.6.2009, p. 24).

European Parliament and of the Council⁽¹³⁾, which sets out provisions on assistance, support and protection for victims of trafficking in human beings. Those measures, including measures for the early identification of victims of trafficking in human beings and their referral to specialised services, should take into account the gender-specific nature of trafficking in human beings and child victims.

(31) The Fund should complement the activities undertaken in the field of return by the European Border and Coast Guard Agency, governed by Regulation (EU) 2019/1896 of the European Parliament and of the Council⁽¹⁴⁾, without providing an additional funding stream to that Agency.

(32) In keeping with the principle of efficiency, synergies and consistency should be sought with other Union funds, and overlap between actions should be avoided.

(33) In order to optimise the added value from investments funded wholly or in part through the Union budget, synergies should be sought, in particular, between the Fund and other Union programmes, including those under shared management. To maximise those synergies, key enabling mechanisms should be ensured, including cumulative funding for an action from the Fund and from another Union programme. Such cumulative funding should not exceed the total eligible costs of that action. For that purpose, this Regulation should set out appropriate rules, in particular

on the possibility of declaring the same cost or expenditure under both the Fund and another Union programme on a pro-rata basis.

(34) Actions in and in relation to third countries supported under the Fund should be carried out in synergy and coherence with other activities outside the Union supported through the Union's external financing instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of external Union policy, with the principle of policy coherence for development and consistency with the strategic programming documents for the country or region in question, and with the Union's international commitments. In relation to the external dimension, the Fund should focus on supporting actions that are not development-oriented and that serve the interest of internal Union policies and should be consistent with activities undertaken within the Union. The Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management in areas of interest to the Union's migration policy.

(35) Funding from the Union budget should concentrate on actions for which Union intervention can bring added value compared to actions by Member States alone. Financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in the areas of asylum and migration in accordance with Article 80 TFEU.

⁽¹³⁾ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

⁽¹⁴⁾ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

(36) When promoting actions supported by the Fund, the recipients of Union funding should provide information in the language or languages of the target audience. To ensure the visibility of Union funding, recipients of that funding should refer to its origin when communicating on the action. To that end, recipients should ensure that all communi-

cations to the media and the public display the Union emblem and explicitly mention the Union's financial support.

(37) It should be possible for the Commission to use financial resources under the Fund to promote best practices and the exchange of information as regards the implementation of the Fund.

(38) The Commission should publish information on the support provided from the thematic facility under direct or indirect management in a timely manner and should update such information where appropriate. It should be possible to sort the data by specific objective, name of beneficiary, the amount legally committed and the nature and purpose of the measure.

(39) A Member State may be deemed not to be compliant with the relevant Union *acquis*, including as regards the use of operating support under the Fund, if it has failed to fulfil its obligations under the Treaties in the area of asylum and return, if there is a clear risk of a serious breach by that Member State of Union values when implementing the *acquis* on asylum and return, or if an evaluation report under the Schengen evaluation and monitoring mechanism laid down in Council Regulation (EU) No 1053/2013⁽¹⁵⁾ has identified deficiencies in the relevant area.

(40) The Fund should ensure that there is a fair and transparent distribution of resources to meet the objectives laid down in this

Regulation. In order to meet transparency requirements, the Commission should publish information on the annual and multiannual work programmes of the thematic facility. In line with Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽¹⁶⁾, each Member State should ensure that within six months of the approval of its programme, there is a website in place on which information on its programme is available, covering the programme's objectives, activities, available funding opportunities and achievements.

(41) This Regulation should establish the initial amounts for Member States' programmes which consist of a fixed amount as set out in Annex I and an amount calculated on the basis of the criteria laid down in that Annex and which reflect the needs and pressure experienced by different Member States in the areas of asylum, migration, integration and return. In view of the special needs of those Member States which have experienced the highest number of asylum applications per capita in 2018 and 2019, it is appropriate to increase the fixed amounts for Cyprus, Malta and Greece.

(42) The initial amounts for Member States' programmes should form the basis for Member States' long-term investments. To take account of changes in migration flows, to address needs in respect of the management of asylum and reception systems and in respect of the integration of legally staying

⁽¹⁵⁾ Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

⁽¹⁶⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

third-country nationals, and to develop legal migration and counter irregular migration through effective, safe and dignified return, an additional amount should be allocated to the Member States at the mid-term of the programming period taking into account objective criteria. That amount should be based on statistical data, in accordance with Annex I, to reflect the changes in the baseline situation of Member States.

(43) To contribute to the achievement of the policy objective of the Fund, Member States should ensure that their programmes include actions addressing the specific objectives of the Fund, that the priorities chosen are in accordance with the implementation measures set out in Annex II, and that the allocation of resources between the objectives ensures that the overall policy objective can be met. To that end, Member States should, in principle, ensure a minimum allocation for strengthening and developing the Common European Asylum System, for strengthening and developing legal migration to the Member States in accordance with their economic and social needs, and for promoting and contributing to the effective integration and social inclusion of third-country nationals.

(44) As challenges in the area of migration are constantly evolving, there is a need to adapt the allocation of funding to the changes in migration flows. To respond to pressing needs and changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding should be periodically allocated, via a thematic facility, to specific actions, to Union actions, to actions of local and regional authorities, to emergency assistance, to resettlement and humanitarian admission, and to additional support for Member States contributing to solidarity and responsibility efforts. The thematic facility offers flexibility in the management of the

Fund and could also be implemented through Member States' programmes.

(45) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a greater Union contribution.

(46) Part of the available resources under the Fund could be allocated to Member States' programmes for the implementation of specific actions, in addition to the initial allocation. Those specific actions should be identified at Union level and should concern actions which require cooperation or actions necessary to address developments in the Union which require additional funding to be made available to one or more Member States.

(47) The Fund should contribute to supporting operating costs that relate to the specific objectives of the Fund in order to enable Member States to maintain capabilities which are crucial for tasks and services which constitute a public service for the Union as a whole. Such support should consist of the full reimbursement of specific costs that relate to the objectives of the Fund and should form an integral part of the Member States' programmes.

(48) To complement the implementation of the policy objective of the Fund at national level through Member States' programmes, the Fund should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the Fund in relation to policy analysis and innovation, transnational mutual learning and partnerships, and the testing of new initiatives and actions across the Union.

(49) In order to strengthen the Union's capacity to immediately address exceptional migratory situations in one or more Member States characterised by a large or disproportionate

influx of third-country nationals, which place significant and urgent demands on Member States' reception and detention facilities and on their systems and procedures for asylum and migration management, or to immediately address exceptional migratory situations in third countries due to political developments or conflicts, it should be possible to provide emergency assistance in accordance with the framework set out in this Regulation.

(50) This Regulation should ensure the continuation of the European Migration Network set up by Council Decision 2008/381/EC⁽¹⁷⁾ and should provide financial assistance in accordance with its objectives and tasks.

(51) The policy objective of the Fund will also be addressed through financial instruments and budgetary guarantees under the policy windows of the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council⁽¹⁸⁾. 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 clear Union added value.

(52) Blending operations have a voluntary nature and are operations supported by the Union budget that combine non-repayable forms of support, repayable forms of support, or both, from the Union budget with repayable forms of support from promo-

tional, development or other public finance institutions, as well as support from commercial finance institutions and investors.

(53) This Regulation lays down a financial envelope for the entire duration of the Fund which is to constitute the prime reference amount, within the meaning of point 18 of the Inter-institutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources⁽¹⁹⁾ for the European Parliament and the Council during the annual budgetary procedure.

(54) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽²⁰⁾ (the 'Financial Regulation') applies to the Fund. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.

(55) For the purpose of implementation of actions under shared management, the Fund should form part of a coherent framework that consists of this Regulation, the Financial Regulation and Regulation (EU) 2021/1060.

⁽¹⁹⁾ OJ L 433 I, 22.12.2020, p. 28.

⁽²⁰⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽¹⁷⁾ Council Decision 2008/381/EC of 14 May 2008 establishing a European Migration Network (OJ L 131, 21.5.2008, p. 7).

⁽¹⁸⁾ Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

(56) Regulation (EU) 2021/1060 establishes the framework for action by ERDF, ESF+, the Cohesion Fund, the European Maritime, Fisheries and Aquaculture Fund, the Just Transition Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, as part of the Integrated Border Management Fund, and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. Additionally, it is necessary to specify the objectives of the Fund in this Regulation, and to lay down specific provisions concerning the actions that may be financed under the Fund.

(57) A pre-financing scheme for the Fund is set out in Regulation (EU) 2021/1060, and a specific pre-financing rate is set in this Regulation. In addition, in order to ensure that it is possible to react promptly to emergency situations, it is appropriate to set a specific pre-financing rate for emergency assistance. The pre-financing scheme should ensure that Member States have the means to provide support to beneficiaries as of the start of the implementation of their programmes.

(58) The types of financing and 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, administrative burdens and the risk of non-compliance. When making that choice, 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, should be considered.

(59) In order to make the most use of the single audit principle, it is appropriate to set specific rules on the control and audit of projects in

which international organisations, the internal control systems of which have been positively assessed by the Commission, are the beneficiaries. For such projects, managing authorities should have the possibility of limiting their management verifications, provided that the beneficiary delivers all necessary data and information on the progress of the project and on the eligibility of underlying expenditure in a timely manner. In addition, where a project implemented by such an international organisation is part of an audit sample, it should be possible for the audit authority to carry out its work in line with the principles of the International Standard on Related Services (ISRS) 4400, 'Engagements to Perform Agreed-upon Procedures Regarding Financial Information'.

(60) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽²¹⁾ and Council Regulations (EC, Euratom) No 2988/95⁽²²⁾, (Euratom, EC) No 2185/96⁽²³⁾ and (EU) 2017/1939⁽²⁴⁾, the financial interests of the Union are to be protected by means of proportionate measures, including meas-

⁽²¹⁾ 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).

⁽²²⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽²³⁾ 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).

⁽²⁴⁾ 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).

ures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to 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.

The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute 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⁽²⁵⁾. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should cooperate fully and provide all necessary assistance to Union institutions, bodies, offices and agencies in relation to the protection of the financial interests of the Union.

(61) A third country which has concluded an agreement with the Union on the criteria

and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or lodged in that third country should be allowed to participate in the Fund provided certain conditions are fulfilled.

(62) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.

(63) Pursuant to Council Decision 2013/755/EU⁽²⁶⁾, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.

(64) Pursuant to Article 349 TFEU and in line with the communication of the Commission of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions', endorsed by the Council in its conclusions of 12 April 2018, the relevant Member States should ensure that their national strategies and programmes address the specific challenges the outermost regions face in managing migration. The Fund should support those Member States with adequate

⁽²⁵⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁽²⁶⁾ 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).

resources to help those regions manage migration sustainably and handle possible situations of pressure.

(65) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽²⁷⁾, the Fund should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Fund on the ground. In order to measure the achievements of the Fund, indicators and related targets should be established in relation to each specific objective of the Fund. Those indicators should include qualitative and quantitative indicators.

(66) Through indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Fund in accordance with the relevant provisions of Regulation (EU) 2021/1060 and this Regulation. Starting from 2023, Member States should submit to the Commission annual performance reports covering the latest accounting year. Those reports should contain information on the progress made in the implementation of Member States' programmes. The Member States should also submit summaries of those reports to the Commission. The Commission should translate those summaries into all official languages of the Union and make them publicly available on its website, together with the links to the Member States' websites referred to in Regulation (EU) 2021/1060.

(67) Reflecting the importance of tackling climate change in accordance with the Union's

commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change⁽²⁸⁾, and the commitment to the United Nations' Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of a 30 % target of all multi-annual financial framework expenditure being spent on mainstreaming climate objectives and to working towards the ambition of 7,5 % of the budget reflecting biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while considering the existing overlaps between climate and biodiversity goals. The Fund should support activities that respect the climate and environmental standards and priorities of the Union and would do no significant harm to the environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council⁽²⁹⁾.

(68) Regulation (EU) No 514/2014 of the European Parliament and of the Council⁽³⁰⁾ and any act applicable to the 2014–2020 programming period should continue to apply to programmes and projects supported under the Fund during the 2014–2020 programming period. Since the implementation period of Regulation (EU) No 514/2014 overlaps with the programming period covered by this Regulation, and in order to ensure continuity in the implementation of certain projects

⁽²⁸⁾ OJ L 282, 19.10.2016, p. 4.

⁽²⁹⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁽³⁰⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

⁽²⁷⁾ OJ L 123, 12.5.2016, p. 1.

approved by that Regulation, provisions on the phasing of projects should be laid down. Each individual phase of the project should be implemented in accordance with the rules of the programming period under which it receives funding.

(69) In order to supplement and amend non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the list of actions eligible for support under Annex III; the list of actions eligible for higher co-financing rates under Annex IV; operating support under Annex VII and the further development of the monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(70) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽³¹⁾. The examination

procedure should be used for the adoption of implementing acts that lay down common obligations on Member States, in particular obligations concerning the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the detailed arrangements for the provision of information to the Commission in the framework of programming and reporting, given their purely technical nature. The Commission should adopt immediately applicable implementing acts relating to the adoption of decisions to award emergency assistance provided for by this Regulation where, in duly justified cases relating to the nature and purpose of such assistance, imperative grounds of urgency so require.

(71) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(72) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(73) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

⁽³¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(74) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible for Union financing except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the Union's interests, it should be possible, for a limited period of time at the beginning of the 2021-2027 multiannual financial framework, that costs incurred in respect of actions supported under this Regulation under direct management and which have already begun, be considered eligible for Union financing as of 1 January 2021, even if those costs were

incurred before the grant application or the request for assistance was submitted.

(75) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) 2020/2093⁽³²⁾.

(76) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the 2021-2027 multiannual financial framework, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

⁽³²⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 SUBJECT MATTER

This Regulation establishes the Asylum, Migration and Integration Fund (the 'Fund') for the period from 1 January 2021 to 31 December 2027.

This Regulation lays down the objectives of the Fund, the budget for the period from 1 January 2021 to 31 December 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 apply:

(1) 'applicant for international protection' means an applicant as defined in point (c) of Article 2 of Directive 2013/32/EU of the European Parliament and of the Council⁽³³⁾;

(2) 'beneficiary of international protection' means a beneficiary of international protection as defined in point (b) of Article 2 of Directive 2011/95/EU of the European Parliament and of the Council⁽³⁴⁾;

(3) 'blending operation' means actions supported by the Union budget, including within

blending facilities within the meaning of point (6) of Article 2 of the Financial Regulation;

(4) 'family member' means any third-country national defined as a family member under the Union law relevant to the policy area of action supported under the Fund;

(5) 'humanitarian admission' means the admission following, where requested by a Member State, a referral from the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees ('UNHCR'), or another relevant international body, of third-country nationals or stateless persons from a third country to which they have been forcibly displaced to the territory of the Member States, and who are granted international protection or a humanitarian status under national law that provides for rights and obligations equivalent to those of Articles 20 to 34 of Directive 2011/95/EU for beneficiaries of subsidiary protection;

(6) 'operating support' means a part of a Member State's allocation which may be used as support to the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union;

(7) 'removal' means removal as defined in point (5) of Article 3 of Directive 2008/115/EC;

(8) 'resettlement' means the admission following a referral from the UNHCR of third-country nationals or stateless persons from a third country to which they have been displaced, to the territory of the Member States, and who are granted international protection and have access to a durable solution in accordance with Union and national law;

⁽³³⁾ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

⁽³⁴⁾ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ L 337, 20.12.2011, p. 9).

(9) ‘return’ means return as defined in point (3) of Article 3 of Directive 2008/115/EC;

(10) ‘specific actions’ means transnational or national projects that bring Union added value in line with the objectives of the Fund for which one, several or all Member States may receive an additional allocation to their programmes;

(11) ‘third-country national’ means any person, including a stateless person or a person with undetermined nationality, who is not a citizen of the Union as defined in Article 20(1) TFEU;

(12) ‘unaccompanied minor’ means an unaccompanied minor as defined in point (l) of Article 2 of Directive 2011/95/EU;

(13) ‘Union actions’ means transnational projects or projects of particular interest to the Union implemented in accordance with the objectives of the Fund;

(14) ‘vulnerable person’ means any person defined as a vulnerable person under the Union law relevant to the policy area of action supported under the Fund.

ARTICLE 3 OBJECTIVES OF THE FUND

1. The policy objective of the Fund is to contribute to the efficient management of migration flows and to the implementation, strengthening and development of the common policy on asylum and the common immigration policy, in accordance with the relevant Union *acquis* and fully respecting the international obligations of the Union and the Member States arising from the international instruments to which they are party.

2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:

(a) strengthening and developing all aspects of the Common European Asylum System, including its external dimension;

(b) strengthening and developing legal migration to the Member States in accordance with their economic and social needs, and promoting and contributing to the effective integration and social inclusion of third-country nationals;

(c) contributing to countering irregular migration, enhancing effective, safe and dignified return and readmission, and promoting and contributing to effective initial reintegration in third countries;

(d) enhancing solidarity and fair sharing of responsibility between the Member States, in particular as regards those most affected by migration and asylum challenges, including through practical cooperation.

3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.

ARTICLE 4 PARTNERSHIP

For the purposes of the Fund, partnerships shall, pursuant to Article 8(1) of Regulation (EU) 2021/1060, include regional, local, urban and other public authorities or associations representing such authorities, relevant international organisations, non-governmental organisations, such as refugee organisations and migrant-led organisations, as well as national human rights institutions and equality bodies, and economic and social partners.

ARTICLE 5 SCOPE OF SUPPORT

1. Within its objectives and in accordance with the implementation measures listed in

Annex II, the Fund shall, in particular, support the actions listed in Annex III.

To address unforeseen or new circumstances, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the list of actions in Annex III in order to add new actions.

2. To achieve its objectives, the Fund may support, in line with the Union priorities, actions as referred to in Annex III in and in relation to third countries, where appropriate, in accordance with Article 7 or 24, as applicable.

3. As regards actions in and in relation to third countries, the Commission and the Member States, together with the European External Action Service, shall, in accordance with their respective responsibilities, ensure coordination with relevant Union policies, strategies and instruments. They shall, in particular, ensure that actions in and in relation to third countries:

(a) are carried out in synergy and in coherence with other actions outside the Union supported through other Union instruments;

(b) are coherent with external Union policy, respect the principle of policy coherence for development and are consistent with the strategic programming documents for the region or country in question;

(c) focus on measures that are not development-oriented; and

(d) serve the interests of internal Union policies and are consistent with activities undertaken within the Union.

4. The objectives of the Fund shall support actions focusing on one or more target groups within the scope of Articles 78 and 79 TFEU.

ARTICLE 6 GENDER EQUALITY AND NON-DISCRIMINATION

1. The Member States and the Commission shall ensure the integration of the gender perspective and that gender equality and gender mainstreaming are taken into account and promoted throughout the preparation, implementation, monitoring, reporting and evaluation of programmes and projects supported under the Fund.

2. The Member States and the Commission shall take appropriate steps to exclude any form of discrimination prohibited by Article 21 of the Charter of Fundamental Rights of the European Union (the 'Charter') during the preparation, implementation, monitoring, reporting and evaluation of programmes and projects supported under the Fund.

ARTICLE 7 THIRD COUNTRIES ASSOCIATED TO THE FUND

1. The Fund shall be open to third countries that fulfil the criteria listed in paragraph 2, in accordance with the conditions laid down in a specific agreement covering the participation of the third country in the Fund.

2. In order for a third country to be eligible to be associated to the Fund as referred to in paragraph 1, it shall have concluded with the Union an agreement on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or lodged in that third country.

3. The specific agreement covering the participation of the third country in the Fund, shall at a minimum:

(a) enable cooperation with the Member States and the Union institutions, bodies, offices and agencies in the area of asy-

lum, migration and return in the spirit of the principle of solidarity and fair sharing of responsibility;

(b) be underpinned, throughout the duration of the Fund, by the principles of *non-refoulement*, democracy, the rule of law and respect for human rights;

(c) ensure a fair balance as regards the contributions made by, and the benefits received by, the third country participating in the Fund;

(d) lay down the conditions of participation in the Fund, including the calculation of financial contributions to the Fund, and its administrative costs;

(e) not confer on the third country any decision-making power in respect of the Fund;

(f) guarantee the rights of the Union to ensure sound financial management and to protect its financial interests;

(g) provide that the third country grants the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors in accordance with Article 8.

The contributions referred to in point (d) of the first subparagraph shall constitute assigned revenues in accordance with Article 21(5) of the Financial Regulation.

ARTICLE 8 PROTECTION OF THE FINANCIAL INTERESTS OF THE UNION

Where a third country participates in the Fund by means of a decision adopted pursuant to an international agreement or on the basis of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the Court of Auditors to comprehensively exercise their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, as provided for in Regulation (EU, Euratom) No 883/2013.

CHAPTER II FINANCIAL AND IMPLEMENTATION FRAMEWORK

SECTION 1: Common provisions

ARTICLE 9 GENERAL PRINCIPLES

1. Support provided under the Fund shall complement national, regional and local intervention, and shall focus on bringing Union added value to the achievement of the objectives of the Fund.

2. The Commission and the Member States shall ensure that the support provided under the Fund and by the Member States is consistent with the relevant actions, policies and

priorities of the Union, and is complementary to support provided under other Union instruments, in particular the external instruments, the European Social Fund Plus (ESF+) and the European Regional Development Fund (ERDF).

3. The Fund shall be implemented under direct, shared or indirect management in accordance with points (a), (b) and (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

ARTICLE 10 BUDGET

1. The financial envelope for the implementation of the Fund for the period from 1 January 2021 to 31 December 2027 shall be EUR 9882000000 in current prices.

2. The financial envelope shall be used as follows:

(a) EUR 6270000000 shall be allocated to the Member States' programmes;

(b) EUR 3612000000 shall be allocated to the thematic facility referred to in Article 11.

3. Up to 0,42 % of the financial envelope shall be allocated to technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/1060.

4. In accordance with Article 26 of Regulation (EU) 2021/1060, up to 5 % of the initial allocation to a Member State from any of the funds under that Regulation under shared management may be transferred to the Fund under direct or indirect management at the request of that Member State. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

ARTICLE 11 GENERAL PROVISIONS ON THE IMPLEMENTATION OF THE THEMATIC FACILITY

1. The amount referred to in point (b) of Article 10(2) shall be allocated flexibly through a thematic facility using shared, direct or indirect management as set out in work programmes. Given the internal nature of the

Fund, the thematic facility shall primarily serve internal Union policy in line with the specific objectives set out in Article 3(2).

Funding from the thematic facility shall be used for its components, which are as follows:

(a) specific actions;

(b) Union actions;

(c) emergency assistance as referred to in Article 31;

(d) resettlement and humanitarian admission;

(e) support to Member States for the transfer of applicants for international protection or of beneficiaries of international protection as a part of solidarity efforts as referred to in Article 20; and

(f) the European Migration Network as referred to in Article 26.

Technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/1060, shall also receive support from the amount referred to in point (b) of Article 10(2) of this Regulation.

2. Funding from the thematic facility shall address priorities with a high Union added value or be used to respond to urgent needs in line with agreed Union priorities as reflected in Annex II.

The funding referred to in the first subparagraph of this paragraph, with the exception of funding used for emergency assistance in accordance with points (a) and (b) of the first subparagraph of Article 31(1), shall only support the actions listed in Annex III, including resettlement and humanitarian admission in accordance with Article 19 as part of the external dimension of the Union's migration policy.

3. The Commission shall engage with civil society organisations and relevant networks, in particular with a view to preparing and evaluating the work programmes for Union actions financed under the Fund.
4. A minimum of 20 % of the resources from the initial allocation to the thematic facility shall be allocated to the specific objective set out in point (d) of Article 3(2).
5. When funding from the thematic facility is provided under direct or indirect management to Member States, the Commission shall ensure that projects affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of those projects are not selected.
6. For the purposes of Article 23 and Article 24(2) of Regulation (EU) 2021/1060, where funding from the thematic facility is implemented under shared management, the Member State concerned shall ensure that, and the Commission shall assess whether, the envisaged actions are not affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of the actions.
7. The Commission shall establish the overall amount to be made available for the thematic facility under the annual appropriations of the Union budget.
8. The Commission shall, by means of implementing acts, adopt financing decisions as referred to in Article 110 of the Financial Regulation for the thematic facility identifying objectives and actions to be supported and specifying the amounts for each of the components referred to in the second subparagraph of paragraph 1 of this Article. Financing decisions shall set out, where applicable, the overall amount reserved for blending operations. Financing decisions may be annual or multiannual and may cover one or more components of the thematic facility referred to in the second subparagraph of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 38(3) of this Regulation.
9. The thematic facility shall, in particular, support actions falling under implementation measure 2(d) of Annex II that are implemented by national, regional and local authorities or civil society organisations. In that regard, a minimum of 5 % of the initial allocation to the thematic facility shall target the implementation of integration measures by local and regional authorities.
10. The Commission shall ensure that the distribution of resources among the specific objectives set out in Article 3(2) is fair and transparent. The Commission shall report on the use and the distribution of the thematic facility between the components referred to in the second subparagraph of paragraph 1 of this Article, including on the support provided to actions in or in relation to third countries under the Union actions.
11. Following the adoption of a financing decision as referred to in paragraph 8, the Commission may amend the Member States' programmes accordingly.

SECTION 2: Support and implementation under shared management

ARTICLE 12 SCOPE

1. This section applies to the amount referred to in point (a) of Article 10(2) and additional resources to be implemented under shared management in accordance with the financing decision for the thematic facility referred to in Article 11.

2. Support under this section shall be implemented under shared management in accordance with Article 63 of the Financial Regulation and Regulation (EU) 2021/1060.

ARTICLE 13 BUDGETARY RESOURCES

1. The amount referred to in point (a) of Article 10(2) shall be allocated to Member States' programmes indicatively as follows:

(a) EUR 5225000000 in accordance with Annex I;

(b) EUR 1045000000 for the adjustment of the allocations to the Member States' programmes referred to in Article 17(1).

2. Where the amount referred to in point (b) of paragraph 1 of this Article is not fully allocated, the remaining amount may be added to the amount referred to in point (b) of Article 10(2).

ARTICLE 14 PRE-FINANCING

1. In accordance with Article 90(4) of Regulation (EU) 2021/1060, the pre-financing for the Fund shall be paid in yearly instalments before 1 July of each year, subject to the availability of funds, as follows:

- (a) 2021: 4 %;
- (b) 2022: 3 %;

- (c) 2023: 5 %;
- (d) 2024: 5 %;
- (e) 2025: 5 %;
- (f) 2026: 5 %.

2. Where a Member State's programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of its adoption.

ARTICLE 15 CO-FINANCING RATES

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure for a project.

2. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for projects implemented under specific actions.

3. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for actions listed in Annex IV.

4. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for operating support.

5. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for emergency assistance as referred to in Article 31.

6. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for technical assistance at the initiative of Member States within the limits set out in point (b)(vi) of Article 36(5) of the Regulation (EU) 2021/1060.

7. The Commission decision approving a Member State's programme shall set the co-financing rate and the maximum amount of

support from the Fund for the types of action covered by the contribution referred to in paragraphs 1 to 6.

8. The Commission decision approving a Member State's programme shall set out for each type of action whether the co-financing rate is applied in respect of:

(a) the total contribution, including the public and private contributions; or

(b) the public contribution only.

ARTICLE 16 MEMBER STATES' PROGRAMMES

1 Each Member State shall ensure that the priorities addressed in its programme are consistent with and respond to Union priorities and challenges in the area of asylum and migration management and are fully in accordance with the relevant Union *acquis* and agreed Union priorities, while fully respecting the international obligations of the Union and the Member States arising from the international instruments to which they are party. In defining the priorities of their programmes Member States shall ensure that the implementation measures listed in Annex II are adequately addressed in their programmes.

Given the internal nature of the Fund, Member States' programmes shall primarily serve internal Union policy in line with the specific objectives set out in Article 3(2) of this Regulation.

The Commission shall assess the Member States' programmes in accordance with Article 23 of Regulation (EU) 2021/1060.

2. Within the resources allocated in Article 13(1), and without prejudice to paragraph 3 of this Article, each Member State shall allocate within its programme:

(a) a minimum of 15 % of its allocated resources to the specific objective set out in point (a) of Article 3(2); and

(b) a minimum of 15 % of its allocated resources to the specific objective set out in point (b) of Article 3(2).

3. A Member State may allocate less than the minimum percentages referred to in paragraph 2 only if it provides a detailed explanation in its programme as to why allocating resources below that level would not jeopardise the achievement of the relevant objective.

4. The Commission shall ensure that the knowledge and expertise of the relevant decentralised agencies, in particular EASO, the European Border and Coast Guard Agency and the European Union Agency for Fundamental Rights, established by Council Regulation (EC) No 168/2007⁽³⁵⁾, are taken into account as regards the areas of their competence, at an early stage and in a timely manner, in the development of the Member States' programmes.

5. The Commission may involve, where appropriate, relevant decentralised agencies, including those referred to in paragraph 4, in the monitoring and evaluation tasks as specified in Section 5, in particular with a view to ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.

6. Following the adoption of recommendations in accordance with Regulation (EU) No 1053/2013 which are within the scope of this Regulation, the Member State concerned shall examine, together with the Commission, how to address the findings and recommen-

⁽³⁵⁾ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

dations through its programme with the support of the Fund, where appropriate.

The Commission may, where relevant, also draw on the expertise of decentralised agencies on specific issues falling within those agencies' competencies.

7. Where necessary, the programme of the Member State in question shall be amended in accordance with Article 24 of Regulation (EU) 2021/1060 to take into account the recommendations referred to in paragraph 6 of this Article.

8. In cooperation and consultation with the Commission and the relevant decentralised agencies as regards the areas of their competence, as applicable, the Member State concerned may reallocate resources under its programme with the aim of addressing the recommendations referred to in paragraph 6 where those recommendations have financial implications.

9. Member States shall in particular pursue the actions eligible for higher co-financing rates that are listed in Annex IV in their programmes. In the event of unforeseen or new circumstances or in order to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the list of actions eligible for higher co-financing rates in Annex IV.

10. Member States' programmes may allow for the inclusion of immediate relatives of persons covered by the integration measures referred to in Annex III to the extent necessary for the effective implementation of those measures.

11. Whenever a Member State decides to implement a project with or in a third country with the support of the Fund, the Member

State concerned shall consult the Commission prior to the approval of the project.

12. Programming as referred to in Article 22(5) of Regulation (EU) 2021/1060 shall be based on the types of intervention set out in Table 1 of Annex VI to this Regulation and shall include an indicative breakdown of the programmed resources by type of intervention within each specific objective set out in Article 3(2) of this Regulation.

ARTICLE 17 MID-TERM REVIEW

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in point (b) of Article 13(1) in accordance with the criteria referred to in point (b) of paragraph 1 and paragraphs 2 to 5 of Annex I. Funding shall be effective as of 1 January 2025.

2. Where at least 10 % of the initial allocation to a programme referred to in point (a) of Article 13(1) of this Regulation has not been covered by payment applications submitted in accordance with Article 91 of Regulation (EU) 2021/1060, the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in point (b) of Article 13(1) of this Regulation.

3. When allocating the funds from the thematic facility referred to in Article 11 of this Regulation as of 1 January 2025, the Commission shall take into account the progress made by the Member States in achieving the milestones of the performance framework referred to in Article 16 of Regulation (EU) 2021/1060 and identified shortcomings in implementation.

ARTICLE 18 SPECIFIC ACTIONS

1. A Member State may receive funding for specific actions in addition to its allocation under Article 13(1), provided that that funding is subsequently earmarked as such in its programme and is used to contribute to the implementation of the objectives of the Fund.

2. Funding for specific actions shall not be used for other actions in the Member State's programme, except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme.

ARTICLE 19 RESOURCES FOR RESETTLEMENT AND HUMANITARIAN ADMISSION

1. Member States shall receive, in addition to their allocation under point (a) of Article 13(1), an amount of EUR 10000 for each person admitted through resettlement.

2. Member States shall receive, in addition to their allocation under point (a) of Article 13(1), an amount of EUR 6000 for each person admitted through humanitarian admission.

3. The amount referred to in paragraph 2 shall be increased to EUR 8000 for each person admitted through humanitarian admission who belongs to one or more of the following vulnerable groups:

- (a) women and children at risk;
- (b) unaccompanied minors;
- (c) persons having medical needs that can be addressed only through humanitarian admission;

(d) persons in need of humanitarian admission for legal or physical protection needs, including victims of violence or torture.

4. Where a Member State admits a person belonging to more than one of the categories referred to in paragraphs 2 and 3, it shall receive the amount only once in respect of that person.

5. Where appropriate, Member States may also be eligible to receive the respective amounts for family members of persons referred to in paragraphs 1, 2 and 3 if those family members are admitted to ensure family unity.

6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article 125 of the Financial Regulation.

7. The amounts referred to in paragraphs 1, 2, 3 and 5 shall be allocated to the Member State's programme for the first time in the financing decision approving that programme. Those amounts shall not be used for other actions in the Member State's programme except in duly justified circumstances, as approved by the Commission through the amendment of that programme. Those amounts may be included in the payment applications to the Commission, provided that the person in respect of whom the amount is allocated was effectively resettled or admitted.

8. For the purposes of control and audit, Member States shall retain the information necessary to allow the proper identification of the persons resettled or admitted and of the date of their resettlement or admission.

9. To take account of current inflation rates, relevant developments in the field of resettlement, and other factors which might

optimise the use of the financial incentive brought by the amounts referred to in paragraphs 1, 2 and 3 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 37 to adjust, if deemed appropriate, and within the limits of available resources, those amounts.

ARTICLE 20 RESOURCES FOR THE TRANSFER OF APPLICANTS FOR INTERNATIONAL PROTECTION OR OF BENEFICIARIES OF INTERNATIONAL PROTECTION

1.A Member State shall receive, in addition to its allocation under Article 13(1) of this Regulation, an additional amount of EUR 10000 for each applicant for international protection transferred from another Member State in accordance with Article 17 of Regulation (EU) No 604/2013 of the European Parliament and of the Council⁽³⁶⁾ or as a result of similar forms of relocation.

2. Where appropriate, Member States may also be eligible to receive the amount referred to in paragraph 1 of this Article for each family member of persons referred to in that paragraph, provided that those family members have been transferred to ensure family unity in accordance with Article 17 of Regulation (EU) No 604/2013 or have been transferred as a result of similar forms of relocation.

3. Member States shall receive, in addition to their allocation under Article 13(1), an addi-

tional amount of EUR 10000 for each beneficiary of international protection transferred from another Member State.

4. Where appropriate, Member States may also be eligible to receive the respective amounts for family members of persons referred to in paragraph 3 if those family members have been transferred to ensure family unity.

5. The Member State covering the cost of transfers referred to in paragraphs 1 to 4 shall receive a contribution of EUR 500 for each applicant for international protection or beneficiary of international protection transferred to another Member State.

6. The amounts referred to in this Article shall take the form of financing not linked to costs in accordance with Article 125 of the Financial Regulation.

7. The amounts referred to in paragraphs 1 to 5 of this Article shall be allocated to the Member State's programme, provided that the person in respect of whom the amount is allocated was effectively transferred to a Member State or was registered as an applicant in the Member State responsible in accordance with Regulation (EU) No 604/2013, as applicable. Those amounts shall not be used for other actions in the Member State's programme except in duly justified circumstances, as approved by the Commission through the amendment of that programme.

8. For the purposes of control and audit, Member States shall retain the information necessary to allow the proper identification of the persons transferred and of the date of their transfer.

9. To take account of current inflation rates, relevant developments in the field of relocation and other factors which might optimise

⁽³⁶⁾ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180, 29.6.2013, p. 31).

the use of the financial incentive brought by the amounts referred to in paragraphs 1, 3 and 5 of this Article, the Commission is empowered to adopt delegated acts in accordance with Article 37 to adjust, if deemed appropriate, and within the limits of available resources, those amounts.

ARTICLE 21 OPERATING SUPPORT

1. A Member State may use up to 15 % of the amount allocated to its programme under the Fund to finance operating support under the specific objectives of the Fund.

2. When using operating support, a Member State shall comply with the relevant Union *acquis* and the Charter.

3. A Member State shall explain, in its programme and in the annual performance report referred to in Article 35 of this Regulation, how the use of operating support contributes to the achievement of the objectives of the Fund. Before the approval of the Member State's programme, the Commission shall assess the baseline situation in the Member States which have indicated their intention to use operating support. The Commission shall take into account the information provided by those Member States and, where relevant, the information available as a result of the monitoring exercises which are carried out in accordance with Regulation (EU) No 1053/2013 and which are within the scope of this Regulation.

4. Operating support shall be concentrated on actions covered by expenditure as laid down in Annex VII.

5. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend the eligible actions listed in Annex VII.

ARTICLE 22 MANAGEMENT VERIFICATIONS AND AUDITS OF PROJECTS CARRIED OUT BY INTERNATIONAL ORGANISATIONS

1. This Article applies to international organisations or their agencies as referred to in point (c)(ii) of the first subparagraph of Article 62(1) of the Financial Regulation whose systems, rules and procedures have been positively assessed by the Commission pursuant to Article 154(4) and (7) of that Regulation for the purpose of indirectly implementing grants financed from the Union budget ('international organisations').

2. Without prejudice to point (a) of the first paragraph of Article 83 of Regulation (EU) 2021/1060 and to Article 129 of the Financial Regulation, where the international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060, the managing authority shall not be required to carry out the management verifications referred to in point (a) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060, provided that the international organisation submits to the managing authority the documents referred to in points (a), (b) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation.

3. Without prejudice to point (c) of the first subparagraph of Article 155(1) of the Financial Regulation, the management declaration to be submitted by the international organisation shall confirm that the project complies with applicable law and the conditions for support of the project.

4. In addition, where costs are to be reimbursed pursuant to point (a) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that:

(a) invoices and proof of their payment by the beneficiary have been verified;

(b) the accounting records or accounting codes maintained by the beneficiary for transactions linked to the expenditure declared to the managing authority have been verified.

5. Where costs are to be reimbursed pursuant to point (b), (c) or (d) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that the conditions for reimbursement of expenditure have been met.

6. The documents referred to in points (a) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation shall be provided to the managing authority together with each payment claim submitted by the beneficiary.

7. The beneficiary shall submit the accounts to the managing authority each year by 15 October. The accounts shall be accompanied by an opinion of an independent audit body that has been drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the control systems in place function properly and are cost-effective and whether the underlying transactions are legal and regular. That opinion shall also state whether the audit work puts in doubt the assertions made in the management declarations submitted by the international organisation, including information on suspicions of fraud. That opinion shall provide assurance that the expenditure included in the payment claims submitted by the international organisation to the managing authority is legal and regular.

8. Without prejudice to existing possibilities for carrying out further audits as referred to in Article 127 of the Financial Regulation, the managing authority shall draw up the man-

agement declaration referred to in point (f) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060. The managing authority shall do so by relying on the documents provided by the international organisation pursuant to paragraphs 2 to 5 and 7 of this Article, instead of by relying on the management verifications referred to in Article 74(1) of Regulation (EU) 2021/1060.

9. The document setting out the conditions for support referred to in Article 73(3) of Regulation (EU) 2021/1060 shall include the requirements set out in this Article.

10. Paragraph 2 shall not apply, and consequently a managing authority shall be required to carry out management verifications, where:

(a) that managing authority identifies a specific risk of irregularity or an indication of fraud with respect to a project initiated or implemented by the international organisation;

(b) the international organisation fails to submit to that managing authority the documents referred to in paragraphs 2 to 5 and 7;

(c) the documents referred to in paragraphs 2 to 5 and 7 that have been submitted by the international organisation are incomplete.

11. Where a project, in which an international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060, is part of a sample as referred to in Article 79 of that Regulation, the audit authority may perform its work on the basis of a sub-sample of transactions that relate to that project. Where errors are found in the sub-sample, the audit authority, if relevant, may request the auditor of the international organisation to assess the full scope and the total amount of errors in that project.

SECTION 3: Support and implementation under direct or indirect management

ARTICLE 23 SCOPE

The Commission shall implement support under this Section either directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph.

ARTICLE 24 ELIGIBLE ENTITIES

1. The following entities are eligible for Union financing:

(a) legal entities established in:

(i) a Member State or an overseas country or territory linked to it;

(ii) a third country associated to the Fund pursuant to a specific agreement under Article 7, subject to it being covered by the work programme and conditions therein;

(iii) a third country listed in the work programme, under the conditions specified in paragraph 3;

(b) legal entities created under Union law or any international organisation relevant for the purposes of the Fund.

2. Natural persons are not eligible for Union financing.

3. Entities as referred to in point (a)(iii) of paragraph 1 shall participate as part of a consortium composed of at least two independent entities, at least one of which is established in a Member State.

Entities participating as part of a consortium as referred to in the first subparagraph of this paragraph shall ensure that the actions in which they participate comply with the principles enshrined in the Charter and contribute to the achievement of the objectives of the Fund.

ARTICLE 25 UNION ACTIONS

1. At the Commission's initiative, the Fund may be used to finance Union actions related to the objectives of the Fund, in accordance with Annex III.

2. 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 funding in the form of financial instruments within blending operations.

3. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

4. Members of the evaluation committee assessing the proposals, referred to in Article 150 of the Financial Regulation, may be external experts.

5. 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. Article 37(7)

of Regulation (EU) 2021/695 of the European Parliament and of the Council⁽³⁷⁾ shall apply.

ARTICLE 26 EUROPEAN MIGRATION NETWORK

1. The Fund shall support the European Migration Network and provide the financial assistance necessary for its activities and its future development.

2. The amount to be made available for the European Migration Network under the annual appropriations of the Fund and the work programme laying down the priorities for its activities shall be adopted by the Commission after approval by the Steering Board in accordance with point (a) of Article 4(5) of Decision 2008/381/EC. The decision of the Commission shall constitute a financing decision in accordance with Article 110 of the Financial Regulation. To ensure the timely availability of resources, the Commission may adopt the work programme for the European Migration Network in a separate financing decision.

3. Financial assistance provided for the activities of the European Migration Network shall take the form of grants to the National Contact Points referred to in Article 3 of Decision 2008/381/EC or procurements, as appropriate, in accordance with the Financial Regulation.

ARTICLE 27 BLENDING OPERATIONS

Blending operations decided under the Fund shall be carried out in accordance with Regu-

lation (EU) 2021/523 and Title X of the Financial Regulation.

ARTICLE 28 TECHNICAL ASSISTANCE AT THE INITIATIVE OF THE COMMISSION

In accordance with Article 35 of Regulation (EU) 2021/1060, the Fund may support technical assistance implemented at the initiative of, or on behalf of, the Commission, at a financing rate of 100 %.

ARTICLE 29 AUDITS

Audits of the use of the Union contribution carried out by persons or entities, including by persons or entities other than those mandated by the Union institutions, bodies, offices or agencies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

ARTICLE 30 INFORMATION, COMMUNICATION AND PUBLICITY

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective, meaningful and proportionate targeted information to multiple audiences, including the media and the public. The visibility of Union funding shall be ensured and such information shall be provided, except in duly justified cases where it is not possible or appropriate to display such information publicly or where the release of such information is restricted by law, in particular for reasons of security, public order, criminal investigations or the protection of personal data. To ensure the visibility of Union funding, recipients of Union funding shall refer to the origin of that funding when publicly communicating on the action concerned, and shall display the Union emblem.

⁽³⁷⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

2. To reach the widest possible audience, the Commission shall implement information and communication actions relating to the Fund, to actions taken pursuant to the Fund and to the results obtained.

Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives of the Fund.

3. The Commission shall publish the work programmes of the thematic facility referred to in Article 11. For support provided under direct or indirect management, the Commission shall publish the information referred to in Article 38(2) of the Financial Regulation on a publicly available website and shall update that information regularly. That information shall be published in an open, machine-readable format which allows data to be sorted, searched, extracted and compared.

SECTION 4: Support and implementation under shared, direct or indirect management

ARTICLE 31 EMERGENCY ASSISTANCE

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of duly justified emergency situations resulting from one or more of the following cases:

(a) an exceptional migratory situation characterised by a large or disproportionate influx of third-country nationals into one or more Member States which places significant and urgent demands on those Member States' reception and detention facilities, and on their asylum and migration management systems and procedures;

(b) an event of a mass influx of displaced persons within the meaning of Council Directive 2001/55/EC⁽³⁸⁾;

(c) an exceptional migratory situation in a third country, including where persons in need of protection could be stranded due to political developments or conflicts, notably where it might have an impact on migration flows towards the Union.

In response to such duly justified emergency situations, the Commission may decide to provide emergency assistance, including for voluntary relocation, within the limits of available resources. In such cases, the Commission shall inform the European Parliament and the Council in a timely manner.

2. Measures in third countries shall be implemented in accordance with Article 5(2) and (3).

3. Emergency assistance may be allocated to Member States' programmes in addition to the allocation under Article 13(1) and Annex I, provided that it is subsequently earmarked as such in the Member State's programme. That funding shall not be used for other actions in the Member State's programme except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme. Pre-

⁽³⁸⁾ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

financing for emergency assistance may amount to 95 % of the Union contribution, subject to the availability of funds.

4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

5. Where necessary for the implementation of an action, emergency assistance may cover expenditure which was incurred prior to the date of submission of the grant application or the request for assistance for that action, provided that that expenditure was not incurred prior to 1 January 2021.

6. On duly justified imperative grounds of urgency and to ensure that there is a timely availability of resources for emergency assistance, the Commission may separately adopt a financing decision, as referred to in Article 110 of the Financial Regulation, for emergency assistance by way of an immediately applicable implementing act in accordance with the procedure referred to in Article 38(4). Such an act shall remain in force for a period not exceeding 18 months.

ARTICLE 32 CUMULATIVE AND ALTERNATIVE FINANCING

1. An action that has received a contribution under the Fund may also receive a contribu-

tion from any other Union programme, including funds under shared management, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. 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. In accordance with Article 73(4) of Regulation (EU) 2021/1060, the ERDF or the ESF+ may support actions attributed a Seal of Excellence label as defined in point (45) of Article 2 of that Regulation. In order to be attributed a Seal of Excellence label, the actions shall comply with the following cumulative conditions:

- (a) they have been assessed in a call for proposals under the Fund;
- (b) they comply with the minimum quality requirements of that call for proposals;
- (c) they cannot be financed under that call for proposals due to budgetary constraints.

SECTION 5: Monitoring, reporting and evaluation

SUBSECTION 1: COMMON PROVISIONS

ARTICLE 33 MONITORING AND REPORTING

1. In compliance with its reporting requirements pursuant to point (h)(iii) of the first subparagraph of Article 41(3) of the Financial

Regulation, the Commission shall present to the European Parliament and to the Council information on the core performance indicators listed in Annex V to this Regulation.

2. The Commission is empowered to adopt delegated acts in accordance with Article 37 to amend Annex V in order to make the necessary adjustments to core performance indicators listed in that Annex.

3. Indicators to report on the progress of the Fund towards the achievement of the specific objectives set out in Article 3(2) are set out in Annex VIII. For output indicators, the base-lines shall be set at zero. The milestones set for 2024 and the targets set for 2029 shall be cumulative.

4. The performance reporting system shall ensure that data for monitoring the implementation and the results of the programme 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 appropriate, on Member States.

5. To ensure the effective assessment of the Fund's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 37 to amend Annex VIII to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including on project information to be provided by the Member States. Any amendment to Annex VIII shall apply only to projects selected after the entry into force of that amendment.

ARTICLE 34 EVALUATION

1. By 31 December 2024, the Commission shall carry out a mid-term evaluation of this Regulation. In addition to what is provided for in Article 45(1) of the Regulation (EU) 2021/1060, the mid-term evaluation shall assess the following:

(a) the effectiveness of the Fund, including the progress made towards the achievement of its objectives, taking into account all relevant information already available, in particular the annual performance reports referred to in Article 35 and the output and result indicators set out in Annex VIII;

(b) the efficiency of the use of resources allocated to the Fund and the efficiency of the management and control measures put in place to implement it;

(c) the continued relevance and appropriateness of the implementation measures listed in Annex II;

(d) the coordination, coherence and complementarity between the actions supported under the Fund and support provided by other Union funds;

(e) the Union added value of actions implemented under the Fund.

That mid-term evaluation shall take into account the results of the retrospective evaluation of the effects of the Asylum, Migration and Integration Fund for the 2014-2020 period.

2. In addition to what is provided for in Article 45(2) of Regulation (EU) 2021/1060, the retrospective evaluation shall include the elements listed in paragraph 1 of this Article. Moreover, the impact of the Fund shall also be evaluated.

3. The mid-term evaluation and the retrospective evaluation shall be carried out in a timely manner in order to contribute to the decision-making process, including, where appropriate, to the revision of this Regulation.

4. In the mid-term evaluation and retrospective evaluation, the Commission shall

pay particular attention to the evaluation of actions implemented with, in or in relation to

third countries in accordance with Article 7, Article 16(11) and Article 24.

SUBSECTION 2: RULES FOR SHARED MANAGEMENT

ARTICLE 35 ANNUAL PERFORMANCE REPORTS

1. By 15 February 2023 and by 15 February of each subsequent year up to and including 2031, Member States shall submit to the Commission an annual performance report as referred to in Article 41(7) of Regulation (EU) 2021/1060.

The reporting period shall cover the last accounting year as defined in point (29) of Article 2 of Regulation (EU) 2021/1060 preceding the year of submission of the report. The report submitted by 15 February 2023 shall cover the period from 1 January 2021.

2. The annual performance reports shall, in particular, set out information on:

(a) the progress in the implementation of the Member State's programme and in achieving the milestones and targets set out therein, taking into account the most recent data as required under Article 42 of Regulation (EU) 2021/1060;

(b) any issues affecting the performance of the Member State's programme and the action taken to address them, including information on any reasoned opinions delivered by the Commission in respect of infringement proceedings under Article 258 TFEU linked to the implementation of the Fund;

(c) the complementarity between the actions supported under the Fund and the support provided by other Union funds, in particular those actions taken in or in relation to third countries;

(d) contribution of the Member State's programme to the implementation of the relevant Union *acquis* and action plans and to cooperation and solidarity between Member States;

(e) the implementation of communication and visibility actions;

(f) the fulfilment of the applicable enabling conditions and their application throughout the programming period, in particular compliance with fundamental rights;

(g) the number of persons admitted through resettlement and humanitarian admission, by reference to the amounts set out in Article 19;

(h) the number of applicants for international protection and of beneficiaries of international protection transferred from one Member State to another as referred to in Article 20;

(i) the implementation of projects in or in relation to a third country.

The annual performance reports shall include a summary covering all the points set out in

the first subparagraph of this paragraph. The Commission shall ensure that the summaries provided by Member States are translated into all official languages of the Union and made publicly available.

3. The Commission may provide observations on annual performance reports within two months of the date of their receipt. Where the Commission does not provide observations by that deadline, the report shall be deemed to have been accepted.

4. On its website, the Commission shall provide the links to the websites referred to in Article 49(1) of Regulation (EU) 2021/1060.

5. 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. That implementing act shall

be adopted in accordance with the advisory procedure referred to in Article 38(2).

ARTICLE 36 MONITORING AND REPORTING UNDER SHARED MANAGEMENT

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) 2021/1060 shall use, as appropriate, the codes for the types of intervention set out in Annex VI to this Regulation. To address unforeseen or new circumstances and to ensure the effective implementation of the funding, the Commission is empowered to adopt delegated acts in accordance with Article 37 of this Regulation to amend Annex VI.

2. The indicators set out in Annex VIII to this Regulation shall be used in accordance with Article 16(1) and Articles 22 and 42 of Regulation (EU) 2021/1060.

CHAPTER III TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 37 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 the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) and (5) and Article 36(1) shall be conferred on the Commission until 31 December 2027.

3. The delegation of power referred to in the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) and (5) and Article

36(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to the second subparagraph of Article 5(1), Article 16(9), Article 19(9), Article 20(9), Article 21(5), Article 33(2) or (5) or Article 36(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council 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 of the Council.

ARTICLE 38 COMMITTEE PROCEDURE

1. The Commission shall be assisted by the Committee for the Home Affairs Funds established by Article 32 of Regulation (EU) 2021/1148 of the European Parliament and of the Council⁽³⁹⁾. 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 reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

ARTICLE 39 TRANSITIONAL PROVISIONS

1. This Regulation shall not affect the continuation of or modification of the actions initiated pursuant to Regulation (EU) No 516/2014, which shall continue to apply to those actions until their closure.

2. The financial envelope for the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted pursuant to Regulation (EU) No 516/2014.

3. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, taking into account the delayed entry into force of this Regulation, and in order to ensure continuity, for a limited period, costs incurred in respect of actions supported under this Regulation under direct management and which have already begun may be considered eligible for financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.

4. Member States may continue after 1 January 2021 to support a project selected and started under Regulation (EU) No 516/2014, in accordance with Regulation (EU) No 514/2014, provided that all of the following conditions are met:

⁽³⁹⁾ Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (see page 48 of this Official Journal).

(a) the project has two phases identifiable from a financial point of view with separate audit trails;

(b) the total cost of the project exceeds EUR 500000;

(c) payments made by the responsible authority to beneficiaries for the first phase of the project shall be included in payment requests to the Commission under Regulation (EU) No 514/2014 and expenditure for the second phase of the project shall be included in payment applications under Regulation (EU) 2021/1060;

(d) the second phase of the project complies with the applicable law and is eligible for support from the Fund under this Regulation and Regulation (EU) 2021/1060;

(e) the Member State commits to complete the project, render it operational and report on it in the annual performance report submitted by 15 February 2024.

The provisions of this Regulation and of Regulation (EU) 2021/1060 shall apply to the second phase of a project as referred to in the first subparagraph of this paragraph.

This paragraph shall apply only to projects which have been selected under shared management pursuant to Regulation (EU) No 514/2014.

ARTICLE 40 **ENTRY INTO FORCE AND APPLICATION**

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

It shall apply from 1 January 2021.

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

Done at Strasbourg, 7 July 2021.

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

LOGAR

ANNEX I Criteria for the allocation of funding to the Member States' programmes

1. The budgetary resources available under Article 13 shall be broken down between the Member States as follows:

(a) at the start of the programming period, each Member State shall receive a fixed amount of EUR 8000000 from the Fund, with the exception of Cyprus, Malta and Greece, which shall each receive a fixed amount of EUR 28000000;

(b) the remaining budgetary resources referred to in Article 13 shall be distributed based on the following criteria:

- 35 % for asylum;
- 30 % for legal migration and integration;
- 35 % for countering irregular migration including returns.

2. The following criteria in the area of asylum shall be taken into account and shall be weighted as follows:

(a) 30 % in proportion to the number of persons who fall into one of the following categories:

any third-country national or stateless person having been granted the status defined by the Geneva Convention relating to the Status of Refugees of 28 July 1951 as amended by the New York Protocol of 31 January 1967;

any third-country national or stateless person enjoying a form of subsidiary protection within the meaning of Directive 2011/95/EU;

any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC⁽¹⁾;

(b) 60 % in proportion to the number of third-country nationals or stateless persons who have applied for international protection;

(c) 10 % in proportion to the number of third-country nationals or stateless persons who are being or have been resettled in a Member State.

3. The following criteria in the area of legal migration and integration shall be taken into account and shall be weighted as follows:

(a) 50 % in proportion to the total number of legally residing third-country nationals in a Member State;

(b) 50 % in proportion to the number of third-country nationals who have obtained a first residence permit; however, the following categories of persons shall not be included:

third-country nationals issued with a work-related first residence permit valid for less than 12 months;

third-country nationals admitted for the purposes of studies, pupil exchange, unremunerated training or voluntary service in accordance with Council Directive 2004/114/EC⁽²⁾ or, where applicable, Directive (EU)

⁽¹⁾ Data to be taken into account only in case of the activation of Directive 2001/55/EC.

⁽²⁾ Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375, 23.12.2004, p. 12).

2016/801 of the European Parliament and of the Council⁽³⁾;

third-country nationals admitted for purposes of scientific research in accordance with Council Directive 2005/71/EC⁽⁴⁾ or, where applicable, Directive (EU) 2016/801.

4. The following criteria in the area of countering irregular migration including returns shall be taken into account and shall be weighted as follows:

(a) 70 % in proportion to the number of third-country nationals who do not or no longer fulfil the conditions for entry and stay in the territory of the Member State and who are subject to a return decision under national law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return;

⁽³⁾ Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21).

⁽⁴⁾ Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, 3.11.2005, p. 15).

(b) 30 % in proportion to the number of third-country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion.

5. For initial allocation the reference figures shall be based upon the annual statistical data produced by the Commission (Eurostat) covering the years 2017, 2018 and 2019 on the basis of data provided by Member States prior to the date of application of this Regulation in accordance with Union law. For the mid-term review, the reference figures shall be based upon the annual statistical data produced by the Commission (Eurostat) covering the years 2021, 2022 and 2023 on the basis of data provided by Member States in accordance with Union law. Where Member States have not supplied the Commission (Eurostat) with the statistical data concerned, they shall provide provisional data as soon as possible.

6. Before accepting the data referred to in paragraph 5 as reference figures, the Commission (Eurostat) shall evaluate the quality, comparability and completeness of the statistical information in accordance with normal operational procedures. At the request of the Commission (Eurostat), Member States shall provide it with all the necessary information to do so.

ANNEX II Implementation measures

1. The Fund shall contribute to the specific objective set out in point (a) of Article 3(2) by focusing on the following implementation measures:

(a) ensuring the uniform application of the Union *acquis* and of the priorities related to the Common European Asylum System;

(b) supporting the capacity of Member States' asylum systems as regards infrastructures and services where necessary, including at local and regional level;

(c) enhancing cooperation and partnership with third countries for the purpose of managing migration, including by enhancing their

capacities to improve the protection of persons in need of international protection in the context of global cooperation efforts;

(d) providing technical and operational assistance to one or several Member States, including in cooperation with EASO.

2. The Fund shall contribute to the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:

(a) supporting the development and implementation of policies promoting legal migration and the implementation of the Union legal migration *acquis*, including family reunification and the enforcement of labour standards;

(b) supporting measures to facilitate regular entry into and residence in the Union;

(c) enhancing cooperation and partnership with third countries for the purpose of managing migration, including through legal avenues of entry to the Union, in the context of global cooperation efforts in the area of migration;

(d) promoting integration measures for the social and economic inclusion of third-country nationals and protection measures for vulnerable persons in the context of integration measures, facilitating family reunification and preparing for the active participation of third-country nationals in, and their acceptance by, the receiving society, with the involvement of national and, in particular, regional or local authorities and civil society organisations, including refugee organisations and migrant-led organisations, and social partners.

3. The Fund shall contribute to the specific objective set out in point (c) of Article 3(2) by focusing on the following implementation measures:

(a) ensuring the uniform application of the Union *acquis* and policy priorities regarding infrastructure, procedures and services;

(b) supporting an integrated and coordinated approach to return management at the Union and Member State level, to the development of capacities for effective, dignified and sustainable return, and to reducing incentives for irregular migration;

(c) supporting assisted voluntary return, family tracing and reintegration, while respecting the best interests of the child;

(d) strengthening cooperation with third countries and their capacity, with respect to readmission and sustainable return.

4. The Fund shall contribute to the specific objective set out in point (d) of Article 3(2) by focusing on the following implementation measures:

(a) enhancing solidarity and cooperation with third countries affected by migratory flows, including through resettlement in the Union and through other legal avenues to protection in the Union;

(b) supporting transfers from one Member State to another of applicants for international protection or beneficiaries of international protection.

ANNEX III Scope of support

1. Within the policy objective set out in Article 3(1), the Fund shall in particular support:

(a) the establishment and development of national, regional and local strategies in relation to asylum, legal migration, integration, return and irregular migration in accordance with the relevant Union *acquis*;

(b) the setting up of administrative structures, tools and systems, including ICT systems, and the training of staff, including the staff of local authorities and of other relevant stakeholders, in cooperation with relevant decentralised agencies, where appropriate;

(c) the establishment of contact points at the national, regional and local levels to provide impartial guidance, practical information and assistance regarding all aspects of the Fund to potential beneficiaries and eligible entities;

(d) the development, monitoring and evaluation of policies and procedures, including the collection, exchange and analysis of information and data; the dissemination of qualitative and quantitative data and statistics on migration and international protection; and the development and application of common statistical tools, methods and indicators for measuring progress and assessing policy developments;

(e) the exchange of information, best practices and strategies; mutual learning, studies and research; the development and implementation of joint actions and operations; and the setting-up of transnational cooperation networks;

(f) assistance and support services provided in a gender-sensitive manner that are consistent with the status and the needs of the

person concerned, in particular vulnerable persons;

(g) actions aimed at the effective protection of children in migration, including the implementation of assessments of the best interests of the child, the strengthening of guardianship systems, as well as the development, monitoring and evaluation of child safeguarding policies and procedures;

(h) actions aimed at enhancing awareness among stakeholders and the general public of policies relating to asylum, integration, legal migration and return, with specific attention to vulnerable persons, including minors.

2. Within the specific objective set out in point (a) of Article 3(2), the Fund shall in particular support:

(a) the provision of material aid, including assistance at the border;

(b) the conducting of asylum procedures in accordance with the asylum *acquis*, including the provision of support services such as translation and interpretation, legal assistance, family tracing and other services which are consistent with the status of the person concerned;

(c) the identification of applicants with special procedural or reception needs, including the early identification of victims of trafficking, with a view to their referral to specialised services such as psycho-social and rehabilitation services;

(d) the provision of specialised services such as qualified psycho-social and rehabilitation services to applicants with special procedural or reception needs;

- (e) the establishment or improvement of reception accommodation infrastructure, such as small scale infrastructure addressing the needs of families with minors, including those provided by local and regional authorities and including the possible joint use of such facilities by more than one Member State;
- (f) the enhancement of the capacity of Member States to collect, analyse and share among their competent authorities country of origin information;
- (g) actions related to Union resettlement programmes or national resettlement and humanitarian admission schemes, including the conducting of procedures for their implementation;
- (h) the enhancement of the capacities of third countries to improve the protection of persons in need of protection, including through supporting the development of protection systems for children in migration;
- (i) the establishment, development and improvement of effective alternatives to detention, in particular in relation to unaccompanied minors and families, and including, where appropriate, non-institutionalised care integrated into national child protection systems.
3. Within the specific objective set out in point (b) of Article 3(2), the Fund shall in particular support:
- (a) information packages and campaigns to raise awareness of legal migration channels to the Union, including on the Union legal migration *acquis*;
- (b) the development of mobility schemes to the Union, such as circular or temporary migration schemes, including training to enhance employability;
- (c) cooperation between third countries and the recruitment agencies, the employment services and the immigration services of Member States;
- (d) the assessment and recognition of skills and qualifications, including professional experience, acquired in a third country, as well as their transparency, and their equivalence with those of a Member State;
- (e) assistance in the context of applications for family reunification to ensure a harmonised implementation of Council Directive 2003/86/EC⁽¹⁾;
- (f) assistance, including legal assistance and representation, in relation to a change of status for third-country nationals already legally residing in a Member State, in particular in relation to the acquisition of a legal residence status as defined at Union level;
- (g) assistance to third-country nationals seeking to exercise their rights, in particular related to mobility, under Union legal migration instruments;
- (h) integration measures, such as tailored support in accordance with the needs of third-country nationals, and integration programmes focusing on counselling, education, language and other training, such as civic orientation courses and professional guidance;
- (i) actions promoting equality in access to public and private services by third-country nationals and the provision of such services to third-country nationals, including access to education, healthcare and psycho-social

⁽¹⁾ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 3.10.2003, p. 12).

support and adapting such services to the needs of the target group;

(j) cooperation between governmental and non-governmental bodies in an integrated manner, including through coordinated integration-support centres, such as one-stop shops;

(k) actions enabling and supporting the introduction of third-country nationals to, and their active participation in, the receiving society and actions promoting acceptance by the receiving society;

(l) promoting exchanges and dialogue between third-country nationals, the receiving society and public authorities, including through consultation with third-country nationals, and intercultural and inter-religious dialogue;

(m) building the capacity of integration services provided by local authorities and other relevant stakeholders.

4. Within the specific objective set out in point (c) of Article 3(2), the Fund shall in particular support:

(a) the establishment or improvement of open reception or detention infrastructure, including the possible joint use of such facilities by more than one Member State;

(b) the introduction, development, implementation and improvement of effective alternative measures to detention, including community-based case management, in particular in relation to unaccompanied minors and families;

(c) the introduction and reinforcement of independent and effective forced-return monitoring systems, as laid down in Article 8(6) of Directive 2008/115/EC;

(d) the countering of incentives for irregular migration, including the employment of irregular migrants, through effective and adequate inspections based on risk assessment, the training of staff, the setting-up and implementation of mechanisms through which irregular migrants can claim back payments and lodge complaints against their employers, and information and awareness-raising campaigns to inform employers and irregular migrants about their rights and obligations pursuant to Directive 2009/52/EC;

(e) the preparation of returns, including measures leading to the issuing of return decisions, the identification of third-country nationals, the issuing of travel documents and family tracing;

(f) cooperation with the consular authorities and immigration services or other relevant authorities and services of third countries with a view to obtaining travel documents, facilitating returns and ensuring readmission, including through the deployment of third-country liaison officers;

(g) return assistance, in particular assisted voluntary return and information about assisted voluntary return programmes, including by providing specific guidance for children in return procedures;

(h) removal operations, including related measures, in accordance with the standards laid down in Union law, with the exception of support for coercive equipment;

(i) measures to support the returnee's sustainable return and reintegration, including cash-incentives, training, placement and employment assistance and start-up support for economic activities;

(j) facilities and support services in third countries to ensure appropriate temporary

accommodation and reception upon arrival and, where appropriate, a fast transition to community-based accommodation;

(k) cooperation with third countries regarding countering irregular migration and regarding effective return and readmission;

(l) measures aimed at raising awareness of the appropriate legal channels for migration and the risks of irregular immigration;

(m) assistance and actions in third countries which help to improve effective cooperation between third countries and the Union and its Member States regarding return and readmission and to support reintegration into the society of origin.

5. Within the specific objective set out in point (d) of Article 3(2), the Fund shall in particular support:

(a) the implementation of voluntary transfers from one Member State to another of either applicants for international protection or beneficiaries of international protection;

(b) operational support in terms of seconded staff or financial assistance provided by a Member State to another Member State affected by migration challenges, including support provided to EASO;

(c) the voluntary implementation of national resettlement or humanitarian admission schemes;

(d) support by a Member State to another Member State affected by migration challenges in terms of establishment or improvement of reception infrastructure.

ANNEX IV Actions eligible for higher co-financing rates in accordance with articles 15(3) and 16(9)

Integration measures implemented by local and regional authorities and civil society organisations, including refugee organisations and migrant-led organisations;

Actions to develop and implement effective alternatives to detention;

Assisted voluntary return and reintegration programmes and related activities;

Measures targeting vulnerable persons and applicants for international protection with special reception or procedural needs, including measures to ensure effective protection of minors, in particular unaccompanied minors, including through alternative, non-institutionalised care systems.

ANNEX V Core performance indicators as referred to in article 33(1)

All indicators related to persons shall be reported by age brackets (< 18, 18-60, > 60) and by gender.

SPECIFIC OBJECTIVE SET OUT IN POINT (A) OF ARTICLE 3(2)

1. Number of participants who consider the training useful for their work.

2. Number of participants who report three months after the training activity that they are using the skills and competences acquired during the training.

3. Number of persons placed in alternatives to detention, separately specifying:

3.1. the number of unaccompanied minors placed in alternatives to detention;

3.2. the number of families placed in alternatives to detention.

SPECIFIC OBJECTIVE SET OUT IN POINT (B) OF ARTICLE 3(2)

1. Number of participants in language courses who, upon leaving the language course, have improved their proficiency level in the host-country language by at least one level in the Common European Framework of Reference for Languages or national equivalent.

2. Number of participants who report that the activity was helpful for their integration.

3. Number of participants who applied for the recognition or assessment of qualifications or skills acquired in a third country.

4. Number of participants who applied for a long-term residence status.

SPECIFIC OBJECTIVE SET OUT IN POINT (C) OF ARTICLE 3(2)

1. Number of returnees voluntarily returned.

2. Number of returnees who were removed.

3. Number of returnees subject to alternatives to detention.

SPECIFIC OBJECTIVE SET OUT IN POINT (D) OF ARTICLE 3(2)

1. Number of applicants for and beneficiaries of international protection transferred from one Member State to another.

2. Number of persons resettled.

3. Number of persons admitted through humanitarian admission.

ANNEX VI Types of intervention

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

I. Common European Asylum System	
001	Reception conditions
002	Asylum procedures
003	Implementation of the Union acquis
004	Children in migration
005	Persons with special reception and procedural needs
006	Union resettlement programmes or national resettlement and humanitarian admission schemes (Annex III, point 2(g))
007	Operating support
II. Legal migration and integration	
001	Development of integration strategies
002	Victims of trafficking in human beings
003	Integration measures – information and orientation, one-stop shops
004	Integration measures – language training
005	Integration measures – civics and other training
006	Integration measures – introduction, participation, exchanges host society
007	Integration measures – basic needs
008	Pre-departure measures
009	Mobility schemes
010	Acquisition of legal residence
011	Vulnerable persons, including unaccompanied minors
012	Operating support
III. Return	
001	Alternatives to detention
002	Reception/detention conditions
003	Return procedures
004	Assisted voluntary return
005	Reintegration assistance
006	Removal/Return operations
007	Forced-return monitoring system
008	Vulnerable persons, including unaccompanied minors
009	Measures addressing incentives for irregular migration
010	Operating support
IV. Solidarity and fair sharing of responsibility	
001	Transfers to another Member State ('relocation')
002	Support by a Member State to another Member State, including support provided to EASO
003	Resettlement (Article 19)
004	Humanitarian admission (Article 19)

005	Support, in terms of reception infrastructure, to another Member State
006	Operating support
V. Technical assistance	
001	Information and communication
002	Preparation, implementation, monitoring and control
003	Evaluation and studies, data collection
004	Capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

001	Development of national strategies
002	Capacity building
003	Education and training for third-country nationals
004	Development of statistical tools, methods and indicators
005	Exchange of information and best practices
006	Joint actions/operations between Member States
007	Campaigns and information
008	Exchange and secondment of experts
009	Studies, pilot projects, risk assessments
010	Preparatory, monitoring, administrative and technical activities
011	Provision of assistance and support services to third-country nationals
012	Infrastructure
013	Equipment

TABLE 3: CODES FOR THE IMPLEMENTATION DIMENSION

001	Actions covered by Article 15(1)
002	Specific actions
003	Actions listed in Annex IV
004	Operating support
005	Emergency assistance

TABLE 4: CODES FOR THE PARTICULAR THEMES DIMENSION

001	Cooperation with third countries
002	Actions in or in relation to third countries
003	None of the above

ANNEX VII Expenditure Eligible For Operating Support

Within all specific objectives set out in Article 3(2), operating support shall cover:

— staff costs;

— service costs, such as maintenance or replacement of equipment, including ICT systems;

— service costs, such as maintenance and repair of infrastructure.

ANNEX VIII Output and result indicators as referred to in article 33(3)

All indicators relating to persons shall be reported by age brackets (< 18, 18-60, > 60) and by gender.

SPECIFIC OBJECTIVE SET OUT IN POINT (A) OF ARTICLE 3(2)

Output indicators

1. Number of participants supported, separately specifying:

1.1. the number of participants who received legal assistance;

1.2. the number of participants benefiting from types of support other than legal assistance, including information and assistance throughout the asylum procedure⁽¹⁾;

1.3. the number of vulnerable participants assisted.

⁽¹⁾ This indicator is generated automatically for reporting purposes by the system by subtracting the number of participants who received legal assistance from the number of participants supported. The data for this indicator is generated by SFC2021 for reporting purposes. Member States do not need to report data for this indicator, nor do they need to set milestones or targets.

2. Number of participants in training activities.

3. Number of newly created places in reception infrastructure in accordance with Union *acquis*, separately specifying:

3.1. the number of newly created places for unaccompanied minors.

4. Number of renovated or refurbished places in reception infrastructure in accordance with Union *acquis*, separately specifying:

4.1. the number of renovated or refurbished places for unaccompanied minors.

Result indicators

5. Number of participants who consider the training useful for their work.

6. Number of participants who report three months after the training activity that they are using the skills and competences acquired during the training.

7. Number of persons placed in alternatives to detention, separately specifying:

7.1. the number of unaccompanied minors placed in alternatives to detention;

7.2. the number of families placed in alternatives to detention.

SPECIFIC OBJECTIVE SET OUT IN POINT (B) OF ARTICLE 3(2)

Output indicators

1. Number of participants in pre-departure measures.

2. Number of local and regional authorities supported to implement integration measures.

3. Number of participants supported, separately specifying:

3.1. the number of participants in a language course;

3.2. the number of participants in a civic orientation course;

3.3. the number of participants who received personalised professional guidance.

4. Number of information packages and campaigns to raise awareness of legal migration channels to the Union.

5. Number of participants receiving information or assistance in applying for family reunification.

6. Number of participants benefitting from mobility schemes.

7. Number of integration projects where local and regional authorities are the beneficiary.

Result indicators

8. Number of participants in language courses who, upon leaving the language course, have improved their proficiency level in the host-

country language by at least one level in the Common European Framework of Reference for Languages or national equivalent.

9. Number of participants who report that the activity was helpful for their integration.

10. Number of participants who applied for their qualification or skills acquired in a third country to be recognised or assessed.

11. Number of participants who applied for a long-term residence status.

SPECIFIC OBJECTIVE SET OUT IN POINT (C) OF ARTICLE 3(2)

Output indicators

1. Number of participants in training activities.

2. Number of items of equipment purchased, including number of ICT systems purchased or updated.

3. Number of returnees who received reintegration assistance.

4. Number of places in detention centres created.

5. Number of places in detention centres refurbished or renovated.

Result indicators

6. Number of returnees voluntarily returned.

7. Number of returnees who were removed.

8. Number of returnees subject to alternatives to detention.

**SPECIFIC OBJECTIVE SET OUT IN POINT
(D) OF ARTICLE 3(2)***Output indicators*

1. Number of staff trained
2. Number of participants who received pre-departure support.

Result indicators

3. Number of applicants for and beneficiaries of international protection transferred from one Member State to another.
4. Number of persons resettled.
5. Number of persons admitted through humanitarian admission.



REGULATION (EU) 2021/1148 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 7 JULY 2021 ESTABLISHING, AS PART OF THE INTEGRATED BORDER MANAGEMENT FUND, THE INSTRUMENT FOR FINANCIAL SUPPORT FOR BORDER MANAGEMENT AND VISA POLICY

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), point (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⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

(1) 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 European Union (TFEU) should be achieved, inter alia, through common measures on the

crossing of internal borders by persons and on border control at external borders and the common visa policy, while preserving the careful balance between free movement of persons on the one hand and security on the other.

(2) Pursuant to Article 80 TFEU, the Union policies on border checks, asylum and immigration and their implementation are to 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 March 2017, the leaders of 27 Member States affirmed their commitment to working towards a safe and secure Europe and to building 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) All actions funded under the Instrument for Financial Support for Border Management and Visa Policy (the 'Instrument'), established by this Regulation, including those carried out in third countries, should be implemented in full compliance with the rights and principles enshrined in the Union *acquis*, and the Charter of Fundamental Rights of the European Union (the 'Charter'), and should be in line with the international obligations of the Union and the Member States arising from

⁽¹⁾ OJ C 62, 15.2.2019, p. 184.

⁽²⁾ Position of the European Parliament of 13 March 2019 (not yet published in the Official Journal) and position of the Council at first reading of 14 June 2021 (OJ C 265, 5.7.2021, p. 1). Position of the European Parliament of 6 July 2021 (not yet published in the Official Journal).

the international instruments to which they are party, in particular by ensuring compliance with the principles of non-discrimination and *non-refoulement*.

(5) The policy objective of the Instrument is to develop and implement strong and effective European integrated border management at the external borders, thereby contributing to ensuring a high level of internal security within the Union, while safeguarding the free movement of persons within it and fully respecting the relevant Union *acquis* and the international obligations of the Union and the Member States arising from the international instruments to which they are party.

(6) European integrated border management, as implemented by the European Border and Coast Guard, established by Regulation (EU) 2019/1896 of the European Parliament and of the Council⁽³⁾, is a shared responsibility 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. It should contribute to facilitating legitimate border crossings, to preventing and detecting illegal immigration and cross-border crime and to effectively manage migratory flows.

(7) Facilitating legitimate travel, while preventing irregular migration and security risks, was identified as one of the main objectives of the Union's approach presented in the communication of the Commission of 23 September 2020 on a New Pact on Migration and Asylum.

(8) Financial support from the Union budget is indispensable for the implementation of European integrated border management to support Member States, acting in full respect of fundamental rights, in managing the crossing of the external borders efficiently and in addressing future challenges at those borders, which would contribute to addressing serious crime with a cross-border dimension.

(9) Member States should be provided with adequate Union financial support to promote the implementation of European integrated border management and to ensure that European integrated border management becomes an operational reality. European integrated border management consists of, inter alia, the following components laid down in Regulation (EU) 2019/1896: border control; search and rescue operations during border surveillance; risk analysis; cooperation between Member States, including support 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 which are related to border control and designed to address illegal immigration and to counter cross-border crime better; use of state-of-the-art technology; a quality control mechanism and solidarity mechanisms.

(10) The Instrument should be able to provide the necessary support to Member States for the implementation of common minimum standards for external border surveillance, in line with the respective competences of the Member States, the European Border and Coast Guard Agency and the Commission.

(11) As the customs authorities of the Member States have been taking up an increasing number of responsibilities which often extend

⁽³⁾ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

to the field of security and which take place at the external borders, it is important to foster inter-agency cooperation as a component of European integrated border management in line with Regulation (EU) 2019/1896. Complementarity in carrying out border control and customs control at the external borders needs to be ensured by providing adequate Union financial support to the Member States. Inter-agency cooperation will not only strengthen customs controls in order to combat all forms of trafficking but will also facilitate legitimate trade and travel and contribute to a secure and efficient customs union.

(12) It is therefore necessary to establish the successor fund to the 2014-2020 Internal Security Fund, established by Regulations (EU) No 513/2014⁽⁴⁾ and (EU) No 515/2014⁽⁵⁾ of the European Parliament and of the Council, by setting up, inter alia, an Integrated Border Management Fund (the 'Fund').

(13) Due to the legal particularities of Title V 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 bor-

der management and visa policy comprising the Instrument as well as the Instrument for Financial Support for Customs Control Equipment, established by Regulation (EU) 2021/1077 of the European Parliament and of the Council⁽⁶⁾. That framework should be complemented by Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽⁷⁾, to which this Regulation should refer as regards rules on shared management.

(15) The Instrument should build on the results and investments of its predecessors, the External Borders Fund for the 2007-2013 period, established by Decision No 574/2007/EC of the European Parliament and of the Council⁽⁸⁾ and the instrument for financial support for external borders and visa as part of the Internal Security Fund for the 2014-2020 period, established by Regulation (EU) No 515/2014, and should be extended to take into account new developments.

(16) To ensure uniform and high-quality external border control and to facilitate legit-

⁽⁴⁾ Regulation (EU) No 513/2014 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 police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93).

⁽⁵⁾ 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).

⁽⁶⁾ Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment (OJ L 234, 2.7.2021, p. 1).

⁽⁷⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

⁽⁸⁾ 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).

imate travel across the external borders, the Instrument should contribute to the development of European integrated border management that includes measures involving policy, law, systematic cooperation, burden sharing, the assessment of the situation and changing circumstances regarding crossing points for irregular migrants, personnel, equipment and technology, which may be 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 other Union bodies, offices and agencies, in particular the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), established by Regulation (EU) 2018/1726 of the European Parliament and of the Council⁽⁹⁾, the European Union Agency for Law Enforcement Cooperation (Europol), established by Regulation (EU) 2016/794 of the European Parliament and of the Council⁽¹⁰⁾, and, where appropriate, third countries and international organisations.

(17) The Instrument should contribute to improving the efficiency of visa processing in terms of facilitating visa procedures for *bona fide* travellers and in terms of detecting and assessing security risks and irregular

migration risks. In particular, the Instrument should deliver financial assistance to support the digitalisation of visa processing with the objective of providing fast, secure and client-friendly visa procedures for the benefit of both visa applicants and consulates. The Instrument should also serve to ensure wide coverage of consular services across the world. The uniform implementation and the modernisation of the common visa policy, as well as the measures stemming from Regulation (EC) No 767/2008 of the European Parliament and of the Council⁽¹¹⁾, should also be covered by the Instrument, as should assistance to Member States for the issuance of visas, including visas with limited territorial validity issued on humanitarian grounds, for reasons of national interest or because of international obligations in line with the Union *acquis* in relation to visas.

(18) The Instrument should support measures linked to external border control in the territory of the countries applying the Schengen *acquis* as part of the implementation of the European integrated border management, which strengthens the overall functioning of the Schengen area.

(19) With a view to improving the management of the external borders, to facilitating legitimate travel, to contributing to preventing and combating irregular border crossings, to implementing the common visa policy and to contributing 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 in accordance with Union law in the

⁽⁹⁾ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

⁽¹⁰⁾ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

⁽¹¹⁾ Regulation (EC) No 767/2008 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).

area of border management. It should also support the setting-up of interoperability, as established in Regulations (EU) 2019/817⁽¹²⁾ and (EU) 2019/818⁽¹³⁾ of the European Parliament and of the Council, in the Member States between Union information systems, namely the Entry/Exit System (EES), established by Regulation (EU) 2017/2226 of the European Parliament and of the Council⁽¹⁴⁾, the Visa Information System (VIS), established by Regulation (EC) No 767/2008, the European Travel Information and Authorisation System (ETIAS), established by Regulation (EU) 2018/1240 of the European Parliament and of the Council⁽¹⁵⁾, Eurodac, established by Regulation (EU) No 603/2013 of the Euro-

pean Parliament and of the Council⁽¹⁶⁾, the Schengen Information System (SIS), established by Regulations (EU) 2018/1860⁽¹⁷⁾, (EU) 2018/1861⁽¹⁸⁾ and (EU) 2018/1862⁽¹⁹⁾ of the European Parliament and of the Council and the centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN), established by Regulation (EU) 2019/816 of the European

⁽¹²⁾ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA (OJ L 135, 22.5.2019, p. 27).

⁽¹³⁾ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 (OJ L 135, 22.5.2019, p. 85).

⁽¹⁴⁾ Regulation (EU) 2017/2226 of the European Parliament and of the Council 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).

⁽¹⁵⁾ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

⁽¹⁶⁾ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

⁽¹⁷⁾ Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, p. 1).

⁽¹⁸⁾ Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14).

⁽¹⁹⁾ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56).

Parliament and of the Council⁽²⁰⁾, in order for those Union 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, namely the European search portal (ESP), a shared biometric matching service (shared BMS), a common identity repository (CIR) and a multiple-identity detector (MID).

(20) In order to benefit from the knowledge and expertise of the decentralised agencies with competence in the areas of border management, visa policy and large-scale IT systems, the Commission should, in a timely manner, involve the relevant agencies in the work of the Committee for the Home Affairs Funds set up by this Regulation, especially at the beginning and mid-term of the programming period. Where appropriate, the Commission should also be able to involve the relevant Union bodies, offices and agencies in monitoring and evaluation, in particular with a view to ensuring that the actions supported by the Instrument comply with the relevant Union *acquis* and agreed Union priorities. The Instrument should complement and reinforce the activities implementing European integrated border management in line with the principle of shared responsibility and solidarity between the Member States and the European Border and Coast Guard Agency, which represent the two pillars of the European Border and Coast Guard. This means, in particular, that, when drawing up their pro-

grammes implemented under shared management, 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 the components of those curricula that relate to fundamental rights and access to international protection. In order to develop complementarity between its tasks and the responsibilities of the Member States for the control of the external borders and to ensure consistency and avoid cost inefficiency, the Commission should, in a timely manner, consult the European Border and Coast Guard Agency on the draft programmes submitted by the Member States in as far as they fall within the competencies of that agency, in particular with regard to the activities financed under operating support.

(21) In so far as the affected Member States so request, the Instrument should support the implementation of the hotspot approach as outlined in the communication of the Commission of 13 May 2015 entitled 'A European Agenda on Migration' and endorsed by the European Council of 25 and 26 June 2015 and further detailed in Regulation (EU) 2019/1896. The hotspot approach provides operational support to Member States facing disproportionate migratory challenges at the external borders. It offers integrated, comprehensive and targeted assistance in a spirit of solidarity and shared responsibility.

(22) In the spirit of solidarity and shared responsibility for the protection of the external borders, where vulnerabilities or risks are identified, in particular following a Schengen evaluation in accordance with Council Regu-

⁽²⁰⁾ Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726 (OJ L 135, 22.5.2019, p. 1).

lation (EU) No 1053/2013⁽²¹⁾, the Member State concerned should adequately address the matter by using the 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 Regulation (EU) 2019/1896.

(23) The Instrument should provide financial assistance to those Member States that fully apply the provisions of the Schengen *acquis* on external borders and visas and to those Member States which are preparing for full participation in Schengen, and should be used by the Member States in the interests of the common policy of the Union for the management of the external borders.

(24) While providing support to Member States' investments in border management, the Instrument should not provide funding for new, permanent infrastructure and buildings at the internal borders at which controls have not yet been lifted. However, at those borders, the Instrument should support investments in movable infrastructure for border control and the maintenance, limited upgrading or replacement of existing infrastructure, which are required to continue to comply with Regulation (EU) 2016/399 of the European Parliament and of the Council⁽²²⁾.

(25) In accordance with Protocol No 5 to the 2003 Act of Accession 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 Regulations (EC) No 693/2003⁽²³⁾ and (EC) No 694/2003⁽²⁴⁾. 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 include actions addressing all the specific objectives of the Instrument and that the allocation of resources among the specific objectives ensures that those objectives can be met.

(27) In keeping with the principle of efficiency, synergies and consistency should be sought with other Union Funds, and overlap between actions should be avoided.

(28) The 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 provided for in Regulation (EU) 2019/1896. However, due to its nature and objective, measures in the field of return fall outside the scope of support of the Instru-

⁽²¹⁾ Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

⁽²²⁾ 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).

⁽²³⁾ 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).

⁽²⁴⁾ 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).

ment and are covered by Regulation (EU) 2021/1147 of the European Parliament and of the Council⁽²⁵⁾.

(29) To acknowledge the important role of the Member States' customs authorities at the external borders and to ensure that they have sufficient means at their disposal to implement the broad scope of their tasks at those borders, the Instrument for Financial Support for Customs Control Equipment should provide those national authorities with the necessary funding to invest in equipment to carry out customs control, as well as with equipment that can serve other purposes in addition to customs control such as border control.

(30) Most customs control equipment and information and communication technology (ICT) systems might be equally or incidentally fit for controls of compliance with other legal acts of the Union, such as provisions on border management, visas or police cooperation. The Fund has therefore been conceived as two complementary instruments with distinct but complementary scopes for the purchase of equipment. On the one hand, the Instrument will financially support equipment and ICT systems of which the primary purpose is integrated border management and will also allow their use in the complementary area of customs control. On the other hand, the Instrument for Financial Support for Customs Control Equipment will financially support equipment with customs controls as the main purpose and will also allow its use for additional purposes such as border control and security. Such a distribution of roles will foster inter-agency cooperation as a component of European integrated border

management, as provided for in Regulation (EU) 2019/1896, thereby enabling customs and border authorities to work together and maximising the impact of the Union budget through co-sharing and interoperability of control equipment.

(31) Border surveillance at sea is one of the functions performed by coast guards in the Union maritime domain. National authorities carrying out coast guard functions are also responsible for a wide range of tasks, which could include, but are not limited to, maritime safety, security, search and rescue operations, border control, fisheries control, customs control, general law enforcement and environmental protection. The broad scope of coast guard functions brings them under the remit of different Union policies, which should seek synergies to achieve more effective and efficient results.

(32) When implementing actions funded under the Instrument which are related to maritime border surveillance, Member States should pay special attention to their international obligations regarding search and rescue operations at sea. In that regard, it should be possible to use equipment and systems supported under the Instrument in search and rescue operations in situations which might arise during a border surveillance operation at sea.

(33) In addition to Union cooperation on coast guard functions among the European Border and Coast Guard Agency, the European Maritime Safety Agency, established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council⁽²⁶⁾, and the

⁽²⁵⁾ Regulation (EU) 2021/1147 of the European Parliament and of the Council of 7 July 2021 establishing the Asylum, Migration and Integration Fund (see page 1 of this Official Journal).

⁽²⁶⁾ 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).

European Fisheries Control Agency, established by Regulation (EU) 2019/473 of the European Parliament and of the Council⁽²⁷⁾, 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.

(34) In order to strengthen the complementarity and to reinforce the consistency of maritime activities, to avoid duplication of efforts and to alleviate budgetary constraints in an area of costly activities such as the maritime domain, it should also be possible to use, additionally, the Instrument to support maritime operations of a multipurpose character.

(35) Equipment and ICT systems financed under the Instrument should also be able to be used for achieving the objectives of the Internal Security Fund, established by Regulation (EU) 2021/1149 of the European Parliament and of the Council⁽²⁸⁾ and of the Asylum, Migration and Integration Fund, established by Regulation (EU) 2021/1147. Such equipment and ICT systems should remain available and deployable for effective and secure border control activities and the use of such equipment and ICT systems for the objectives of the Internal Security Fund and the Asylum, Migration and Integration Fund should be limited in time.

(36) The Instrument should, in line with its specific objectives, primarily serve internal

Union policy. At the same time, the Instrument should be able to, where appropriate, support actions in line with Union priorities in and in relation to third countries. Those actions 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, such actions should be implemented in a way that ensures full coherence with external Union policy, respects the principle of policy coherence for development and is consistent with the strategic programming documents for the country or region in question. Such actions should also focus on measures that are not development-oriented, serve the interests of internal Union policy and be consistent with the activities undertaken inside the Union. In its mid-term and retrospective evaluations, the Commission should pay particular attention to the implementation of actions in or in relation to third countries.

(37) Funding from the Union budget should concentrate on actions for which 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 management and common visa policy and to provide a platform for the development of the common large-scale IT systems underpinning those policies, financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in those areas.

(38) When promoting actions supported by the Instrument, the recipients of Union funding should provide information in the language or languages of the target audience. To ensure the visibility of Union funding, recipients of that funding should refer to its origin when communicating on the action.

⁽²⁷⁾ Regulation (EU) 2019/473 of the European Parliament and of the Council of 19 March 2019 on the European Fisheries Control Agency (OJ L 83, 25.3.2019, p. 18).

⁽²⁸⁾ Regulation (EU) 2021/1149 of the European Parliament and of the Council of 7 July 2021 establishing the Internal Security Fund (see page 94 of this Official Journal).

To that end, recipients should ensure that all communications to the media and the public display the Union emblem and explicitly mention the Union's financial support.

(39) It should be possible for the Commission to use financial resources under the Instrument to promote best practices and the exchange of information as regards the implementation of the Instrument.

(40) The Commission should publish information on the support provided from the thematic facility under direct or indirect management in a timely manner and should update such information where appropriate. It should be possible to sort the data by specific objective, name of beneficiary, the amount legally committed and the nature and purpose of the measure.

(41) A Member State may be deemed not to be compliant with the relevant Union *acquis*, including as regards the use of operating support under the Instrument, if it has failed to fulfil its obligations under the Treaties in the areas of border management and visa policy, including as regards fundamental rights obligations, if there is a clear risk of a serious breach by that Member State of Union values when implementing the *acquis* on border management and visa policy or if an evaluation report under the Schengen evaluation and monitoring mechanism laid down in Regulation (EU) No 1053/2013 has identified deficiencies in the relevant area.

(42) The Instrument should ensure that there is a fair and transparent distribution of resources to meet the objectives laid down in this Regulation. In order to meet transparency requirements, the Commission should publish information on the annual and multiannual work programmes of the thematic facility. In line with Regulation (EU) 2021/1060, each Member State should ensure that within six

months of the approval of its programme, there is a website in place on which information on its programme is available, covering the programme's objectives, activities, available funding opportunities and achievements.

(43) This Regulation should establish the initial amounts for Member States' programmes which consist of fixed amounts as set out in Annex I and an amount calculated on the basis of the criteria laid down in that Annex and which reflect the length of, and the impact levels at, land and sea border sections, the workload at airports and consulates and the number of consulates. In view of the special needs of those Member States which have experienced the highest number of asylum applications per capita in 2018 and 2019, it is appropriate to increase the fixed amounts for Cyprus, Malta and Greece.

(44) The initial amounts for Member States' programmes should form the basis for Member States' long-term investments. To take account of changes in the baseline situation, such as the pressure on the external borders and the workload at the external borders and at consulates, an additional amount should be allocated to the Member States at the mid-term of the programming period and should be based on the statistical data, in accordance with Annex I, taking into account the state of their programme implementation.

(45) The Commission should carry out a mid-term evaluation of this Regulation. That mid-term evaluation should be used to assess the effectiveness and Union added value of the Instrument and provide a transparent overview of how the Instrument has been implemented.

(46) As challenges in the area of border management and visa policy are constantly evolving, there is a need to adapt the allocation of funding to changes in priorities for visa policy

and border management, including changes that result from increased pressure at the border, and a need to steer funding towards the priorities with the highest Union added value. To respond to pressing needs and changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding should be periodically allocated, via a thematic facility, to specific actions, Union actions and emergency assistance. The thematic facility offers flexibility in the management of the Instrument and could also be implemented through Member States' programmes.

(47) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a greater Union contribution.

(48) The Instrument should contribute to supporting operating costs that relate to border management, common visa policy and large-scale IT systems in order to enable Member States to maintain capabilities which are crucial for the Union as a whole. Such support should consist of the full reimbursement of specific costs that relate to the objectives of the Instrument and should form an integral part of the Member States' programmes.

(49) Part of the available resources under the Instrument could be allocated to Member States' programmes for the implementation of specific actions, in addition to the initial allocation. Those specific actions should be identified at Union level and should concern actions with Union added value which require cooperation among Member States 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 Member States' programmes 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 large-scale IT systems and the establishment of interoperability between those systems. The Commission should set out those specific actions in its work programmes.

(50) To complement the implementation of the policy objective of the 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 in relation to policy analysis and innovation, transnational mutual learning and partnerships and the testing of new initiatives and actions across the Union.

(51) In order to strengthen the Union's capacity to immediately address urgent and specific needs in the event of an emergency situation, such as a large or disproportionate influx of third-country nationals, in particular at those border sections to which a high or critical impact level has been attributed under Regulation (EU) 2019/1896, or other situations in respect of which it has been duly substantiated that immediate action at the external borders is required, it should be possible to provide emergency assistance, in accordance with the framework set out in this Regulation.

(52) This Regulation lays down a financial envelope for the entire duration of the Instrument which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Union and the European Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own

resources, including a roadmap towards the introduction of new own resources⁽²⁹⁾, for the European Parliament and the Council during the annual budgetary procedure. The prime reference amount allocated to the Instrument is increased by an additional amount of EUR 1 billion in 2018 prices as specified in Annex II to Council Regulation (EU, Euratom) 2020/2093⁽³⁰⁾.

(53) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽³¹⁾ (the ‘Financial Regulation’) applies to the Instrument. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.

(54) For the purpose of implementation of actions under shared management, the Instrument should form part of a coherent framework that consists of this Regulation, the Financial Regulation and Regulation (EU) 2021/1060.

(55) Regulation (EU) 2021/1060 establishes the framework for action by the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the

European Maritime, Fisheries and Aquaculture Fund, the Just Transition Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, as part of the Integrated Border Management Fund, and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. Additionally, it is necessary to specify the objectives of the Instrument with respect to border management and visa policy in this Regulation, and to lay down specific provisions concerning actions that may be financed under the Instrument.

(56) A pre-financing scheme for the Instrument is set out in Regulation (EU) 2021/1060, and a specific pre-financing rate is set in this Regulation. In addition, in order to ensure that it is possible to react promptly to emergency situations, it is appropriate to set a specific pre-financing rate for emergency assistance. The pre-financing scheme should ensure that Member States have the means to provide support to beneficiaries as of the start of the implementation of their programmes.

(57) The types of financing and 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, administrative burdens and the risk of non-compliance. When making that choice, 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, should be considered.

(58) In accordance with Article 193(2) of the Financial Regulation, a grant may be

⁽²⁹⁾ OJ L 433 I, 22.12.2020, p. 28.

⁽³⁰⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

⁽³¹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible for Union financing except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the Union's interests, it should be possible, for a limited period of time at the beginning of the 2021-2027 multiannual financial framework, that costs incurred in respect of actions supported under this Regulation under direct management and which have already begun be considered eligible for Union financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.

(59) In order to make the most use of the single audit principle, it is appropriate to set specific rules on the control and audit of projects in which international organisations, the internal control systems of which have been positively assessed by the Commission, are the beneficiaries. For such projects, managing authorities should have the possibility of limiting their management verifications, provided that the beneficiary delivers all necessary data and information on the progress of the project and on the eligibility of underlying expenditure in a timely manner. In addition, where a project implemented by such an international organisation is part of an audit sample, it should be possible for the audit authority to carry out its work in line with the principles of the International Standard on Related Services (ISRS) 4400, 'Engagements to Perform Agreed-upon Procedures Regarding Financial Information'.

(60) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the

Council⁽³²⁾ and Council Regulations (EC, Euratom) No 2988/95⁽³³⁾, (Euratom, EC) No 2185/96⁽³⁴⁾ and (EU) 2017/1939⁽³⁵⁾, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to 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. The European Public Prosecutor's office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939 to investigate and prosecute criminal offences affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371 of the European Parliament and of

⁽³²⁾ 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).

⁽³³⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽³⁴⁾ 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).

⁽³⁵⁾ 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).

the Council⁽³⁶⁾. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPU, and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should cooperate fully and provide all necessary assistance to Union institutions, bodies, offices and agencies in relation to the protection of the financial interests of the Union.

(61) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.

(62) Pursuant to Council Decision 2013/755/EU⁽³⁷⁾, persons and entities established in overseas countries or territories 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.

(63) Pursuant to Article 349 TFEU and in line with the communication of the Commission of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions', endorsed by the Council in its conclusions of 12 April 2018, the relevant Member States should ensure that their programmes address the emerging threats with which the outermost regions are confronted. The Instrument should support those Member States with adequate resources to help the outermost regions as appropriate.

(64) Pursuant to paragraph 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽³⁸⁾, the Instrument should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should 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. Those indicators should include qualitative and quantitative indicators.

(65) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change⁽³⁹⁾, and the commitment to the United Nations' Sustainable Development Goals, the actions under this Regulation should contribute to the achievement of an overall target of 30 % of all multiannual financial framework expenditure being spent on mainstreaming

⁽³⁶⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁽³⁷⁾ 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).

⁽³⁸⁾ OJ L 123, 12.5.2016, p. 1.

⁽³⁹⁾ OJ L 282, 19.10.2016, p. 4.

climate objectives and to working towards the ambition of 7,5 % of the budget being spent on biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while taking into account the existing overlaps between climate and biodiversity goals. The Instrument should support activities that respect the climate and environmental standards and priorities of the Union and would do no significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council⁽⁴⁰⁾.

(66) Regulation (EU) No 514/2014 of the European Parliament and of the Council⁽⁴¹⁾ and any act applicable to the 2014-2020 programming period should continue to apply to programmes and projects supported under the Instrument during the 2014-2020 programming period. Since the implementation period of Regulation (EU) No 514/2014 overlaps with the programming period covered by this Regulation, and in order to ensure continuity in the implementation of certain projects approved by that Regulation, provisions on the phasing of projects should be laid down. Each individual phase of the project should be implemented in accordance with the rules of the programming period under which it receives funding.

(67) Through indicators and financial reporting, the Commission and the Member States

⁽⁴⁰⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁽⁴¹⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

should monitor the implementation of the Instrument in accordance with the relevant provisions of Regulation (EU) 2021/1060 and this Regulation. Starting from 2023, Member States should submit to the Commission annual performance reports covering the latest accounting year. Those reports should contain information on the progress made in the implementation of Member States' programmes. The Member States should also submit summaries of those reports to the Commission. The Commission should translate those summaries into all official languages of the Union and make them publicly available on its website, together with links to the Member States' websites referred to in Regulation (EU) 2021/1060.

(68) In order to supplement and amend non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the list of actions in Annex III, the list of actions eligible for higher co-financing rates in Annex IV, operating support under Annex VII and the further development of the monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(69) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be

exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽⁴²⁾. The examination procedure should be used for the adoption of implementing acts that lay down common obligations on Member States, in particular obligations concerning the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the detailed arrangements for the provision of information to the Commission in the framework of programming and reporting, given their purely technical nature. The Commission should adopt immediately applicable implementing acts relating to the adoption of decisions to award emergency assistance provided for by this Regulation where, in duly justified cases relating to the nature and purpose of such assistance, imperative grounds of urgency so require.

(70) The participation by a Member State in the Instrument should not coincide with its participation in a temporary financial instrument of the Union which supports the beneficiary Member States to finance, inter alia, actions at new external borders of the Union for the implementation of the Schengen *acquis* on borders and visas and external border control.

(71) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this

⁽⁴²⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Regulation does not go beyond what is necessary in order to achieve those objectives.

(72) As regards Iceland and Norway, this Regulation constitutes a development of the provisions 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*⁽⁴³⁾ which fall within the area referred to in Article 1, Points A and B of Council Decision 1999/437/EC⁽⁴⁴⁾.

(73) 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*⁽⁴⁵⁾ which fall 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⁽⁴⁶⁾.

(74) As regards Liechtenstein, this Regulation constitutes a development of the provisions

⁽⁴³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁴⁾ 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).

⁽⁴⁵⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁴⁶⁾ 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).

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*⁽⁴⁷⁾ which fall 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⁽⁴⁸⁾.

(75) In order to specify the nature and modes of participation in the Instrument of countries associated with the implementation, application and development of the Schengen *acquis*, further arrangements should be concluded between the Union and those countries under the relevant provisions of their respective association agreements. Such arrangements should constitute international agreements within the meaning of Article 218 TFEU. With a view to minimising any possible gap between the moment when the Instrument becomes binding on the country concerned and the entry into force of the arrangements, it is appropriate to start the negotiations on such arrangements as soon as possible after the respective country has notified to the Council and the Commission

⁽⁴⁷⁾ OJ L 160, 18.6.2011, p. 21.

⁽⁴⁸⁾ 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).

its decision to accept the contents of the Instrument and to implement it in its internal legal order. The conclusion of such arrangements should take place after the country concerned has informed in writing of the fulfilment of all its internal requirements.

(76) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and the 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.

(77) 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⁽⁴⁹⁾. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(78) It is appropriate to align the period of application of this Regulation with that of Regulation (EU, Euratom) 2020/2093.

(79) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the 2021-2027 multiannual financial framework, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

⁽⁴⁹⁾ 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).

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 SUBJECT MATTER

This Regulation establishes the Instrument for Financial Support for Border Management and Visa Policy (the 'Instrument'), as part of the Integrated Border Management Fund (the 'Fund'), for the period from 1 January 2021 to 31 December 2027.

This Regulation establishes the Fund jointly with Regulation (EU) 2021/1077 for the period from 1 January 2021 to 31 December 2027.

This Regulation lays down the policy objective of the Instrument, the specific objectives of the Instrument and measures to implement those specific objectives, the budget for the period from 1 January 2021 to 31 December 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 apply:

- (1) 'border crossing point' means border crossing point as defined in point 8 of Article 2 of Regulation (EU) 2016/399;
- (2) 'European integrated border management' means European integrated border management as referred to in Article 3 of Regulation (EU) 2019/1896;
- (3) 'external borders' means external borders as defined in point 2 of Article 2 of Regulation (EU) 2016/399 and internal borders at which controls have not yet been lifted;
- (4) 'external border section' means external border section as defined in point (11) of Article 2 of Regulation (EU) 2019/1896;
- (5) 'hotspot area' means hotspot area as defined in point (23) of Article 2 of Regulation (EU) 2019/1896;
- (6) 'internal borders at which controls have not yet been lifted' 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;
- (7) 'emergency situation' means a situation resulting from urgent and exceptional pressure, in which 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 or in which incidents related to illegal immigration or cross-border crime occur at the external borders of one or more Member States, and those incidents have a decisive impact on border security to such an extent that they risk jeopardising the functioning of the Schengen area, or any other situation in respect of which it has been duly substantiated that immediate action at the external

borders within the objectives of the Instrument is required;

(8) ‘specific actions’ means transnational or national projects that bring Union added value in accordance with the objectives of the Instrument for which one, several or all Member States may receive an additional allocation to their programmes;

(9) ‘operating support’ means a part of a Member State’s allocation which may be used as support to the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union;

(10) ‘Union actions’ means transnational projects or projects of particular interest to the Union implemented in accordance with the objectives of the Instrument.

ARTICLE 3 OBJECTIVES OF THE INSTRUMENT

1. As part of the Fund, the policy objective of the Instrument is to ensure strong and effective European integrated border management at the external borders, thereby contributing to ensuring a high level of internal security within the Union, while safeguarding the free movement of persons within it and fully respecting the relevant Union *acquis* and the international obligations of the Union and the Member States arising from the international instruments to which they are party.

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 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 ensure a harmonised approach with regard to the issuance of visas and to facilitate legitimate travel, while helping to 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.

ARTICLE 4 NON-DISCRIMINATION AND RESPECT FOR FUNDAMENTAL RIGHTS

Actions funded under the Instrument shall be implemented in full compliance with the rights and principles enshrined in the Union *acquis* and the Charter and with the Union’s international obligations as regards fundamental rights, in particular by ensuring compliance with the principles of non-discrimination and non-refoulement.

ARTICLE 5 SCOPE OF SUPPORT

1. Within its objectives and in accordance with the implementation measures listed in Annex II, the Instrument shall, in particular, support the actions listed in Annex III.

To address unforeseen or new circumstances, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend the list of actions in Annex III in order to add new actions.

2. To achieve its objectives, the Instrument may support, in line with Union priorities, actions as referred to in Annex III in and in

relation to third countries, where appropriate, in accordance with Article 20.

3. As regards actions in and in relation to third countries, the Commission and the Member States, together with the European External Action Service, shall, in accordance with their respective responsibilities, ensure coordination with relevant Union policies, strategies and instruments. They shall, in particular, ensure that actions in and in relation to third countries:

(a) are carried out in synergy and in coherence with other actions outside the Union supported through other Union instruments;

(b) are coherent with external Union policy, respect the principle of policy coherence for development and are consistent with the strategic programming documents for the region or country in question;

(c) focus on measures that are not development-oriented; and

(d) serve the interests of internal Union policies and are consistent with activities undertaken within the Union.

4. The following actions shall not be eligible:

(a) actions as referred to in point (a) of paragraph 1 of Annex III at those internal borders at which controls have not yet been lifted;

(b) actions related to the temporary reintroduction of border control at internal borders within the meaning of point 1 of Article 2 of Regulation (EU) 2016/399;

(c) actions of which the primary purpose is customs control.

By way of derogation from the first subparagraph, where an emergency situation occurs, actions as referred to in the first subparagraph may be considered eligible.

CHAPTER II FINANCIAL AND IMPLEMENTATION FRAMEWORK

SECTION 1: Common provisions

ARTICLE 6 GENERAL PRINCIPLES

1. Support provided under the Instrument shall complement national, regional and local interventions, and shall focus on bringing Union added value to the achievement of the objectives of the Instrument.

2. The Commission and the Member States shall ensure that the support provided under the Instrument and by the Member States is consistent with the relevant actions, policies and priorities of the Union, and is com-

plementary to support provided under other Union instruments.

3. The Instrument shall be implemented under direct, shared or indirect management in accordance with points (a), (b) and (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

ARTICLE 7 BUDGET

1. The financial envelope for the implementation of the Instrument for the period from

1 January 2021 to 31 December 2027 shall be EUR 5241000000 in current prices.

2. As a result of the programme-specific adjustment provided for in Article 5 of Regulation (EU, Euratom) 2020/2093, the amount referred to in paragraph 1 of this Article shall be increased by an additional allocation of EUR 1000000000 in constant 2018 prices as specified in Annex II to that Regulation.

3. The financial envelope shall be used as follows:

(a) EUR 3668000000 shall be allocated to the Member States' programmes, of which EUR 200568000 shall be allocated to the Special Transit Scheme referred to in Article 17;

(b) EUR 1573000000 shall be allocated to the thematic facility referred to in Article 8.

4. The additional allocation referred to in paragraph 2 shall be allocated to the thematic facility referred to in Article 8.

5. At the initiative of the Commission, up to 0,52 % of the financial envelope shall be allocated to technical assistance, as referred to in Article 35 of Regulation (EU) 2021/1060, for the implementation of the Instrument.

6. In accordance with the relevant provisions of their respective association agreements, arrangements shall be made in order to specify the nature and modes of the participation in the Instrument of countries associated with the implementation, application and development of the Schengen *acquis*. As soon as possible after the country concerned has notified its decision to accept the content of the Instrument and to implement it in its internal legal order, in accordance with the relevant association agreement, the Commission shall submit a recommendation to

the Council for the opening of negotiations on those arrangements under Article 218(3) TFEU. On receipt of the recommendation, the Council shall act without delay in deciding to authorise the opening of those negotiations. The financial contributions from those countries shall be added to the overall resources available from the financial envelope referred to in paragraph 1.

7. In accordance with Article 26 of Regulation (EU) 2021/1060, up to 5 % of the initial allocation to a Member State from any of the funds under that Regulation under shared management may be transferred to the Instrument under direct or indirect management at the request of that Member State. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

ARTICLE 8 GENERAL PROVISIONS ON THE IMPLEMENTATION OF THE THEMATIC FACILITY

1. The amount referred to in point (b) of Article 7(3) shall be allocated flexibly through a thematic facility using shared, direct or indirect management as set out in work programmes. Given the internal nature of the Instrument, the thematic facility shall primarily serve internal Union policy in accordance with the specific objectives set out in Article 3(2).

Funding from the thematic facility shall be used for its components, which are as follows:

- (a) specific actions;
- (b) Union actions; and
- (c) emergency assistance as referred to in Article 25.

Technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/1060, shall also receive support from the amount referred to in point (b) of Article 7(3) of this Regulation.

2. Funding from the thematic facility shall address priorities with a high Union added value or be used to respond to urgent needs, in line with agreed Union priorities as reflected in Annex II, including the need to protect the external borders and to prevent and detect cross-border crime at the external borders, in particular migrant smuggling and trafficking in human beings, and irregular immigration, as well as to effectively manage migratory flows and support the common visa policy.

The funding referred to in the first subparagraph of this paragraph, with the exception of funding used for emergency assistance in accordance with Article 25, shall only support the actions listed in Annex III.

3. The Commission shall engage with civil society organisations and relevant networks, in particular with a view to preparing and evaluating the work programmes for Union actions financed under the Instrument.

4. When funding from the thematic facility is provided under direct or indirect management to Member States, the Commission shall ensure that projects affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of projects are not selected.

5. For the purposes of Article 23 and Article 24(2) of Regulation (EU) 2021/1060, where funding from the thematic facility is implemented under shared management, the Member State concerned shall ensure that, and the Commission shall assess whether,

the envisaged actions are not affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of the actions.

6. The Commission shall establish the overall amount to be made available for the thematic facility under the annual appropriations of the Union budget.

7. The Commission shall, by means of implementing acts, adopt financing decisions as referred to in Article 110 of the Financial Regulation for the thematic facility identifying objectives and actions to be supported and specifying the amounts for each of the components referred to in the second subparagraph of paragraph 1 of this Article. Financing decisions may be annual or multiannual and may cover one or more components of the thematic facility referred to in the second subparagraph of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 32(3) of this Regulation.

8. The Commission shall ensure that the distribution of resources among the specific objectives set out in Article 3(2) is fair and transparent. The Commission shall report on the use and the distribution of the thematic facility between the components referred to in the second subparagraph of paragraph 1 of this Article, including on the support provided to actions in or in relation to third countries under the Union actions.

9. Following the adoption of a financing decision as referred to in paragraph 7, the Commission may amend the Member States' programmes accordingly.

SECTION 2: Support and implementation under shared management

ARTICLE 9 SCOPE

1. This section applies to the amount referred to in point (a) of Article 7(3) and the additional resources to be implemented under shared management in accordance with the financing 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) 2021/1060.

ARTICLE 10 BUDGETARY RESOURCES

1. The amount referred to in point (a) of Article 7(3) shall be allocated to Member States' programmes indicatively as follows:

(a) EUR 3057000000 in accordance with Annex I;

(b) EUR 611000000 for the adjustment of the allocations to the Member States' programmes referred to in Article 14(1).

2. Where the amount referred to in point (b) of paragraph 1 of this Article is not fully allocated, the remaining amount may be added to the amount referred to in point (b) of Article 7(3).

ARTICLE 11 PRE-FINANCING

1. In accordance with Article 90(4) of Regulation (EU) 2021/1060, the pre-financing for the Instrument shall be paid in yearly instalments before 1 July of each year, subject to the availability of funds, as follows:

(a) 2021: 4 %;

(b) 2022: 3 %;

(c) 2023: 5 %;

(d) 2024: 5 %;

(e) 2025: 5 %;

(f) 2026: 5 %.

2. Where a Member State's programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of its adoption.

ARTICLE 12 CO-FINANCING RATES

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure for 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 referred to in Article 17.

5. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure in accordance with Article 85(2) or (3) of Regulation (EU) 2018/1240.

6. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for emergency assistance as referred to in Article 25.

7. The contribution from the Union budget may be increased to 100 % of the total eli-

gible expenditure for technical assistance at the initiative of Member States, within the limits set out in point (b)(vi) of Article 36(5) of Regulation (EU) 2021/1060.

8. The Commission decision approving a Member State's programme shall set the co-financing rate and the maximum amount of support from the Instrument for the types of action covered by the contribution referred to in paragraphs 1 to 7.

9. The Commission decision approving a Member State's programme shall set out for each type of action whether the co-financing rate is applied in respect of:

(a) the total contribution, including the public and private contribution; or

(b) the public contribution only.

ARTICLE 13 MEMBER STATES' PROGRAMMES

1. Each Member State shall ensure that the priorities addressed in its programme are consistent with and respond to Union priorities and challenges in the area of border management and visa policy and are fully in accordance with the relevant Union *acquis* and the international obligations of the Union and Member States arising from the international instruments to which they are party. In defining the priorities of their programmes, Member States shall ensure that the implementation measures listed in Annex II are adequately addressed in their programmes.

Given the internal nature of the Instrument, Member States' programmes shall primarily serve internal Union policy in accordance with the specific objectives set out in Article 3(2) of this Regulation.

The Commission shall assess the Member States' programmes in accordance with Article 23 of Regulation (EU) 2021/1060.

2. Within the resources allocated in Article 10(1), and without prejudice to paragraph 3 of this Article, each Member State shall allocate, within its programme, a minimum of 10 % to the specific objective set out in point (b) of Article 3(2).

3. A Member State may allocate less than the minimum percentage referred to in paragraph 2 only if it provides a detailed explanation in its programme as to why allocating resources below that level would not jeopardise the achievement of the relevant objective.

4. The Commission shall ensure that the knowledge and expertise of the relevant decentralised agencies, in particular the European Border and Coast Guard Agency, eu-LISA and the European Union Agency for Fundamental Rights, established by Council Regulation (EC) No 168/2007⁽⁵⁰⁾, are taken into account as regards the areas of their competence, at an early stage and in a timely manner, in the development of the Member States' programmes.

5. The Commission shall consult the European Border and Coast Guard Agency on the actions included under operating support to ensure the consistency and complementarity of the actions of the European Border and Coast Guard Agency and those of the Member States regarding border management, to avoid double financing and to achieve cost efficiency. The Commission shall, where necessary, consult eu-LISA on the actions included under operating support for which

⁽⁵⁰⁾ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

eu-LISA has particular expertise in accordance with its mandate.

6. The Commission may involve, where appropriate, relevant decentralised agencies, including those referred to in paragraph 4, in the monitoring and evaluation tasks specified in Section 5, in particular with a view to ensuring that the actions implemented with the support of the Instrument are compliant with the relevant Union *acquis* and agreed Union priorities.

7. Following the adoption of recommendations within the scope of this Regulation in accordance with Regulation (EU) No 1053/2013 and the issuing of recommendations in the framework of carrying out vulnerability assessments in accordance with Regulation (EU) 2019/1896, the Member State concerned shall examine, together with the Commission, the most appropriate approach to addressing those recommendations with the support of the Instrument.

8. The Commission shall, where relevant, involve the European Border and Coast Guard Agency in the process of examining the most appropriate approach to addressing the recommendations referred to in paragraph 7 with the support of the Instrument. In that context, the Commission may, where relevant, draw on the expertise of other Union bodies, offices and agencies with respect to specific issues falling within their areas of competence.

9. When implementing paragraph 7, the Member State concerned shall make the implementation of measures to address any identified deficiencies, especially measures to address serious deficiencies and assessments of non-compliance, a priority for its programme.

10. Where necessary, the programme of the Member State in question shall be amended in accordance with Article 24 of Regulation (EU) 2021/1060 to take into account the recommendations referred to in paragraph 7 of this Article.

11. In cooperation and consultation with the Commission and the European Border and Coast Guard Agency in accordance with the that Agency's areas of competence, 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 7 where those recommendations have financial implications.

12. Whenever a Member State decides to implement a project with or in a third country with the support of the Instrument, the Member State concerned shall consult the Commission prior to the approval of the project.

13. Whenever a Member State decides to implement an action with, in or in relation to a third country with the support of the Instrument in relation to the monitoring, detection, identification, tracking, prevention and interception of unauthorised border crossings for the purpose of detecting, preventing and combating irregular immigration and cross-border crime or for the purpose of contributing to the protection of migrants and contributing to saving the lives of migrants, that Member State shall ensure that it has notified the Commission of any bilateral or multilateral cooperation agreement with that third country in accordance with Article 76(3) of Regulation (EU) 2019/1896.

14. As regards equipment, including means of transport, and ICT systems required for effective and secure border control, including for search and rescue operations, and purchased with the support of the Instrument:

(a) the Member States shall ensure that the standards established in accordance with Articles 16 and 64 of Regulation (EU) 2019/1896 are met when launching the purchase procedures for the equipment and ICT systems to be developed with the support of the Instrument;

(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 for the purpose of making that equipment available in accordance with Article 64(9) of Regulation (EU) 2019/1896;

(c) they may be additionally used in the following complementary areas: customs control, maritime operations of a multipurpose character and for achieving the objectives of the Internal Security Fund and of the Asylum, Migration and Integration Fund;

(d) Member States shall, in order to support coherent planning for capability development for the European Border and Coast Guard and the possible use of joint procurement, communicate to the Commission, as part of the reporting requirement under Article 29, the available multiannual planning for the equipment expected to be purchased under the Instrument, and the Commission shall transmit that information to the European Border and Coast Guard Agency.

Equipment and ICT systems as referred to in the first subparagraph shall only be eligible for financial support from the Instrument where the requirement set out in point (a) of the first subparagraph is met.

For the purposes of point (c) of the first subparagraph, equipment and ICT systems shall remain available and deployable for

effective and secure border control activities. The use of equipment in the complementary areas referred to in point (c) of the first subparagraph shall not exceed 30 % of the total period of use of that equipment. ICT systems developed for the purposes of point (c) of the first subparagraph shall provide data and services to the border management systems at national or Union level. Member States shall inform the Commission in the annual performance report of multiple use as referred to in point (c) of the first subparagraph and the place of deployment for multipurpose equipment and ICT systems.

15. Where Member States are implementing actions under the Instrument, they shall pay particular attention to their international obligations regarding search and rescue operations at sea. Equipment and ICT systems as referred to in points (a) to (d) of the first subparagraph of paragraph 14 may be used for search and rescue operations in situations which might arise during border surveillance operations at sea.

16. Training in the field of border management carried out with the support of the Instrument shall be based on the relevant harmonised and quality-assured European educational and common training standards for border and coast guards, in particular the common core curricula referred to in Article 62(6) of Regulation (EU) 2019/1896.

17. Member States shall in particular pursue the actions listed in Annex IV in their programmes. To address unforeseen or new circumstances and to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend the list of actions eligible for higher co-financing rates in Annex IV.

18. Programming as referred to in Article 22(5) of Regulation (EU) 2021/1060 shall be based on the types of intervention set out in Table 1 of Annex VI to this Regulation and shall include an indicative breakdown of the programmed resources by type of intervention within each specific objective set out in Article 3(2) of this Regulation.

ARTICLE 14 MID-TERM REVIEW

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in point (b) of Article 10(1) in accordance with the criteria referred to in point (c) of paragraph 1 and paragraphs 2 to 10 of Annex I. The allocation shall be based on the most recent available statistical data for the criteria referred to in point (c) of paragraph 1 and paragraphs 2 to 10 of Annex I. Funding shall be effective as of 1 January 2025.

2. Where at least 10 % of the initial allocation to a programme referred to in point (a) of Article 10(1) of this Regulation has not been covered by payment applications submitted in accordance with Article 91 of Regulation (EU) 2021/1060, the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in point (b) of Article 10(1) of this Regulation.

3. When allocating the funds from the thematic facility referred to in Article 8 of this Regulation as of 1 January 2025, the Commission shall take into account the progress made by the Member States in achieving the milestones of the performance framework referred to in Article 16 of Regulation (EU) 2021/1060 and identified shortcomings in implementation.

ARTICLE 15 SPECIFIC ACTIONS

1. A Member State may receive funding for specific actions in addition to its allocation under Article 10(1), provided that that funding is subsequently earmarked as such in its programme and is used to contribute to the implementation of the objectives of the Instrument.

2. Funding for specific actions shall not be used for other actions in the Member State's programme, except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme.

ARTICLE 16 OPERATING SUPPORT

1. A Member State may use up to 33 % of the amount allocated to its programme under the Instrument to finance operating support for the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union.

2. When using operating support, a Member State shall comply with the relevant Union *acquis*.

3. A Member State shall explain, in its programme and in the annual performance reports referred to in Article 29, how the use of operating support will contribute to the achievement of the objectives of the Instrument. Before the approval of the Member State's programme, the Commission shall assess the baseline situation in the Member States which have indicated their intention to use operating support, following a consultation of the European Border and Coast Guard Agency and, where appropriate, eu-LISA within the scope of those agencies' areas of competence in accordance with Article 13(4), and taking into account the information pro-

vided by those Member States and, where relevant, the information available as a result of Schengen evaluations and vulnerability assessments, including recommendations following Schengen evaluations and vulnerability assessments.

4. Without prejudice to point (c) of Article 5(4), operating support shall be concentrated on actions covered by expenditure as laid down in Annex VII.

5. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend Annex VII in respect of expenditure that is eligible for operating support.

ARTICLE 17 OPERATING SUPPORT FOR THE SPECIAL TRANSIT SCHEME

1. The Instrument shall provide support to cover foregone fees from visas issued for the purpose of transit and additional costs incurred in implementing the facilitated transit scheme in accordance with Regulations (EC) No 693/2003 and (EC) No 694/2003.

2. The resources allocated to Lithuania for the Special Transit Scheme in accordance with point (a) of Article 7(3) shall be made available as additional operating support for Lithuania, including for investment in infrastructures, in accordance with the expenditure that is eligible for operating support within its programme referred to in Annex VII.

3. By way of derogation from Article 16(1), Lithuania may use the amount allocated to it in accordance with point (a) of Article 7(3) to finance operating support in addition to the amount referred to in Article 16(1).

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.

5. Following a reasoned request by Lithuania, the resources allocated for the Special Transit Scheme in accordance with in point (a) of Article 7(3) shall be reviewed and, where necessary, adjusted before the adoption of the last work programme for the thematic facility referred to in Article 8, within the limits of the budgetary resources referred to in point (b) of Article 7(3), through the thematic facility referred to in Article 8.

ARTICLE 18 MANAGEMENT VERIFICATIONS AND AUDITS OF PROJECTS CARRIED OUT BY INTERNATIONAL ORGANISATIONS

1. This Article applies to international organisations or their agencies as referred to in point (c)(ii) of the first subparagraph of Article 62(1) of the Financial Regulation whose systems, rules and procedures have been positively assessed by the Commission pursuant to Article 154(4) and (7) of that Regulation for the purpose of indirectly implementing grants financed from the Union budget ('international organisations').

2. Without prejudice to point (a) of the first paragraph of Article 83 of Regulation (EU) 2021/1060 and to Article 129 of the Financial Regulation, where the international organisation is a beneficiary as defined in point (9) Article 2 of Regulation (EU) 2021/1060, the managing authority shall not be required to carry out the management verifications referred to in point (a) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060, provided that the international organisation submits to the managing authority the documents referred to in points

(a), (b) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation.

3. Without prejudice to point (c) of the first subparagraph of Article 155(1) of the Financial Regulation, the management declaration to be submitted by the international organisation shall confirm that the project complies with applicable law and the conditions for support of the project.

4. In addition, where costs are to be reimbursed pursuant to point (a) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that:

(a) invoices and proof of their payment by the beneficiary have been verified;

(b) the accounting records or accounting codes maintained by the beneficiary for transactions linked to the expenditure declared to the managing authority have been verified.

5. Where costs are to be reimbursed pursuant to point (b), (c) or (d) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that the conditions for reimbursement of expenditure have been met.

6. The documents referred to in points (a) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation shall be provided to the managing authority together with each payment claim submitted by the beneficiary.

7. The beneficiary shall submit the accounts to the managing authority each year by 15 October. The accounts shall be accompanied by an opinion of an independent audit body that has been drawn up in accordance with internationally accepted audit standards.

That opinion shall establish whether the control systems in place function properly and are cost-effective and whether the underlying transactions are legal and regular. That opinion shall also state whether the audit work puts in doubt the assertions made in the management declarations submitted by the international organisation, including information on suspicions of fraud. That opinion shall provide assurance that expenditure included in the payment claims submitted by the international organisation to the managing authority is legal and regular.

8. Without prejudice to existing possibilities for carrying out further audits as referred to in Article 127 of the Financial Regulation, the managing authority shall draw up the management declaration referred to in point (f) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060. The managing authority shall do so by relying on the documents provided by the international organisation pursuant to paragraphs 2 to 5 and 7 of this Article instead of by relying on the management verifications referred to in Article 74(1) of that Regulation.

9. The document setting out the conditions for support referred to in Article 73(3) of Regulation (EU) 2021/1060, shall include the requirements set out in this Article.

10. Paragraph 2 shall not apply, and consequently a managing authority shall be required to carry out management verifications, where:

(a) that managing authority identifies a specific risk of irregularity or an indication of fraud with respect to a project initiated or implemented by the international organisation;

(b) the international organisation fails to submit to that managing authority the docu-

ments referred to in paragraphs 2 to 5 and 7; or

(c) the documents referred to in paragraphs 2 to 5 and 7 that have been submitted by the international organisation are incomplete.

11. Where a project in which an international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU)

2021/1060, is part of a sample as referred to in Article 79 of that Regulation, the audit authority may perform its work on the basis of a subsample of transactions that relate to that project. Where errors are found in the subsample, the audit authority, if relevant, may request the auditor of the international organisation to assess the full scope and the total amount of errors in that project.

SECTION 3: Support and implementation under direct or indirect management

ARTICLE 19 SCOPE

The Commission shall implement support under this Section either directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph.

ARTICLE 20 ELIGIBLE ENTITIES

1. The following entities are eligible for Union financing:

(a) legal entities established in:

(i) a Member State or an overseas country or territory linked to it;

(ii) a third country listed in the work programme, under the conditions specified in paragraph 3;

(b) legal entities created under Union law or any international organisation relevant for the purposes of the Instrument.

2. Natural persons are not eligible for Union financing.

3. Entities as referred to in point (a)(ii) of paragraph 1 shall participate as part of a consortium composed of at least two independent entities, at least one of which is established in a Member State.

Entities participating as part of a consortium as referred to in the first subparagraph of this paragraph shall ensure that the actions in which they participate comply with the principles enshrined in the Charter and contribute to the achievement of the objectives of the Instrument.

ARTICLE 21 UNION ACTIONS

1. At the Commission's initiative, the Instrument may be used to finance Union actions related to the objectives of the Instrument, in accordance with Annex III.

2. Union actions may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement.

3. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

4. Members of the evaluation committee assessing the proposals, referred to in Article 150 of the Financial Regulation, may be external experts.

5. 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. Article 37(7) of Regulation (EU) 2021/695 of the European Parliament and of the Council⁽⁵¹⁾ shall apply.

ARTICLE 22 TECHNICAL ASSISTANCE AT THE INITIATIVE OF THE COMMISSION

In accordance with Article 35 of Regulation (EU) 2021/1060, the Instrument may support technical assistance implemented at the initiative of, or on behalf of, the Commission, at a financing rate of 100 %.

ARTICLE 23 AUDITS

Audits of the use of the Union contribution carried out by persons or entities, including by persons or entities other than those mandated by Union institutions, bodies, offices or agencies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

ARTICLE 24 INFORMATION, COMMUNICATION AND PUBLICITY

1. The recipients of Union funding shall acknowledge the origin of those funds and

ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective, meaningful and proportionate targeted information to multiple audiences, including the media and the public. The visibility of Union funding shall be ensured and such information shall be provided, except in duly justified cases where it is not possible or appropriate to display such information publicly or where the release of such information is restricted by law, in particular for reasons of security, public order, criminal investigations or the protection of personal data. To ensure the visibility of Union funding, recipients of Union funding shall refer to the origin of that funding when publicly communicating on the action concerned, and shall display the Union emblem.

2. To reach the widest possible audience, the Commission shall implement information and communication actions relating to the Instrument, to actions taken pursuant to the Instrument and to the results obtained.

Financial resources allocated to the Instrument shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives of the Instrument.

3. The Commission shall publish the work programmes of the thematic facility referred to in Article 8. For support provided under direct or indirect management, the Commission shall publish the information referred to in Article 38(2) of the Financial Regulation on a publicly available website and shall update that information regularly. That information shall be published in an open, machine-readable format which allows data to be sorted, searched, extracted and compared.

⁽⁵¹⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

SECTION 4: Support and implementation under shared, direct or indirect management

ARTICLE 25 EMERGENCY ASSISTANCE

1. The Instrument shall provide financial assistance to address urgent and specific needs in the event of duly justified emergency situations.

In response to such duly justified emergency situations, the Commission may provide emergency assistance within the limits of available resources.

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 the allocation under Article 10(1), provided that it is subsequently earmarked as such in the Member States' programmes. That funding shall not be used for other actions in the Member State's programme except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme. Pre-financing for emergency assistance may amount to 95 % of the Union contribution, subject to the availability of funds.

4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

5. Where necessary for the implementation of an action, emergency assistance may cover expenditure which was incurred prior to the date of submission of the grant application or the request for assistance for that

action, provided that that expenditure was not incurred prior to 1 January 2021.

6. Emergency assistance shall be provided in a manner that is entirely consistent with both the relevant Union *acquis* and international obligations of the Union and Member States arising from the international instruments to which they are party.

7. On duly justified imperative grounds of urgency and to ensure that there is a timely availability of resources for emergency assistance, the Commission may separately adopt a financing decision, as referred to in Article 110 of the Financial Regulation, for emergency assistance by way of an immediately applicable implementing act in accordance with the procedure referred to in Article 32(4). Such an act shall remain in force for a period not exceeding 18 months.

ARTICLE 26 CUMULATIVE AND ALTERNATIVE FINANCING

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 the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. 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. In accordance with Article 73(4) of Regulation (EU) 2021/1060, the European Regional

Development Fund or the European Social Fund Plus may support actions attributed a Seal of Excellence label as defined in point (45) of Article 2 of that Regulation. In order to be attributed a Seal of Excellence label, the actions shall comply with the following cumulative 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; and
- (c) they cannot be financed under that call for proposals due to budgetary constraints.

SECTION 5: Monitoring, reporting and evaluation

SUBSECTION 1: COMMON PROVISIONS

ARTICLE 27 MONITORING AND REPORTING

1. In compliance with its reporting requirements pursuant to point (h)(iii) of the first subparagraph of Article 41(3) of the Financial Regulation, the Commission shall present to the European Parliament and to the Council information on the core performance indicators listed in Annex V to this Regulation.

2. The Commission is empowered to adopt delegated acts in accordance with Article 31 to amend Annex V in order to make the necessary adjustments to the core performance indicators listed in that Annex.

3. Indicators to report on the progress of the Instrument towards the achievement of the specific objectives set out in Article 3(2) are set out in Annex VIII. For output indicators, the baselines shall be set at zero. The milestones set for 2024 and the targets set for 2029 shall be cumulative.

4. The Commission shall also report on the use of the thematic facility referred to in Article 8 for supporting actions in or in relation to third countries and the share of the thematic facility used for supporting such actions.

5. The performance reporting system shall ensure that data for monitoring the implementation and the results of the programme 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 appropriate, on Member States.

6. To ensure the effective assessment of the Instrument's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend Annex VIII to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework, including on information to be provided by the Member States. Any amendment to Annex VIII shall apply only to projects selected after the entry into force of that amendment.

ARTICLE 28 EVALUATION

1. By 31 December 2024, the Commission shall carry out a mid-term evaluation of this Regulation. In addition to what is provided for in Article 45(1) of Regulation (EU)

2021/1060, the mid-term evaluation shall assess the following:

(a) the effectiveness of the Instrument, including the progress made towards the achievement of its objectives, taking into account all relevant information already available, in particular the annual performance reports referred to in Article 29 and the output and result indicators set out in Annex VIII;

(b) the efficiency of the use of resources allocated to the Instrument and the efficiency of the management and control measures put in place to implement it;

(c) the continued relevance and appropriateness of the implementation measures listed in in Annex II;

(d) the coordination, coherence and complementarity between the actions supported under the Instrument and support provided by other Union funds;

(e) the Union added value of actions implemented under the Instrument.

That mid-term evaluation shall take into account the results of the retrospective evaluation of the effects of the instrument for financial support for external borders and

visa, as part of the Internal Security Fund, for the 2014-2020 period.

2. In addition to what is provided for in Article 45(2) of the Regulation (EU) 2021/1060, the retrospective evaluation shall include the elements listed in paragraph 1 of this Article. Moreover, the impact of the Instrument shall be evaluated.

3. The mid-term evaluation and the retrospective evaluation shall be carried out in a timely manner in order to contribute to the decision-making process, including, where appropriate, to the revision of this Regulation.

4. The Commission shall ensure that information in the mid-term and retrospective evaluations is made publicly available, except in duly justified cases where the release of that information is restricted by law, in particular for reasons of the functioning or security of the external borders as part of European integrated border management, security, public order, criminal investigations or the protection of personal data.

5. In the mid-term evaluation and retrospective evaluation, the Commission shall pay particular attention to the evaluation of actions implemented with, in or in relation to third countries in accordance with Article 5 and Article 13(12) and (13).

SUBSECTION 2: RULES FOR SHARED MANAGEMENT

ARTICLE 29 ANNUAL PERFORMANCE REPORTS

1. By 15 February 2023 and by 15 February of each subsequent year up to and including 2031, Member States shall submit to the Commission an annual performance report

as referred to in Article 41(7) of Regulation (EU) 2021/1060.

The reporting period shall cover the last accounting year, as defined in point (29) of Article 2 of Regulation (EU) 2021/1060, preceding the year of submission of the report.

The report submitted by 15 February 2023 shall cover the period from 1 January 2021.

2. The annual performance reports shall, in particular, set out information on:

(a) the progress in the implementation of the Member State's programme and in achieving the milestones and targets set out therein, taking into account the most recent data as required under Article 42 of Regulation (EU) 2021/1060;

(b) any issues affecting the performance of the Member State's programme and the action taken to address them, including information on any reasoned opinions issued by the Commission in respect of infringement proceedings under Article 258 TFEU linked to the implementation of the Instrument;

(c) the complementarity between the actions supported under the Instrument and the support provided by other Union funds, in particular those actions taken in or in relation to third countries;

(d) the contribution of the Member State's programme to the implementation of the relevant Union *acquis* and action plans;

(e) the implementation of communication and visibility actions;

(f) the fulfilment of the applicable enabling conditions and their application throughout the programming period, in particular compliance with fundamental rights;

(g) the level of expenditure in accordance with Article 85(2) and (3) of Regulation (EU) 2018/1240 included in the accounts pursuant to the Article 98 of Regulation (EU) 2021/1060;

(h) the implementation of projects in or in relation to a third country.

The annual performance reports shall include a summary covering all the points set out in the first subparagraph of this paragraph. The Commission shall ensure that the summaries provided by Member States are translated into all official languages of the Union and made publicly available.

3. The Commission may provide observations on annual performance reports within two months of the date of their receipt. Where the Commission does not provide observations by that deadline, the report shall be deemed to have been accepted.

4. On its website, the Commission shall provide the links to the websites referred to in Article 49(1) of Regulation (EU) 2021/1060.

5. 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. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 32(2).

ARTICLE 30 MONITORING AND REPORTING UNDER SHARED MANAGEMENT

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) 2021/1060 shall use, as appropriate, the codes for the types of intervention set out in Annex VI to this Regulation. To address unforeseen or new circumstances and to ensure the effective implementation of the funding, the Commission is empowered to adopt delegated acts in accordance with Article 31 to amend Annex VI.

2. The indicators set out in Annex VIII to this Regulation shall be used in accordance with Article 16(1) and Articles 22 and 42 of Regulation (EU) 2021/1060.

CHAPTER III TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 31 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 the second subparagraph of Article 5(1), Article 13(17), Article 16(5), Article 27(2) and (6) and Article 30(1) shall be conferred on the Commission until 31 December 2027.

3. The delegation of powers referred to in the second subparagraph of Article 5(1), Article 13(17), Article 16(5), Article 27(2) and (6) and Article 30(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.

6. A delegated act adopted pursuant to the second subparagraph of Article 5(1), Article 13(17), Article 16(5), Article 27(2) and (6) or Article 30(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council 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 of the Council.

ARTICLE 32 COMMITTEE PROCEDURE

1. The Commission shall be assisted by a committee (the 'Committee for the Home Affairs Funds'). 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 reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

ARTICLE 33 TRANSITIONAL PROVISIONS

1. This Regulation shall not affect the continuation of or modification of the actions initiated pursuant to 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 pursuant to Regulation (EU) No 515/2014.

3. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, taking into account the delayed entry into force of this Regulation, and in order to ensure continuity, for a limited period, costs incurred in respect of actions supported under this Regulation under direct management and which have already begun may be considered eligible for financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.

4. Member States may continue after 1 January 2021 to support a project selected and started under Regulation (EU) No 515/2014, in accordance with Regulation (EU) No 514/2014, provided that all of the following conditions are met:

(a) the project has two phases identifiable from a financial point of view with separate audit trails;

(b) the total cost of the project exceeds EUR 2500000;

(c) payments made by the responsible authority to beneficiaries for the first phase of the project shall be included in payment requests to the Commission under Regulation (EU) No 514/2014 and expenditure for the second phase of the project shall be included in payment applications under Regulation (EU) 2021/1060;

(d) the second phase of the project complies with the applicable law and is eligible for support from the Instrument under this Regulation and Regulation (EU) 2021/1060;

(e) the Member State commits to complete the project, render it operational and report on it in the annual performance report submitted by 15 February 2024.

The provisions of this Regulation and Regulation (EU) 2021/1060 shall apply to the second phase of a project as referred to in the first subparagraph of this paragraph.

This paragraph shall apply only to projects which have been selected under shared management pursuant to Regulation (EU) No 514/2014.

ARTICLE 34 ENTRY INTO FORCE AND APPLICATION

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

It shall apply from 1 January 2021.

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

Done at Strasbourg, 7 July 2021.

For the European Parliament
The President
 D. M. SASSOLI

For the Council
The President
 A. LOGAR

ANNEX I Criteria for the allocation of funding to the Member States' programmes

1. The budgetary resources available under Article 10 shall be broken down between the Member States as follows:

(a) each Member State shall receive a fixed amount of EUR 8000000 in current prices from the Instrument at the start of the programming period only, with the exception of Cyprus, Malta and Greece, which shall each receive a fixed amount of EUR 28000000 in current prices;

(b) an amount of EUR 200568000 for the Special Transit Scheme referred to in Article 17 shall be allocated to Lithuania at the start of the programming period only; and

(c) the remaining budgetary resources referred to in Article 10 shall be distributed based on the following criteria:

- (i) 30 % for external land borders;
- (ii) 35 % for external sea borders;
- (iii) 20 % for airports;
- (iv) 15 % for consular offices.

2. The budgetary resources available under point (c)(i) and (ii) of paragraph 1 for external land borders and external sea borders shall be broken down between Member States as follows:

(a) 70 % for the weighted length of their external land borders and external sea borders; and

(b) 30 % for the workload at their external land and external sea borders, as determined in accordance with point (a) of paragraph 6.

The weighted length referred to in point (a) of the first subparagraph of this paragraph shall be established by applying the weighting factors referred to in paragraph 10 for each specific external border section.

3. The budgetary resources available under point (c)(iii) of paragraph 1 for airports shall be broken down between Member States in accordance with the workload at their airports, as determined in accordance with point (b) of paragraph 6.

4. The budgetary resources available under point (c)(iv) of paragraph 1 for consular offices shall be broken down between Member States as follows:

(a) 50 % for the number of consular offices, excluding honorary consulates, of the Member States in the countries listed in Annex I to Regulation (EU) 2018/1806 of the European Parliament and of the Council⁽¹⁾, and

(b) 50 % for the workload relating to the management of visa policy at consular offices

⁽¹⁾ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 303, 28.11.2018, p. 39).

of Member States in the countries listed in Annex I to Regulation (EU) 2018/1806, as determined in accordance with point (c) of paragraph 6 of this Annex.

5. For the purpose of the distribution of resources under point (c)(ii) of paragraph 1 of this Annex, 'external sea borders' shall mean the outer limit of the territorial sea of the Member States as defined in accordance with Articles 4 to 16 of the United Nations Convention on the Law of the Sea. However, the definition of 'external sea borders' shall take into account cases where long range operations outside the outer limit of the territorial sea of the Member States have been carried out in high threat areas on a regular basis in order to prevent irregular immigration or illegal entry. The definition of 'external sea borders' in that regard shall be determined by taking into account operational data over the past two years as provided by the Member States concerned and as assessed by the European Border and Coast Guard Agency for the purposes of the report referred to in paragraph 9 of this Annex. That definition shall be used exclusively for the purposes of this Regulation.

6. For the purposes of the initial allocation of funding, the assessment of the workload shall be based on the most recent average figures covering the years 2017, 2018 and 2019. For the purposes of the mid-term review, the assessment of the workload shall be based on the most recent average figures covering the years 2021, 2022 and 2023. The assessment of the workload shall be based on the following factors:

(a) at external land borders and external sea borders:

(i) 70 % for the number of crossings of the external borders at border crossing points;

(ii) 30 % for the number of third-country nationals refused entry at the external borders;

(b) at airports:

(i) 70 % for the number of crossings of the external borders at border crossing points;

(ii) 30 % for the number of third-country nationals refused entry at the external borders;

(c) at consular offices:

(i) the number of visa applications for short stays or airport transits.

7. The reference figures for the number of consular offices as referred to in point (a) of paragraph 4 shall be calculated on the basis of the information notified to the Commission in accordance with Article 40(4) of Regulation (EC) No 810/2009 of the European Parliament and of the Council⁽²⁾.

Where Member States have not provided the statistics concerned, the most recent available data for those Member States shall be used. Where there is no data available for a Member State, the reference figure shall be zero.

8. The reference figures for the workload referred to:

(a) in points (a)(i) and (b)(i) of paragraph 6 shall be the most recent statistics provided by Member States in accordance with Union law;

⁽²⁾ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

(b) in points (a)(ii) and (b)(ii) of paragraph 6 shall be the most recent statistics produced by the Commission (Eurostat) on the basis of data provided by Member States in accordance with Union law;

(c) in point (c) of paragraph 6 shall be the most recent visa statistics as referred to in Article 46 of Regulation (EC) No 810/2009.

Where Member States have not provided the statistics concerned, the most recent available data for those Member States shall be used. Where there is no data available for a Member State, the reference figure shall be zero.

9. The European Border and Coast Guard Agency shall provide the Commission with a report on resources, broken down by external land borders, external sea borders and airports, as referred to in point (c) of paragraph 1. Parts of that report may be classified, where appropriate, in accordance with Article 92 of Regulation (EU) 2019/1896. After consultation

of the Commission, the European Border and Coast Guard Agency shall make a non-classified version of the report publicly available.

10. For the purposes of the initial allocation, the report referred to in paragraph 9 of this Annex shall identify the average impact level for each border section based on the most recent average figures covering the years 2017, 2018 and 2019. For the purposes of the mid-term review, the report referred to in paragraph 9 of this Annex shall identify the average impact level for each border section based on the most recent average figures covering the years 2021, 2022 and 2023. It shall determine the following specific weighting factors per section applying the impact levels determined in accordance with Article 34(1) and (2) of Regulation (EU) 2019/1896:

- (a) factor 1 for low impact level;
- (b) factor 3 for medium impact level;
- (c) factor 5 for high and critical impact level.

ANNEX II Implementation measures

1. The Instrument shall contribute to the specific objective set out in point (a) of Article 3(2) by focusing on the following implementation measures:

(a) the improvement of border control in accordance with point (a) of Article 3(1) of Regulation (EU) 2019/1896 by:

(i) reinforcing capacities for carrying out checks and surveillance at the external borders, including measures to facilitate legitimate border crossings and, where appropriate, measures related to:

— the prevention and detection of cross-border crime at the external borders, in

particular migrant smuggling, trafficking in human beings, and terrorism,

— the management of continuously high levels of migration at the external borders, including through technical and operational reinforcement and through mechanisms and procedures for the identification of vulnerable persons and unaccompanied minors and for the identification of persons who are in need of, or who wish to apply for, international protection, the provision of information to such persons, and the referral of such persons;

(ii) implementing technical and operational measures within the Schengen area which are

related to border control, while safeguarding the free movement of persons within it;

(iii) carrying out analyses of the risks for internal security and analyses of the threats that may affect the functioning or security of the external borders;

(b) the development of the European Border and Coast Guard by providing support to national authorities responsible for border management to pursue measures related to capability development and common capacity building, joint procurement, the establishment of common standards and any other measures streamlining the cooperation and coordination between the Member States and the European Border and Coast Guard Agency;

(c) the enhancement of inter-agency cooperation at national level among the national authorities responsible for border control or for tasks carried out at the border, and enhancing cooperation at Union level between the Member States, or between the Member States, on the one hand, and the relevant Union bodies, offices and agencies or third countries, on the other;

(d) ensuring the uniform application of the Union *acquis* in relation to external borders, including through the implementation of recommendations from quality control mechanisms such as the Schengen evaluation mechanism in accordance with Regulation (EU) No 1053/2013, vulnerability assessments in accordance with Regulation (EU) 2019/1896 and national quality control mechanisms;

(e) the setting up, operation and maintenance of large-scale IT systems pursuant to Union law in the area of border management, in particular SIS, ETIAS, the EES and Eurodac for border management purposes, including

the interoperability of those large-scale IT systems and their communication infrastructure, and actions to enhance data quality and the provision of information;

(f) increasing capacity to render assistance to persons in distress at sea and supporting search and rescue operations in situations which might arise during a border surveillance operation at sea;

(g) support to search and rescue operations in the context of carrying out border surveillance at sea.

2. The Instrument shall contribute to the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:

(a) the provision of efficient and client-friendly services to visa applicants while maintaining the security and integrity of visa procedures, and fully respecting the human dignity and the integrity of applicants and visa holders in accordance with Article 7(2) of Regulation (EC) No 767/2008;

(b) support to Member States in issuing visas, including visas with limited territorial validity, as referred to in Article 25 of Regulation (EC) No 810/2009, issued on humanitarian grounds, for reasons of national interest or because of international obligations;

(c) ensuring the uniform application of the Union *acquis* in relation to visas, including the further development and modernisation of the common policy on visas;

(d) the development of different forms of cooperation between Member States in visa processing;

(e) the setting up, operation and maintenance of large-scale IT systems pursuant to

Union law in the area of the common policy on visas, in particular the VIS, including the interoperability of those large-scale IT sys-

tems and their communication infrastructure, and actions to enhance data quality and the provision of information.

ANNEX III Scope of support

1. Within the specific objective set out in point (a) of Article 3(2), the Instrument shall in particular support the following:

(a) infrastructure, buildings, systems and services required at border crossing points and for border surveillance between border crossing points;

(b) operating equipment, including means of transport and ICT systems, required for effective and secure border control at border crossing points and for border surveillance, in accordance with standards developed by the European Border and Coast Guard Agency, where such standards exist;

(c) training in the field of, or contributing to the development of, European integrated border management, taking into account operational needs and risk analyses, including challenges identified in the recommendations referred to in Article 13(7), and full compliance with fundamental rights;

(d) the joint deployment of immigration liaison officers to third countries in accordance with Regulation (EU) 2019/1240 of the European Parliament and of the Council⁽¹⁾ and secondments of border guards and other relevant experts to Member States or from a Member State to a third country, reinforce-

ment of cooperation and operational capacity of networks of experts or liaison officers, and the exchange of best practices and boosting the capacity of European networks to assess, promote, support and develop Union policies;

(e) the exchange of best practices and expertise, studies, pilot projects, and other relevant actions aiming to implement or develop European integrated border management, including measures aiming to develop the European Border and Coast Guard, such as common capacity building, joint procurement, establishment of common standards and other measures streamlining the cooperation and coordination between the European Border and Coast Guard Agency and Member States, and measures related to the referral of vulnerable persons in need of assistance and persons who are in need of, or who wish to apply for, international protection;

(f) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, in particular deploying the results of security research projects where such deployment has been identified by the European Border and Coast Guard Agency, acting under Article 66 of Regulation (EU) 2019/1896, as contributing to the development of operational capabilities of the European Border and Coast Guard;

(g) preparatory, monitoring, administrative and technical activities required to implement external border policies, including to strengthen the governance of the Schengen

⁽¹⁾ Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers (OJ L 198, 25.7.2019, p. 88).

area by developing and implementing the evaluation mechanism, established by Regulation (EU) No 1053/2013 to verify the application of the Schengen *acquis* and Regulation (EU) 2016/399, including mission expenditure for experts of the Commission and the Member States participating in on-site visits and measures to implement recommendations issued following vulnerability assessments carried out by the European Border and Coast Guard Agency in accordance with Regulation (EU) 2019/1896;

(h) actions to enhance the quality of data stored in ICT systems and to improve the exercise of a data subject's rights to information, access to, and rectification and erasure of, his or her personal data, and to the restriction of the processing thereof;

(i) identification, fingerprinting, registration, security checks, debriefing, provision of information, medical and vulnerability screening and, where necessary, medical care and referral of third country nationals to the appropriate procedure at the external borders;

(j) actions that aim to enhance awareness of external border policies among stakeholders and the general public, including corporate communication of the political priorities of the Union;

(k) the development of statistical tools, methods and indicators that respect the principle of non-discrimination;

(l) operating support for the implementation of European integrated border management.

2. Within the specific objective set out in point (b) of Article 3(2), the Instrument shall in particular support the following:

(a) infrastructure and buildings required for the processing of visa applications and con-

sular cooperation, including security measures, and other actions that aim to improve the quality of service for visa applicants;

(b) operating equipment and ICT systems required for the processing of visa applications and consular cooperation;

(c) training of consular and other staff contributing to the common visa policy and consular cooperation;

(d) the exchange of best practices and the exchange of experts, including the secondment of experts, as well as boosting the capacity of European networks to assess, promote, support and further develop Union policies and objectives;

(e) studies, pilot projects and other relevant actions, such as actions that aim to improve knowledge through analyses, monitoring and evaluation;

(f) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, especially projects that aim to test and validate the outcome of Union-funded research projects;

(g) preparatory, monitoring, administrative and technical activities, including to strengthen the governance of the Schengen area by developing and implementing the evaluation mechanism as established by Regulation (EU) No 1053/2013 to verify the application of the Schengen *acquis*, including mission expenditure for experts of the Commission and the Member States participating in on-site visits;

(h) activities to raise awareness among stakeholders and the general public regarding visa policies, including corporate communication of the political priorities of the Union;

- (i) the development of statistical tools, methods and indicators that respect the principle of non-discrimination;
 - (j) operating support for the implementation of the common visa policy;
 - (k) support to Member States in issuing visas, including visas with limited territorial validity, as referred to in Article 25 of Regulation (EC) No 810/2009, issued on humanitarian grounds, for reasons of national interest or because of international obligations.
3. Within the policy objective set out in Article 3(1), the Instrument shall in particular support the following:
- (a) infrastructure and buildings required for the hosting of large-scale IT systems and associated communication infrastructure components;
 - (b) equipment and communication systems necessary to ensure the proper functioning of large-scale IT systems;
 - (c) training and communication activities in relation to large-scale IT systems;
 - (d) the development and upgrading of large-scale IT systems;
 - (e) studies, proof of concepts, pilot projects and other relevant actions related to the implementation of large-scale IT systems, including their interoperability;
 - (f) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, especially projects that aim to test and validate the outcome of Union-funded research projects;
 - (g) the development of statistical tools, methods and indicators for large-scale IT systems in the field of visa policy and borders that respect the principle of non-discrimination;
 - (h) actions to enhance the quality of data stored in ICT systems and improve the exercise of a data subject's rights to information, access to, rectification and erasure of, his or her personal data, and to the restriction of the processing thereof;
 - (i) operating support for the implementation of large-scale IT systems.

ANNEX IV Actions eligible for higher co-financing rates in accordance with article 12(3) and article 13(17)

- (1) The purchase of operating equipment, through joint procurement schemes with the European Border and Coast Guard Agency, to be put at the disposal of the European Border and Coast Guard Agency for its operational activities in accordance with Article 64(14) of Regulation (EU) 2019/1896;
- (2) Measures supporting inter-agency cooperation between a Member State and a neighbouring third country with which the Union shares a common land or maritime border;
- (3) The development of the European Border and Coast Guard Agency by providing support to national authorities responsible for border management to pursue measures related to common capacity building, joint procurement, the establishment of common standards and any other measures streamlining the cooperation and coordination between

the Member States and the European Border and Coast Guard Agency, as outlined in point (b) of paragraph 1 of Annex II;

(4) The joint deployment of immigration liaison officers as referred to in Annex III;

(5) Measures within the framework of border control enhancing the identification of, and the immediate support to, victims of trafficking in human beings, as well as developing and supporting adequate referral mechanisms for those target groups and measures in the framework of border control enhancing cross-border cooperation for detecting traffickers;

(6) The development of integrated child protection systems at the external borders, including through the sufficient training of staff and the exchange of good practice among Member States and with the European Border and Coast Guard Agency;

(7) Measures deploying, transferring, testing and validating new methodology or technology, including pilot projects and follow-up measures to Union-funded research projects, as referred to in Annex III, and measures to enhance the quality of data stored in ICT systems in the field of visa policy and borders and to improve the exercise of a data sub-

ject's rights to information, access to, rectification and erasure of, his or her personal data, and to the restriction of the processing thereof, in the context of actions falling within the scope of the Instrument;

(8) Measures targeting the identification and referral to protection services of vulnerable persons and immediate assistance to such persons;

(9) Measures for setting up and running hotspot areas in Member States facing existing or potential exceptional and disproportionate migratory pressure;

(10) The further development of different forms of cooperation among Member States in visa processing, as outlined in point (d) of paragraph 2 of Annex II;

(11) Increasing the consular presence or representation of Member States in third countries whose nationals must be in possession of visas when crossing the external borders within the meaning of Regulation (EU) 2018/1806, in particular in third countries in which no Member State is currently present;

(12) Measures which aim to improve the interoperability of ICT systems.

ANNEX V Core performance indicators as referred to in article 27(1)

SPECIFIC OBJECTIVE SET OUT IN POINT (A) OF ARTICLE 3(2)

1. The number of items of equipment registered in the technical equipment pool of the European Border Coast Guard Agency.

2. The number of items of equipment put at the disposal of the European Border Coast Guard Agency.

3. The number of initiated/improved forms of cooperation of national authorities with the EUROSUR national coordination centres.

4. The number of border crossings through automated border control systems and e-gates.

5. The number of addressed recommendations from Schengen evaluations and from vulnerability assessments in the area of border management.

6. The number of participants who report three months after a training activity that they are using the skills and competences acquired during that training activity.

7. The number of persons who have applied for international protection at border crossing points.

8. The number of persons refused entry by border authorities.

SPECIFIC OBJECTIVE SET OUT IN POINT (B) OF ARTICLE 3(2)

1. The number of new/upgraded consulates outside the Schengen area:

1.1. of which the number of consulates upgraded to enhance client-friendliness for visa applicants.

2. The number of addressed recommendations from Schengen evaluations in the area of the common visa policy.

3. The number of visa applications using digital means.

4. The number of initiated/improved forms of cooperation set up among Member States in visa processing.

5. The number of participants who report three months after a training activity that they are using the skills and competences acquired during that training activity.

ANNEX VI Types of intervention

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

I. European integrated border management	
001	Border checks
002	Border surveillance – air equipment
003	Border surveillance – land equipment
004	Border surveillance – maritime equipment
005	Border surveillance – automated border surveillance systems
006	Border surveillance – other measures
007	Technical and operational measures within the Schengen area which are related to border control
008	Situational awareness and exchange of information
009	Risk analysis
010	Processing of data and information
011	Hotspot areas
012	Measures related to the identification and referral of vulnerable persons
013	Measures related to the identification and referral of persons who are in need of, or who wish to apply for, international protection
014	European Border and Coast Guard development
015	Inter-agency cooperation – national level
016	Inter-agency cooperation – Union level
017	Inter-agency cooperation – with third countries
018	Joint deployment of immigration liaison officers
019	Large-scale IT systems – Eurodac for border management purposes
020	Large-scale IT systems – Entry/Exit System (EES)
021	Large-scale IT systems – European Travel Information and Authorisation System (ETIAS) – others
022	Large-scale IT systems – European Travel Information and Authorisation System (ETIAS) – Article 85(2) of Regulation (EU) 2018/1240
023	Large-scale IT systems – European Travel Information and Authorisation System (ETIAS) – Article 85(3) of Regulation (EU) 2018/1240
024	Large-scale IT systems – Schengen Information System (SIS)
025	Large-scale IT systems – Interoperability
026	Operating support – Integrated border management
027	Operating support – Large-scale IT systems for border management purposes
028	Operating support – Special Transit Scheme
029	Data quality and data subjects' rights to information, access to, rectification and erasure of, their personal data, and to the restriction of the processing thereof
II. Common visa policy	
001	Improving visa application processing
002	Enhancing the efficiency, client-friendly environment and security at consulates
003	Document security/document advisers

004	Consular cooperation
005	Consular coverage
006	Large-scale IT systems – Visa Information System (VIS)
007	Other ICT systems for visa application processing purposes
008	Operating support – Common visa policy
009	Operating support – Large-scale IT systems for visa application processing purposes
010	Operating support – Special Transit Scheme
011	Issuance of visas with limited territorial validity
012	Data quality and data subjects' rights to information, access to, rectification and erasure of, their personal data, and to the restriction of the processing thereof
III. Technical assistance	
001	Information and communication
002	Preparation, implementation, monitoring and control
003	Evaluation and studies, data collection
004	Capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

001	Infrastructure and buildings
002	Means of transport
003	Other operating equipment
004	Communication systems
005	IT systems
006	Training
007	Exchange of best practices – between Member States
008	Exchange of best practices – with third countries
009	Deployment of experts
010	Studies, proofs of concept, pilot projects and similar actions
011	Communication activities
012	Development of statistical tools, methods and indicators
013	Deployment or other follow-up of research projects

TABLE 3: CODES FOR THE IMPLEMENTATION DIMENSION

001	Actions covered by Article 12(1)
002	Specific actions
003	Actions listed in Annex IV
004	Operating support
005	Actions covered by Article 12(5)
006	Emergency assistance

TABLE 4: CODES FOR THE PARTICULAR THEMES DIMENSION

001	Cooperation with third countries
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002	Actions in or in relation to third countries
003	Implementation of Schengen evaluation recommendations
004	Implementation of vulnerability assessment recommendations
005	Actions supporting the development and operation of EUROSUR
006	None of the above

ANNEX VII Expenditure eligible for operating support

(a) Within the specific objective set out in point (a) of Article 3(2), operating support shall cover the following costs to the extent that they are not covered by the European Border and Coast Guard Agency in the context of its operational activities:

- (1) staff costs, including for training;
- (2) maintenance or repair of equipment and infrastructure;
- (3) service costs within the scope of this Regulation;
- (4) running costs for operations;
- (5) costs related to real estate, including rental and depreciation.

A host Member State within the meaning of point (20) of Article 2 of Regulation (EU) 2019/1896 may use operating support for the purposes of covering its own running costs for its participation in the operational activities referred to in that point that fall within the scope of this Regulation or for the purposes of its national border control activities.

(b) Within the specific objective set out in point (b) of Article 3(2), operating support shall cover:

- (1) staff costs, including for training;
- (2) service costs;
- (3) maintenance or repair of equipment and infrastructure;
- (4) costs related to real estate, including rental and depreciation.

(c) Within the policy objective set out in Article 3(1), operating support for large-scale IT systems shall cover:

- (1) staff costs, including for training;
- (2) operational management and maintenance of large-scale IT systems and their communication infrastructures, including the interoperability of those systems and rental of secure premises.

(d) In addition to covering the costs listed in points (a), (b) and (c) of this Annex, operating support within Lithuania's programme shall provide support in accordance with Article 17(1).

ANNEX VIII Output and result indicators as referred to in article 27(3)

SPECIFIC OBJECTIVE SET OUT IN POINT (A) OF ARTICLE 3(2)

Output indicators

1. The number of items of equipment purchased for border crossing points:

1.1. of which the number of automated border control systems/self-service systems/e-gates purchased.

2. The number of items of infrastructure maintained/repaired.

3. The number of hotspot areas supported.

4. The number of facilities for border crossing points constructed/upgraded.

5. The number of aerial vehicles purchased:

5.1. of which the number of unmanned aerial vehicles purchased.

6. The number of maritime transport means purchased.

7. The number of land transport means purchased.

8. The number of participants supported:

8.1. of which the number of participants in training activities.

9. The number of immigration liaison officers deployed to third countries.

10. The number of IT functionalities developed/maintained/upgraded.

11. The number of large-scale IT systems developed/maintained/upgraded:

11.1. of which the number of large-scale IT systems developed.

12. The number of cooperation projects with third countries.

13. The number of persons who have applied for international protection at border crossing points.

Result indicators

14. The number of items of equipment registered in the technical equipment pool of the European Border and Coast Guard Agency.

15. The number of items of equipment put at the disposal of the European Border and Coast Guard Agency.

16. The number of initiated/improved forms of cooperation of national authorities with the EUROSUR national coordination centres.

17. The number of border crossings through automated border control systems and e-gates.

18. The number of addressed recommendations from Schengen evaluations and from vulnerability assessments in the area of border management.

19. The number of participants who report three months after a training activity that they are using the skills and competences acquired during that training activity.

20. The number of persons refused entry by border authorities.

SPECIFIC OBJECTIVE SET OUT IN POINT (B) OF ARTICLE 3(2)

Output indicators

1. The number of projects supporting the digitalisation of visa processing.

2. The number of participants supported:

2.1. of which the number of participants in training activities.

3. The number of staff deployed to consulates in third countries:

3.1. of which the number of staff deployed for visa processing.

4. The number of IT functionalities developed/maintained/upgraded.

5. The number of large-scale IT systems developed/maintained/upgraded:

5.1. of which the number of large-scale IT systems developed.

6. The number of items of infrastructure maintained/repaired.

7. The number of real estates rented/depreciated.

Result indicators

8. The number of new/upgraded consulates outside the Schengen area:

8.1. of which the number of consulates upgraded to enhance client-friendliness for visa applicants.

9. The number of addressed recommendations from Schengen evaluations in the area of the common visa policy.

10. The number of visa applications using digital means.

11. The number of initiated/improved forms of cooperation set up among Member States in visa processing.

12. The number of participants who report three months after a training activity that they are using the skills and competences acquired during that training activity.



REGULATION (EU) 2021/1149 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 July 2021 ESTABLISHING THE INTERNAL SECURITY FUND

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 82(1), 84 and 87(2) 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⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

(1) While national security remains solely a competence of the Member States, protecting it requires cooperation and coordination at Union level. 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 European Union (TFEU) should be achieved, inter alia, through measures to

prevent and combat crime as well as through measures for coordination and cooperation between law enforcement authorities and other national authorities of the Member States, including coordination and cooperation with relevant Union agencies and other relevant Union bodies, and with relevant third countries and international organisations as well as with the help of the private sector and civil society.

(2) For the period from 2015 to 2020, the Commission, the Council of the European Union and the European Parliament defined common priorities as set out in the European Agenda on Security of April 2015, which were reaffirmed by the Council in the renewed Internal Security Strategy of June 2015 and by the European Parliament in its Resolution of July 2015, namely preventing and combating terrorism and radicalisation, serious and organised crime and cybercrime. Those common priorities have been reaffirmed for the period from 2020 to 2025 in the Communication of 24 July 2020 from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'the EU Security Union Strategy'.

(3) In the Rome Declaration signed on 25 March 2017, the leaders of 27 Member States, the European Council, the European Parliament and the European Commission affirmed their commitment to working towards a safe and secure Europe and to building 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,

⁽¹⁾ OJ C 62, 15.2.2019, p. 189.

⁽²⁾ Position of the European Parliament of 13 March 2019 (not yet published in the Official Journal) and position of the Council at first reading of 14 June 2021 (OJ C 268, 6.7.2021, p. 1). Position of the European Parliament of 5 July 2021 (not yet published in the Official Journal).

respecting international norms, as well as a Europe determined to fight terrorism and organised crime.

(4) The European Council of 15 December 2016 called for continued delivery on the interoperability of information systems and databases. The European Council of 23 June 2017 underlined the need to improve the interoperability between databases, and, on 12 December 2017, the Commission put forward a proposal for a Regulation on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration).

(5) To preserve the Schengen *acquis* and to contribute to ensuring a high level of security in the Union, Member States have, since 6 April 2017, been obliged to carry out systematic checks against relevant databases on Union citizens who cross the Union's external borders. Furthermore, the Commission issued a recommendation to Member States on making better use of police checks and cross-border cooperation. Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and freedoms and for the rule of law, close attention to the global perspective and the necessary consistency with the external dimension of security should be key principles guiding Union and Member State action towards the development of an effective and genuine security union.

(6) To achieve this objective, action should be taken at Union level to protect people, public spaces and critical infrastructure from increasingly transnational threats and to support the work carried out by Member States' competent authorities. Terrorism, serious and organised crime, itinerant crime, drug and arms trafficking, corruption, money laundering, cybercrime, sexual exploitation, including the sexual exploitation of children,

hybrid threats, as well as chemical, biological, radiological and nuclear threats, and trafficking in human beings, inter alia, continue to challenge the internal security of the Union. Internal security is a shared endeavour to which the Union institutions, relevant Union agencies and Member States should jointly contribute.

(7) To contribute to the development and implementation of an effective and genuine security union aimed at ensuring a high level of internal security throughout the Union, an Internal Security Fund ('the Fund') should be set up and managed in order to provide Member States with adequate Union financial support.

(8) Funding from the Union budget should concentrate on actions for which Union intervention can bring greater added value compared with action by Member States alone. In line with Article 84 and Article 87(2) TFEU, the Fund should support measures to promote and support the action of Member States in the field of crime prevention, the joint training of staff and police cooperation, as well as judicial cooperation in criminal matters involving Member States' competent authorities and Union agencies, especially as regards the exchange of information, increased operational cooperation and support for necessary efforts to strengthen capabilities to prevent and combat terrorism and serious and organised crime. The Fund should also support training of relevant staff and experts, in line with the general principles of the European Law Enforcement Training Scheme (LETS). The Fund should not support operating costs and activities related to the essential functions of the Member States concerning the maintenance of law and order and the safeguarding of internal and national security as referred to in Article 72 TFEU.

(9) The Fund should be implemented in full compliance with the values enshrined in Article 2 of the Treaty on European Union (TEU), the rights and principles enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter') and the Union's international obligations as regards human rights. In particular, the Fund should be implemented in full respect of fundamental rights such as the right to human dignity, the right to life, the prohibition of torture and inhuman or degrading treatment or punishment, the right to protection of personal data, the rights of the child and the right to an effective remedy, as well as in full respect of the principle of non-discrimination.

(10) In line with Article 3 TEU, the Fund should support activities which ensure that children are protected against violence, abuse, exploitation and neglect. The Fund should also support safeguards and assistance for child witnesses and victims, in particular those who are unaccompanied or otherwise in need of guardianship.

(11) In line with the shared priorities identified at Union level to ensure a high level of security in the Union, the Fund should support actions aimed at addressing the main security threats and, in particular, at preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime, as well as assisting and protecting victims of crime. The Fund should ensure that the Union and the Member States are also well equipped to address evolving and emerging threats, such as trafficking, including via online channels, hybrid threats and chemical, biological, radiological and nuclear threats, in order to establish a genuine security union. This should be pursued through financial assistance to support better information exchange, increase operational cooperation and improve national and collective capabilities.

(12) The financial assistance provided through the Fund should in particular support exchanges of information, police cooperation, judicial cooperation in criminal matters, and prevention in the fields of serious and organised crime, illicit arms trafficking, corruption, money laundering, drug trafficking, environmental crime, terrorism, trafficking in human beings, the exploitation of refugees and irregular migrants, severe labour exploitation, sexual exploitation and abuse, including the sexual exploitation and abuse of children and women, the distribution of child abuse images and child pornography, and cybercrime. The Fund should also support the protection of people, public spaces and critical infrastructure against security-related incidents and should support the preparedness for and effective management of security-related risks and crises, including through joint training, the development of common policies, such as strategies, policy cycles, programmes and action plans, as well as legislation and practical cooperation.

(13) The Fund should provide financial support to address the emerging challenges posed by the significant increase in recent years in the scale of certain types of crime being committed via the internet, such as payment fraud, child sexual exploitation and trafficking in weapons.

(14) The Fund should build on the results and investments of its predecessors: the Prevention of and Fight Against Crime (ISEC) programme, the Prevention, Preparedness and Consequence Management of Terrorism and other Security-related risks (CIPS) programme for the period 2007-2013, and the instrument for police cooperation, preventing and combating crime, and crisis management as part of the Internal Security Fund for the period 2014-2020, established by Regulation (EU) No 513/2014 of the European Parlia-

ment and of the Council⁽³⁾. The scope of the Fund should also allow for new developments to be taken into account.

(15) There is a need to maximise the impact of Union funding by mobilising, pooling and leveraging public and private financial resources. The Fund should promote and encourage the active and meaningful involvement of civil society, including non-governmental organisations, as well as the European industrial sector, in the development and implementation of security policy, where relevant with the involvement of other relevant actors, Union bodies, Union agencies and international organisations in relation to the objective of the Fund. However, it should be ensured that support from the Fund is not used to delegate statutory or public tasks to private actors.

(16) The cross-border nature of terrorism and serious and organised crime requires a coordinated response and cooperation within and between Member States and with competent Union bodies, offices and agencies. All competent authorities of Member States, including specialised law-enforcement services, may hold information that is valuable for effectively fighting terrorism and serious and organised crime. To accelerate exchanges of information, and to improve the quality of the information that is shared, it is crucial to build mutual trust. New approaches to cooperation and exchanging information, including in relation to threat analysis, should be explored and examined, taking into account existing frameworks within and outside the

Union framework, such as the EU Intelligence and Situation Centre (INTCEN), Europol's European Counter Terrorism Centre (ECTC), the European Counter Terrorism Coordinator and the Counter Terrorism Group. The Fund should support Member States' competent authorities responsible for the prevention, detection and investigation of criminal offences, as referred to in Article 87 TFEU, insofar as their activities are covered by the scope of the Fund. All funded activities should fully respect the legal status of the different competent authorities and European structures and the required principles of information ownership.

(17) In order to benefit from the knowledge and expertise of decentralised agencies with competences in the areas of law enforcement cooperation and training, drugs and drug addiction monitoring, fundamental rights, justice matters and large-scale IT systems, the Commission should involve the relevant decentralised agencies in the work of the Committee for the Home Affairs Funds set up by Regulation (EU) 2021/1148 of the European Parliament and of the Council⁽⁴⁾, especially at the beginning and mid-term of the programming period. Where appropriate, the Commission should also be able to involve the relevant decentralised agencies in monitoring and evaluation, in particular with a view to ensuring that the actions supported by the Fund comply with the relevant Union *acquis* and agreed Union priorities.

(18) Within the comprehensive framework of the Union's drugs strategy, which advocates a balanced approach based on a simultane-

⁽³⁾ Regulation (EU) No 513/2014 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 police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA (OJ L 150, 20.5.2014, p. 93).

⁽⁴⁾ Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (see page 48 of this Official Journal).

ous reduction in supply and demand, the financial assistance provided under the Fund should support actions aimed at preventing and combating trafficking in drugs through supply and demand reduction, in particular measures targeting the production, manufacture, extraction, sale, transport, importation or exportation of illegal drugs, as well as possession and purchase for the purpose of engaging in drug trafficking activities. The Fund should also cover the prevention aspects of drugs policy. To achieve further synergies and coherence in the area of drugs, those elements of the objectives that relate to drugs, which for the period 2014-2020 were covered by the Justice programme, should be incorporated into the Fund.

(19) In order to ensure that the Fund makes an effective contribution to a higher level of internal security throughout the Union, and thereby contributes to the development of a genuine security union, the Fund should be used in a way that provides the most Union added value to the actions of the Member States.

(20) The Fund should support investments in equipment, means of transport and facilities only where such investments have clear Union added value, and only to the extent that those investments are necessary to achieve the objectives of the Fund. For example, such investments could include investments in equipment needed for forensics, covert surveillance, explosives and drug detection and any other specialised purpose within the objectives of the Fund. The Fund should not finance investments of purely national relevance or investments that would be necessary for the everyday work of the competent authorities, such as uniforms, cars, buses, scooters, police stations, non-specialised training centres and office equipment.

(21) In the interests of solidarity within the Union, and in the spirit of shared responsibility for security in the Union, where weaknesses or risks are identified, in particular following a Schengen evaluation, the Member State concerned should adequately address those weaknesses by using resources under its programme to implement recommendations adopted pursuant to Council Regulation (EU) No 1053/2013⁽⁵⁾.

(22) To contribute to the achievement of the policy objective of the Fund, Member States should ensure that the priorities of their programmes address all the specific objectives of the Fund, that the priorities chosen are in accordance with the implementation measures set out in Annex II, and that the allocation of resources between objectives is proportionate to challenges and needs and ensures that the policy objective can be met.

(23) In keeping with the principle of efficiency, synergies and consistency should be sought with other Union funds, and overlap between actions should be avoided.

(24) In order to maximise the effective achievement of policy objectives, to exploit economies of scale and to avoid overlaps between actions, the Fund should be consistent with and complementary to other Union financial programmes in the field of security. In particular, synergies should be ensured with the Asylum, Migration and Integration Fund and the Integrated Border Management Fund, which consists of the

⁽⁵⁾ Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

Instrument for Financial Support for Border Management and Visa Policy established by Regulation (EU) 2021/1148, and the instrument for financial support for customs control equipment established by Regulation (EU) 2021/1077 of the European Parliament and of the Council⁽⁶⁾, as well as with the other Cohesion Policy Funds covered by Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽⁷⁾, with the security research part of the Horizon Europe Programme established by Regulation (EU) 2021/695 of the European Parliament and of the Council⁽⁸⁾, with the Citizens, Equality, Rights and Values Programme established by Regulation (EU) 2021/692 of the European Parliament and of the Council⁽⁹⁾, with the Justice Programme established by Regulation (EU) 2021/693 of the European Parlia-

ment and of the Council⁽¹⁰⁾, with the Digital Europe Programme established by Regulation (EU) 2021/694 of the European Parliament and of the Council⁽¹¹⁾ and with the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council⁽¹²⁾. Synergies should be sought in particular in relation to security of infrastructure and public spaces, cybersecurity, the protection of victims and the prevention of radicalisation.

(25) In an effort to strengthen complementarities between the Fund and the Instrument for Financial Support for Border Management and Visa Policy, multipurpose equipment and ICT systems of which the primary use is in accordance with this Regulation should also be able to be used for achieving the objectives of the Instrument for Financial support for Border Management and Visa Policy.

(26) Measures supported through the Fund in and in relation to third countries should be implemented in synergy and coherence with and should complement other actions outside the Union that are supported through the Union instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action, its foreign policy and its development aid policy

⁽⁶⁾ Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment (OJ L 234, 2.7.2021, p. 1).

⁽⁷⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

⁽⁸⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

⁽⁹⁾ Regulation (EU) 2021/692 of the European Parliament and of the Council of 28 April 2021 establishing the Citizens, Equality, Rights and Values Programme and repealing Regulation (EU) No 1381/2013 of the European Parliament and of the Council and Council Regulation (EU) No 390/2014 (OJ L 156, 5.5.2021, p. 1).

⁽¹⁰⁾ Regulation (EU) 2021/693 of the European Parliament and of the Council of 28 April 2021 establishing the Justice Programme and repealing Regulation (EU) No 1382/2013 (OJ L 156, 5.5.2021, p. 21).

⁽¹¹⁾ Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1).

⁽¹²⁾ Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

in relation to the country or region in question. As regards the external dimension of the Fund, the Fund should enhance cooperation with third countries in areas of relevance to the Union's internal security. In that context, funding from a thematic facility should be used to support actions in or in relation to third countries, within the objectives of the Fund, in particular in order to contribute to combating and preventing crime, including drug trafficking and trafficking in human beings, and to contribute to combating cross-border criminal smuggling networks.

(27) When implementing the thematic facility, the Commission should ensure that the funding addresses the challenges and needs involved in meeting the objectives of the Fund.

(28) Funding from the Union budget should concentrate on actions for which Union intervention can bring added value as compared to actions by Member States alone. Security has an inherently cross-border dimension and therefore a strong, coordinated Union response is required. Financial support provided under this Regulation should contribute, in particular, to strengthening national and Union capabilities in the security area.

(29) A Member State may be deemed not to be compliant with the relevant Union *acquis* as regards the use of operating support under the Fund if it has failed to fulfil its obligations under the Treaties in the area of security, if there is a clear risk of a serious breach by that Member State of Union values when implementing the *acquis* on security, or if an evaluation report under the Schengen evaluation and monitoring mechanism laid down in Regulation (EU) No 1053/2013 has identified deficiencies in the relevant area.

(30) The Fund should address the need for increased flexibility and simplification, while

respecting requirements in relation to predictability, and ensure that there is a fair and transparent distribution of resources to meet the objectives laid down in this Regulation. The implementation of the Fund should be guided by the principles of efficiency, effectiveness, relevance, coherence, Union added value and quality of spending. Furthermore, the Fund should be implemented in the most user-friendly manner possible.

(31) In order to optimise the added value from investments funded wholly or in part through the Union budget, synergies should be sought, in particular, between the Fund and other Union programmes, including those under shared management. To maximise those synergies, key enabling mechanisms should be ensured, including cumulative funding for an action from the Fund and from another Union programme. Such cumulative funding should not exceed the total eligible costs of that action. For that purpose, this Regulation should set out appropriate rules, in particular on the possibility of declaring the same cost or expenditure under both the Fund and another Union programme on a pro-rata basis.

(32) When promoting actions supported by the Fund, the recipients of Union funding should provide information in the language or languages of the target audience. To ensure the visibility of Union funding, recipients of that funding should refer to its origin when communicating on the action. To that end, recipients should ensure that all communications to the media and the public display the Union emblem and explicitly mention the Union's financial support.

(33) It should be possible for the Commission to use financial resources under the Fund to promote best practices and the exchange of information as regards the implementation of the Fund.

(34) The Commission should publish information on the support provided from the thematic facility under direct or indirect management in a timely manner and should update such information where appropriate. It should be possible to sort the data by specific objective, name of beneficiary, the amount legally committed and the nature and purpose of the measure.

(35) This Regulation should establish the initial amounts for Member States' programmes, calculated on the basis of the criteria laid down in Annex I.

(36) The initial amounts for Member States' programmes should form the basis for Member States' long-term investments in security. To take account of changes in internal and external security threats or in the baseline situation, an additional amount should be allocated to the Member States at the mid-term of the programming period and should be based on the statistical data, in accordance with Annex I, taking into account the state of their programme implementation.

(37) As challenges in the area of security are constantly evolving, there is a need to adapt the allocation of funding to changes in internal and external security threats and a need to steer funding towards the priorities with the highest Union added value. To respond to pressing needs and to changes in policy and Union priorities, and to steer funding towards actions with a high level of Union added value, part of the funding should be periodically allocated, via a thematic facility, to specific actions, Union actions and emergency assistance.

(38) Member States should be encouraged to use part of their programme allocation to fund the actions listed in Annex IV by benefiting from a greater Union contribution,

primarily because of their significant Union added value or their high importance for the Union.

(39) Part of the available resources under the Fund could be allocated to Member States' programmes for the implementation of specific actions which require cooperation among Member States, or to the implementation of specific actions in situations where new developments in the Union require additional funding to be made available to one or more Member States. The Commission should set out those specific actions in its work programmes.

(40) The Fund should contribute to supporting operating costs that relate to internal security in order to enable Member States to maintain capabilities which are crucial for the Union as a whole. Such support should consist of the full reimbursement of specific costs that relate to the objectives of the Fund and should form an integral part of the Member States' programmes.

(41) To complement the implementation of the policy objective of the Fund at national level through Member States' programmes, the Fund should also provide support for actions at Union level. Such actions should serve overall strategic purposes within the scope of intervention of the Fund in relation to policy analysis and innovation, transnational mutual learning and partnerships and the testing of new initiatives and actions across the Union or among certain Member States. The Fund should support Member States' efforts, including at local level, to exchange best practices and to promote joint training, including awareness-raising among law enforcement staff regarding radicalisation, and all forms of discrimination, that could lead to violence, such as antisemitism, anti-gypsyism and other forms of racism. For that purpose, specialised exchange pro-

grammes for junior law enforcement staff could be funded.

(42) In order to strengthen the Union's capacity to react immediately to security-related incidents or to newly emerging threats to the Union, it should be possible to provide emergency assistance, in accordance with the framework set out in this Regulation. Such assistance should not be provided to support mere contingency or long-term measures or to address situations where the urgency to act results from the failure of competent authorities to plan and react properly.

(43) In order to ensure the necessary flexibility of action and to respond to emerging needs, it should be possible for decentralised agencies to be provided with appropriate additional financial means to carry out certain emergency tasks. In cases where the task to be undertaken is of such an urgent nature that an adjustment of their budgets could not be finalised in time, decentralised agencies should be eligible to be beneficiaries of emergency assistance, including in the form of grants, consistent with priorities and initiatives identified at Union level by Union institutions.

(44) In light of the transnational nature of Union actions, and in order to promote coordinated action to fulfil the objective of ensuring the highest level of security in the Union, decentralised agencies should exceptionally be eligible to be beneficiaries of Union actions, including in the form of grants, where they assist in the implementation of Union actions falling within the competences of the decentralised agencies concerned and those actions are not covered by the Union contribution to the budget of those decentralised agencies made through the annual budget. To ensure Union added value, such support should be consistent with the priori-

ties and initiatives identified at Union level by Union institutions.

(45) The policy objective of the Fund should also be addressed through financial instruments and budgetary guarantees under the policy windows of the InvestEU Programme established by Regulation (EU) 2021/523. Such financial support should be used to address market failures or sub-optimal investment situations in a proportionate manner, should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have clear Union added value.

(46) Blending operations have a voluntary nature and are operations supported by the Union budget that combine non-repayable forms of support, repayable forms of support, or both, from the Union budget with repayable forms of support from promotional, development or other public finance institutions, as well as support from commercial finance institutions and investors.

(47) This Regulation lays down a financial envelope for the Fund, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources⁽¹³⁾, for the European Parliament and the Council during the annual budgetary procedure.

(48) Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the

⁽¹³⁾ OJ L 433 I, 22.12.2020, p. 28.

Council⁽¹⁴⁾ ('the Financial Regulation') applies to the Fund. The Financial Regulation lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts.

(49) For the purposes of implementation of actions under shared management, the Fund should form part of a coherent framework that consists of this Regulation, the Financial Regulation and Regulation (EU) 2021/1060.

(50) Regulation (EU) 2021/1060 establishes the framework for action by the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the European Maritime, Fisheries and Aquaculture Fund, the Just Transition Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, as a part of the Integrated Border Management Fund, and it lays down, in particular, the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. Additionally, it is necessary to specify the objectives of the Fund in this Regulation, and to lay down specific provisions concerning the actions that may be financed under the Fund.

(51) A pre-financing scheme for the Fund is set out in Regulation (EU) 2021/1060, and a

specific pre-financing rate is set in this Regulation. In addition, in order to ensure that it is possible to react promptly to emergency situations, it is appropriate to set a specific pre-financing rate for emergency assistance. The pre-financing scheme should ensure that Member States have the means to provide support to beneficiaries as of the start of the implementation of their programmes.

(52) The types of financing and 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, administrative burdens and the risk of non-compliance. When making that choice, 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, should be considered.

(53) In order to make the most use of the single audit principle, it is appropriate to set specific rules on the control and audit of projects in which international organisations, the internal control systems of which have been positively assessed by the Commission, are the beneficiaries. For such projects, managing authorities should have the possibility of limiting their management verifications, provided that the beneficiary delivers all necessary data and information on the progress of the project and on the eligibility of underlying expenditure in a timely manner. In addition, where a project implemented by such an international organisation is part of an audit sample, it should be possible for the audit authority to carry out its work in line with the principles of the International Standard on Related Services (ISRS) 4400, 'Engagements to Perform Agreed-upon Procedures Regarding Financial Information'.

(54) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded

⁽¹⁴⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible for Union financing, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the Union's interests, it should be possible, for a limited period of time at the beginning of the 2021-2027 multi-annual financial framework, that costs incurred in respect of actions supported under this Regulation under direct management and which have already begun, be considered eligible for Union financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.

(55) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽¹⁵⁾ and Council Regulations (EC, Euratom) No 2988/95⁽¹⁶⁾, (Euratom, EC) No 2185/96⁽¹⁷⁾ and (EU) 2017/1939⁽¹⁸⁾, the

financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to 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. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute 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⁽¹⁹⁾.

In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors, and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should cooperate fully and provide all necessary assistance to Union institutions, bodies, offices and agencies in

⁽¹⁵⁾ 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).

⁽¹⁶⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽¹⁷⁾ 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).

⁽¹⁸⁾ 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).

⁽¹⁹⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

relation to the protection of the financial interests of the Union.

(56) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.

(57) Pursuant to Council Decision 2013/755/EU⁽²⁰⁾, persons and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.

(58) Pursuant to Article 349 TFEU and in line with the communication of the Commission of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions', endorsed by the Council in its conclusions of 12 April 2018, the relevant Member States should ensure that their programmes address the specific challenges which the outermost regions face. The Fund should support those Member States with adequate resources to help the outermost regions as appropriate.

(59) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016

on Better Law-Making⁽²¹⁾, the Fund should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the Fund on the ground. In order to measure the achievements of the Fund, indicators and related targets should be established in relation to each specific objective of the Fund. Those indicators should include qualitative and quantitative indicators.

(60) Through indicators and financial reporting, the Commission and the Member States should monitor the implementation of the Fund in accordance with the relevant provisions of Regulation (EU) 2021/1060 and this Regulation. Starting from 2023, Member States should submit to the Commission annual performance reports covering the latest accounting year. Those reports should contain information on the progress made in the implementation of Member States' programmes. The Member States should also submit summaries of those reports to the Commission. The Commission should translate those summaries into all official languages of the Union and make them publicly available on its website, together with links to the Member States' websites referred to in Regulation (EU) 2021/1060.

(61) Reflecting the importance of tackling climate change in accordance with the Union's commitments to implement the Paris Agreement, adopted under the United Nations Framework Convention on Climate Change⁽²²⁾, and the commitment to the United Nations' Sustainable Development Goals, the actions

⁽²⁰⁾ 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).

⁽²¹⁾ OJ L 123, 12.5.2016, p. 1.

⁽²²⁾ OJ L 282, 19.10.2016, p. 4.

under this Regulation should contribute to the achievement of an overall target of 30 % of all multiannual financial framework expenditure being spent on mainstreaming climate objectives and to working towards the ambition of 7,5 % of the budget being spent on biodiversity expenditure in 2024 and 10 % in 2026 and 2027 while taking into account the existing overlaps between climate and biodiversity goals. The Fund should support activities that respect the climate and environmental standards and priorities of the Union and would do no significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council⁽²³⁾.

(62) Regulation (EU) No 514/2014 of the European Parliament and of the Council⁽²⁴⁾ and any act applicable to the 2014–2020 programming period should continue to apply to programmes and projects supported under the instrument for financial support for police cooperation, preventing and combating crime and crisis management, as part of the Internal Security Fund during the 2014–2020 programming period. Since the implementation period of Regulation (EU) No 514/2014 overlaps with the programming period covered by this Regulation, and in order to ensure continuity in the implementation of certain projects approved by that Regulation, provisions on the phasing of projects should

be laid down. Each individual phase of the project should be implemented in accordance with the rules of the programming period under which it receives funding.

(63) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(64) In order to supplement and amend non-essential elements in this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the list of actions eligible for higher co-financing rates set out in Annex IV, operating support under Annex VII and the further development of the monitoring and evaluation framework. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(65) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parlia-

⁽²³⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁽²⁴⁾ Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management (OJ L 150, 20.5.2014, p. 112).

ment and of the Council⁽²⁵⁾. The examination procedure should be used for the adoption of implementing acts that lay down common obligations on Member States, in particular obligations concerning the provision of information to the Commission, and the advisory procedure should be used for the adoption of implementing acts relating to the detailed arrangements for the provision of information to the Commission in the framework of programming and reporting, given their purely technical nature. The Commission should adopt immediately applicable implementing acts relating to the adoption of decisions to award emergency assistance provided for by this Regulation where, in duly justified cases relating to the nature and purpose of such assistance, imperative grounds of urgency so require.

(66) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(67) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified its wish to take part in the adoption and application of this Regulation.

(68) It is appropriate to align the period of application of this Regulation with that of Council Regulation (EU, Euratom) 2020/2093⁽²⁶⁾.

(69) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the 2021-2027 multiannual financial framework, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

⁽²⁵⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽²⁶⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

CHAPTER I GENERAL PROVISIONS

ARTICLE 1 SUBJECT MATTER

1. This Regulation establishes the Internal Security Fund ('the Fund') for the duration of the multiannual financial framework 2021-2027.

2. This Regulation lays down:

- (a) the policy objective of the Fund;
- (b) the specific objectives of the Fund and measures to implement those specific objectives;
- (c) the budget for the period from 1 January 2021 to 31 December 2027;
- (d) the forms of Union funding and the rules for providing such funding.

ARTICLE 2 DEFINITIONS

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

- (1) 'blending operation' means an action supported by the Union budget, including within a blending facility within the meaning of point (6) of Article 2 of the Financial Regulation, that combines 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) 'competent authorities' means Member State authorities responsible for the prevention, detection and investigation of criminal offences, as referred to in Article 87(1) of the TFEU, including police, customs and other specialised law enforcement services;

(3) 'prevention', in relation to crime, means all measures that are intended to reduce or otherwise contribute to reducing crime and citizens' feeling of insecurity, as referred to in Article 2(2) of Council Decision 2009/902/JHA⁽²⁷⁾;

(4) 'critical infrastructure' means an asset, network, system or part thereof which is essential for the maintenance of vital societal functions, the health, safety, security, economic or social well-being of people, and the disruption, breach or destruction of which would have a significant impact in a Member State or in the Union as a result of the failure to maintain those functions;

(5) 'cybercrime' means either crimes whose commission necessarily involves information and communications technology systems (ICT systems), either as tools for committing the crime or as the primary targets of the crime (cyber-dependent crimes), or traditional crimes which can be increased in scale or reach by the use of computers, computer networks or other ICT systems (cyber-enabled crimes);

(6) 'EU policy cycle/EMPACT operational action' means an action undertaken in the framework of the EU policy cycle for organised and serious international crime through the European Multidisciplinary Platform against Criminal Threats (EMPACT), the aim of which is to fight the most important serious and organised crime threats to the Union by encouraging cooperation between Mem-

⁽²⁷⁾ Council Decision 2009/902/JHA of 30 November 2009 setting up a European Crime Prevention Network (EUCPN) and repealing Decision 2001/427/JHA (OJ L 321, 8.12.2009, p. 44).

ber States, Union institutions, bodies, offices and agencies and, where relevant, third countries and international organisations;

(7) ‘exchange of information’ means the secure collection, storage, processing, analysis and transfer of, and access to, information relevant to the authorities referred to in Article 87 of the TFEU as well as to Europol and other relevant Union agencies in relation to the prevention, detection, investigation and prosecution of criminal offences, in particular cross-border, serious and organised crime and terrorism;

(8) ‘organised crime’ means punishable conduct relating to participation in a criminal organisation, as defined in point (1) of Article 1 of Council Framework Decision 2008/841/JHA⁽²⁸⁾;

(9) ‘preparedness’ means any action specifically aimed at preventing or reducing risks linked to possible terrorist attacks or other security-related incidents within the scope of this Regulation;

(10) ‘Schengen evaluation and monitoring mechanism’ means the evaluation and monitoring mechanism laid down in Regulation (EU) No 1053/2013;

(11) ‘terrorism’ means any of the intentional acts and offences referred to in Directive (EU) 2017/541 of the European Parliament and of the Council⁽²⁹⁾;

(12) ‘emergency situation’ means any security-related incident, newly emerging threat or newly detected vulnerability within the scope of this Regulation, which has or may have a significant adverse impact on the security of people, public spaces or critical infrastructure in one or more Member States;

(13) ‘flash money’ means genuine cash which is shown during a criminal investigation as proof of liquidity and solvency to suspects or to any other persons who have information about availability or delivery, or who act as intermediaries, in order to carry out a fictitious purchase for the purpose of arresting suspects, identifying illegal production sites or otherwise dismantling an organised crime group;

(14) ‘radicalisation’ means a phased and complex process leading to violent extremism and terrorism and in which an individual or a group of individuals embraces a radical ideology or belief that accepts, uses or condones violence, including acts of terrorism, to reach a specific political, religious or ideological goal;

(15) ‘specific actions’ means transnational or national projects that bring Union added value in accordance with the objectives of the Fund for which one, several or all Member States may receive an additional allocation to their programmes;

(16) ‘operating support’ means a part of a Member State’s allocation which may be used as support to the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union, insofar as they contribute to ensuring a high level of security in the Union;

(17) ‘Union actions’ means transnational projects or projects of particular interest to the Union implemented in accordance with the objectives of the Fund.

⁽²⁸⁾ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

⁽²⁹⁾ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

ARTICLE 3 OBJECTIVES OF THE FUND

1. The policy objective of the Fund is to contribute to ensuring a high level of security in the Union, in particular by preventing and combating terrorism and radicalisation, serious and organised crime, and cybercrime, by assisting and protecting victims of crime, as well as by preparing for, protecting against and effectively managing security-related incidents, risks and crises within the scope of this Regulation.

2. Within the policy objective set out in paragraph 1, the Fund shall contribute to the following specific objectives:

(a) improving and facilitating the exchange of information between and within competent authorities and relevant Union bodies, offices and agencies and, where relevant, with third countries and international organisations;

(b) improving and intensifying cross-border cooperation, including joint operations, between competent authorities in relation to terrorism and serious and organised crime with a cross-border dimension; and

(c) supporting the strengthening of Member States' capabilities in relation to preventing and combating crime, terrorism and radicalisation, as well as managing security-related incidents, risks and crises, including through increased cooperation between public authorities, relevant Union bodies, offices or agencies, civil society and private partners in different Member States.

3. Within the specific objectives set out in paragraph 2, the Fund shall be implemented through the implementation measures listed in Annex II.

ARTICLE 4 RESPECT FOR FUNDAMENTAL RIGHTS

Actions funded under the Fund shall be implemented with full respect for fundamental rights and human dignity. In particular, such actions shall comply with the Charter, with Union data protection law and with the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). When implementing actions under the Fund, wherever possible, Member States shall pay special attention to assisting and protecting vulnerable persons, in particular children and unaccompanied minors.

ARTICLE 5 SCOPE OF SUPPORT

1. Within its objectives and in accordance with the implementation measures listed in Annex II, the Fund shall, in particular, support actions such as those listed in Annex III.

2. To achieve its objectives, the Fund may support, in line with Union priorities and subject to appropriate safeguards, actions as referred to in Annex III in and in relation to third countries, where appropriate, in accordance with Article 19.

3. As regards actions in and in relation to third countries, the Commission and the Member States, together with the European External Action Service, shall, in accordance with their respective responsibilities, ensure coordination with relevant Union policies, strategies and instruments. They shall, in particular, ensure that actions in and in relation to third countries:

(a) are carried out in synergy and in coherence with other actions outside the Union supported through other Union instruments;

(b) are coherent with external Union policy, respect the principle of policy coherence for

development and are consistent with the strategic programming documents for the region or country in question;

(c) focus on measures that are not development-oriented; and

(d) serve the interests of internal Union policies and are consistent with activities undertaken within the Union.

4. Equipment and ICT systems financed under the Fund may be used in the complementary area covered by Regulation (EU) 2021/1148. Such equipment and ICT systems shall remain available and deployable for the objectives of the Fund.

The use of equipment in the complementary area referred to in the first subparagraph shall not exceed 30 % of the total period of use of that equipment.

ICT systems used in the complementary area referred to in the first subparagraph shall provide data and services for the prevention, detection and investigation of criminal offences.

Member States shall inform the Commission in their annual performance reports of any such additional use and the place of deployment of equipment and ICT systems.

5. The following shall not be eligible:

(a) actions limited to the maintenance of public order at national level;

(b) actions with a military or defence purpose;

(c) equipment of which the primary purpose is customs control;

(d) coercive equipment, including weapons, ammunition, explosives and riot batons, except for training purposes;

(e) informant rewards and flash money outside the framework of an EU policy cycle/EMPACT operational action.

By way of derogation from the first subparagraph, where an emergency situation occurs, actions as referred to in point (a) of the first subparagraph may be considered eligible.

CHAPTER II FINANCIAL AND IMPLEMENTATION FRAMEWORK

SECTION 1: Common provisions

ARTICLE 6 GENERAL PRINCIPLES

1. Support provided under the Fund shall complement national, regional and local intervention, and shall focus on bringing Union added value to the achievement of the objectives of the Fund.

2. The Commission and the Member States shall ensure that the support provided under

the Fund and by the Member States is consistent with the relevant actions, policies and priorities of the Union and is complementary to support provided under other Union instruments.

3. The Fund shall be implemented under shared, direct or indirect management in accordance with points (a), (b) and (c) of the

first subparagraph of Article 62(1) of the Financial Regulation.

ARTICLE 7 BUDGET

1. The financial envelope for the implementation of the Fund for the period from 1 January 2021 to 31 December 2027 shall be EUR 1931000000 in current prices.

2. The financial envelope shall be used as follows:

(a) EUR 1352000000 shall be allocated to the Member States' programmes;

(b) EUR 579000000 shall be allocated to the thematic facility referred to in Article 8.

3. At the initiative of the Commission, up to 0,84 % of the financial envelope shall be allocated to technical assistance, as referred to in Article 35 of Regulation (EU) 2021/1060, for the implementation of the Fund.

4. In accordance with Article 26 of Regulation (EU) 2021/1060, up to 5 % of the initial allocation to a Member State from any of the funds under that Regulation under shared management may be transferred to the Fund under direct or indirect management at the request of that Member State. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph. Those resources shall be used for the benefit of the Member State concerned.

ARTICLE 8 GENERAL PROVISIONS ON THE IMPLEMENTATION OF THE THEMATIC FACILITY

1. The amount referred to in point (b) of Article 7(2) shall be allocated flexibly through

a thematic facility, using shared, direct or indirect management as set out in work programmes.

Funding from the thematic facility shall be used for its components, which are as follows:

(a) specific actions;

(b) Union actions; and

(c) emergency assistance as referred to in Article 25.

Technical assistance at the initiative of the Commission, as referred to in Article 35 of Regulation (EU) 2021/1060, shall also receive support from the amount referred to in point (b) of Article 7(2) of this Regulation.

2. Funding from the thematic facility shall address priorities with a high Union added value or be used to respond to urgent needs, in line with agreed Union priorities as reflected in Annex II. Funding from the thematic facility shall be used for supporting actions in or in relation to third countries, within the objectives of the Fund, in particular in order to contribute to combating and preventing crime, including drug trafficking, trafficking in human beings and combating cross-border criminal smuggling networks.

The allocation of the resources of the thematic facility among the different priorities shall, as far as possible, be proportionate to the challenges and needs, so as to ensure that the objectives of the Fund can be met.

3. The Commission shall engage with civil society organisations and relevant networks, in particular with a view to preparing and evaluating the work programmes for Union actions financed under the Fund.

4. When funding from the thematic facility is provided under direct or indirect management to Member States, the Commission shall ensure that projects affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of those projects are not selected.

5. For the purposes of Article 23 and Article 24(2) of Regulation (EU) 2021/1060, where funding from the thematic facility is implemented under shared management, the Member State concerned shall ensure that, and the Commission shall assess whether, the envisaged actions are not affected by a reasoned opinion delivered by the Commission in respect of infringement proceedings under Article 258 TFEU that put in doubt the legality and regularity of expenditure or the performance of the actions.

6. The Commission shall establish the overall amount to be made available for the

thematic facility under the annual appropriations of the Union budget.

7. The Commission shall, by means of implementing acts, adopt financing decisions as referred to in Article 110 of the Financial Regulation for the thematic facility, identifying objectives and actions to be supported and specifying the amounts for each of the components referred to in the second subparagraph of paragraph 1 of this Article. Such financing decisions shall set out, where applicable, the overall amount reserved for blending operations. Financing decisions may be annual or multiannual and may cover one or more components of the thematic facility referred to in the second subparagraph of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(3) of this Regulation.

8. Following the adoption of a financing decision as referred to in paragraph 7, the Commission may amend the Member States' programmes accordingly.

SECTION 2: Support and implementation under shared management

ARTICLE 9 SCOPE

1. This section applies to the amount referred to in point (a) of Article 7(2) and the additional resources to be implemented under shared management in accordance with the financing 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 with Regulation (EU) 2021/1060.

ARTICLE 10 BUDGETARY RESOURCES

1. The amount referred to in point (a) of Article 7(2) shall be allocated to Member States' programmes indicatively as follows:

(a) EUR 1127000000 in accordance with Annex I;

(b) EUR 225000000 for the adjustment of the allocations to the Member States' programmes referred to in Article 14(1).

2. Where the amount referred to in point (b) of paragraph 1 of this Article is not fully allocated, the remaining amount may be added to the amount referred to in point (b) of Article 7(2).

ARTICLE 11 PRE-FINANCING

1. In accordance with Article 90(4) of Regulation (EU) 2021/1060, the pre-financing for the Fund shall be paid in yearly instalments before 1 July of each year, subject to the availability of funds, as follows:

- (a) 2021: 4 %;
- (b) 2022: 3 %;
- (c) 2023: 5 %;
- (d) 2024: 5 %;
- (e) 2025: 5 %;
- (f) 2026: 5 %.

2. Where a Member State's programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of its adoption.

ARTICLE 12 CO-FINANCING RATES

1. The contribution from the Union budget shall not exceed 75 % of the total eligible expenditure for a project.

2. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for projects implemented under specific actions.

3. The contribution from the Union budget may be increased to 90 % of the total eligible expenditure for actions listed in Annex IV.

4. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for operating support.

5. The contribution from the Union budget may be increased to 100 % of the total eligi-

ble expenditure for emergency assistance as referred to in Article 25.

6. The contribution from the Union budget may be increased to 100 % of the total eligible expenditure for technical assistance at the initiative of Member States, within the limits set out in point (b)(vi) of Article 36(5) of Regulation (EU) 2021/1060.

7. The Commission decision approving a Member State's programme shall set the co-financing rate and the maximum amount of support from the Fund for the types of action covered by the contribution referred to in paragraphs 1 to 6.

8. The Commission decision approving a Member State's programme shall set out for each type of action whether the co-financing rate is applied in respect of:

- (a) the total contribution, including the public and private contributions; or
- (b) the public contribution only.

ARTICLE 13 MEMBER STATES' PROGRAMMES

1. Each Member State shall ensure that the priorities addressed in its programmes are consistent with and respond to Union priorities and challenges in the area of security and are fully in accordance with the relevant Union *acquis* and agreed Union priorities. In defining the priorities of their programmes, Member States shall ensure that the implementation measures listed in Annex II are adequately addressed in their programmes.

The Commission shall assess the Member States' programmes in accordance with Article 23 of Regulation (EU) 2021/1060.

2. For the purposes of paragraph 1, and without prejudice to paragraph 3 of this Article, each Member State shall allocate:

(a) a minimum of 10 % of the resources allocated under Article 10(1) to the specific objective set out in point (a) of Article 3(2); and

(b) a minimum of 10 % of the resources allocated under Article 10(1) to the specific objective set out in point (b) of Article 3(2).

3. A Member State may allocate less than the minimum percentages referred to in paragraph 2 only if it provides a detailed explanation in its programme as to why allocating resources below that level would not jeopardise the achievement of the relevant objective.

4. The Commission shall ensure that the knowledge and expertise of the relevant decentralised agencies are taken into account, at an early stage and in a timely manner, in the development of the Member States' programmes.

5. In order to avoid overlaps, Member States shall consult the relevant Union bodies, offices and agencies on the design of their actions, in particular when implementing EU policy cycle/EMPACT operational actions or actions coordinated by the Joint Cybercrime Action Taskforce (J-CAT), and on the design of training activities.

6. The Commission may involve, where appropriate, relevant decentralised agencies in the monitoring and evaluation tasks specified in Section 5, in particular with a view to ensuring that the actions implemented with the support of the Fund are compliant with the relevant Union *acquis* and agreed Union priorities.

7. A maximum of 35 % of the allocation of a Member State's programme may be used for the purchase of equipment, means of transport or the construction of security-relevant facilities. This ceiling may be exceeded only in duly justified cases.

8. In their programmes, Member States shall give priority to addressing:

(a) agreed Union priorities and the *acquis* in the area of security, in particular the efficient exchange of relevant and accurate information and the implementation of the components of the framework for interoperability of EU information systems;

(b) recommendations with financial implications made within the framework of Regulation (EU) No 1053/2013 and falling within the scope of this Regulation;

(c) country-specific deficiencies with financial implications identified in the framework of needs assessments such as European Semester recommendations in the area of corruption.

9. Where necessary, the programme of the Member State in question shall be amended in accordance with Article 24 of Regulation (EU) 2021/1060 to take into account the recommendations referred to in point (b) of paragraph 8 of this Article.

10. Member States shall in particular pursue the actions listed in Annex IV in their programmes. To address unforeseen or new circumstances and to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex IV.

11. Whenever a Member State decides to implement a project supported by the Fund with, in or in relation to a third country, the

Member State concerned shall consult the Commission prior to the approval of the project.

12. Programming as referred to in Article 22(5) of Regulation (EU) 2021/1060 shall be based on the types of intervention set out in Table 2 of Annex VI to this Regulation and shall include an indicative breakdown of the programmed resources by type of intervention within each specific objective set out in Article 3(2) of this Regulation.

ARTICLE 14 MID-TERM REVIEW

1. In 2024, the Commission shall allocate to the programmes of the Member States concerned the additional amount referred to in point (b) of Article 10(1) in accordance with the criteria referred to in point (2) of the first paragraph of Annex I. Funding shall be effective as of 1 January 2025.

2. Where at least 10 % of the initial allocation to a programme referred to in point (a) of Article 10(1) of this Regulation has not been covered by payment applications submitted in accordance with Article 91 of Regulation (EU) 2021/1060, the Member State concerned shall not be eligible to receive the additional allocation for its programme referred to in point (b) of Article 10(1) of this Regulation.

3. When allocating the funds from the thematic facility referred to in Article 8 of this Regulation as of 1 January 2025, the Commission shall take into account the progress made by the Member States in achieving the milestones of the performance framework referred to in Article 16 of Regulation (EU) 2021/1060 and identified shortcomings in implementation.

ARTICLE 15 SPECIFIC ACTIONS

1. A Member State may receive funding for specific actions in addition to its allocation under Article 10(1), provided that that funding is subsequently earmarked as such in its programme and is used to contribute to the implementation of the objectives of the Fund, including covering newly emerging threats.

2. Funding for specific actions shall not be used for other actions in the Member State's programme, except in duly justified circumstances and as approved by the Commission through the amendment of the Member State's programme.

ARTICLE 16 OPERATING SUPPORT

1. A Member State may use up to 20 % of the amount allocated to its programme under the Fund to finance operating support for the public authorities responsible for carrying out the tasks and providing the services which constitute a public service for the Union.

2. When using operating support, a Member State shall comply with the Union *acquis* on security.

3. A Member State shall explain, in its programme and in the annual performance reports referred to in Article 30, how the use of operating support will contribute to the achievement of the objectives of the Fund. Before the approval of the Member State's programme, the Commission shall 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, as well as any recommendations from quality control and evaluation mechanisms such as the Schengen evaluation and monitoring mechanism or other quality control and evaluation mechanisms, as applicable.

4. Operating support shall be concentrated on actions covered by expenditure as laid down in Annex VII.

5. To address unforeseen or new circumstances or to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex VII in respect of expenditure that is eligible for operating support.

ARTICLE 17 MANAGEMENT VERIFICATIONS AND AUDITS OF PROJECTS CARRIED OUT BY INTERNATIONAL ORGANISATIONS

1. This Article applies to international organisations or their agencies as referred to in point (c)(ii) of the first subparagraph of Article 62(1) of the Financial Regulation whose systems, rules and procedures have been positively assessed by the Commission pursuant to Article 154(4) and (7) of that Regulation for the purpose of indirectly implementing grants financed from the Union budget ('international organisations').

2. Without prejudice to point (a) of the first paragraph of Article 83 of Regulation (EU) 2021/1060 and to Article 129 of the Financial Regulation, where the international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060, the managing authority shall not be required to carry out the management verifications referred to in point (a) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060, provided that the international organisation submits to the managing authority the documents referred to in points (a), (b) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation.

3. Without prejudice to point (c) of the first subparagraph of Article 155(1) of the Financial Regulation, the management declaration to be submitted by the international organisation shall confirm that the project complies with applicable law and the conditions for support of the project.

4. In addition, where costs are to be reimbursed pursuant to point (a) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that:

(a) invoices and proof of their payment by the beneficiary have been verified;

(b) the accounting records or accounting codes maintained by the beneficiary for transactions linked to the expenditure declared to the managing authority have been verified.

5. Where costs are to be reimbursed pursuant to point (b), (c) or (d) of Article 53(1) of Regulation (EU) 2021/1060, the management declaration to be submitted by the international organisation shall confirm that the conditions for reimbursement of expenditure have been met.

6. The documents referred to in points (a) and (c) of the first subparagraph of Article 155(1) of the Financial Regulation shall be provided to the managing authority together with each payment claim submitted by the beneficiary.

7. The beneficiary shall submit the accounts to the managing authority each year by 15 October. The accounts shall be accompanied by an opinion of an independent audit body that has been drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the control systems in place function properly and are cost-effective, and whether the underlying transactions are legal and regular. That

opinion shall also state whether the audit work puts in doubt the assertions made in the management declarations submitted by the international organisation, including information on suspicions of fraud. That opinion shall provide assurance that the expenditure included in the payment claims submitted by the international organisation to the managing authority is legal and regular.

8. Without prejudice to existing possibilities for carrying out further audits as referred to in Article 127 of the Financial Regulation, the managing authority shall draw up the management declaration referred to in point (f) of the first subparagraph of Article 74(1) of Regulation (EU) 2021/1060. The managing authority shall do so by relying on the documents provided by the international organisation pursuant to paragraphs 2 to 5 and 7 of this Article, instead of by relying on the management verifications referred to in Article 74(1) of that Regulation.

9. The document setting out the conditions for support referred to in Article 73(3) of Regulation (EU) 2021/1060 shall include the requirements set out in this Article.

10. Paragraph 2 shall not apply, and consequently a managing authority shall be

required to carry out management verifications, where:

(a) that managing authority identifies a specific risk of irregularity or an indication of fraud with respect to a project initiated or implemented by the international organisation;

(b) the international organisation fails to submit to that managing authority the documents referred to in paragraphs 2 to 5 and 7; or

(c) the documents referred to in paragraphs 2 to 5 and 7 that have been submitted by the international organisation are incomplete.

11. Where a project in which an international organisation is a beneficiary as defined in point (9) of Article 2 of Regulation (EU) 2021/1060 is part of a sample as referred to in Article 79 of that Regulation, the audit authority may perform its work on the basis of a sub-sample of transactions that relate to that project. Where errors are found in the sub-sample, the audit authority, if relevant, may request the auditor of the international organisation to assess the full scope and the total amount of errors in that project.

SECTION 3: Support and implementation under direct or indirect management

ARTICLE 18 SCOPE

The Commission shall implement support under this section either directly in accordance with point (a) of the first subparagraph of Article 62(1) of the Financial Regulation or indirectly in accordance with point (c) of that subparagraph.

ARTICLE 19 ELIGIBLE ENTITIES

1. The following entities are eligible for Union financing:

(a) legal entities established in:

(i) a Member State or an overseas country or territory linked to it;

(ii) a third country listed in the work programme, under the conditions specified in paragraph 3;

(b) legal entities created under Union law or any international organisation relevant for the purposes of the Fund.

2. Natural persons are not eligible for Union financing.

3. Entities as referred to in point (a)(ii) of paragraph 1 shall participate as part of a consortium composed of at least two independent entities, at least one of which is established in a Member State.

Entities participating as part of a consortium as referred to in the first subparagraph of this paragraph shall ensure that the actions in which they participate comply with the principles enshrined in the Charter and contribute to the achievement of the objectives of the Fund.

ARTICLE 20 UNION ACTIONS

1. At the Commission's initiative, the Fund may be used to finance Union actions related to the objectives of the Fund.

2. 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 funding in the form of financial instruments within blending operations.

3. Exceptionally, decentralised agencies may also be eligible for funding within the framework of Union actions when they assist in the implementation of Union actions falling within the competence of those decentralised agencies, and those actions are not covered by the Union contribution to the budget

of those decentralised agencies through the annual budget.

4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

5. Members of the evaluation committee assessing the proposals, referred to in Article 150 of the Financial Regulation, may be 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. Article 37(7) of Regulation (EU) 2021/695 shall apply.

ARTICLE 21 BLENDING OPERATIONS

Blending operations under the Fund shall be carried out in accordance with Regulation (EU) 2021/523 and Title X of the Financial Regulation.

ARTICLE 22 TECHNICAL ASSISTANCE AT THE INITIATIVE OF THE COMMISSION

In accordance with Article 35 of Regulation (EU) 2021/1060, the Fund may support technical assistance implemented at the initiative of, or on behalf of, the Commission, at a financing rate of 100 %.

ARTICLE 23 AUDITS

Audits of the use of the Union contribution carried out by persons or entities, including by persons or entities other than those mandated by Union institutions, bodies, offices or agencies, shall form the basis of the overall

assurance pursuant to Article 127 of the Financial Regulation.

ARTICLE 24 INFORMATION, COMMUNICATION AND PUBLICITY

1. The recipients of Union funding shall acknowledge the origin of those funds and ensure the visibility of the Union funding, in particular when promoting actions and their results, by providing coherent, effective, meaningful and proportionate targeted information to multiple audiences, including the media and the public. The visibility of Union funding shall be ensured and such information shall be provided, except in duly justified cases where it is not possible or appropriate to display such information publicly or where the release of such information is restricted by law, in particular for reasons of security, public order, criminal investigations or the protection of personal data. To ensure the visibility of Union funding, recipients of Union funding shall refer to the origin of that funding when publicly communicating on the

action concerned, and shall display the Union emblem.

2. To reach the widest possible audience, the Commission shall implement information and communication actions relating to the Fund, to actions taken pursuant to the Fund and to the results obtained.

Financial resources allocated to the Fund shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are related to the objectives of the Fund.

3. The Commission shall publish the work programmes of the thematic facility referred to in Article 8. For support provided under direct or indirect management, the Commission shall publish the information referred to in Article 38(2) of the Financial Regulation on a publicly available website and shall update that information regularly. That information shall be published in an open, machine-readable format which allows data to be sorted, searched, extracted and compared.

SECTION 4: Support and implementation under shared, direct or indirect management

ARTICLE 25 EMERGENCY ASSISTANCE

1. The Fund shall provide financial assistance to address urgent and specific needs in the event of duly justified emergency situations.

In response to such duly justified emergency situations, the Commission may provide emergency assistance within the limits of available resources.

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 the allocation under Article 10(1), provided that it is subsequently earmarked as such in the Member State's programme. That funding shall not be used for other actions in the Member State's programme except in duly justified circumstances and as approved by the Commission through the amendment of

the Member State's programme. Pre-financing for emergency assistance may amount to 95 % of the Union contribution, subject to the availability of funds.

4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

5. Where necessary for the implementation of an action, emergency assistance may cover expenditure which was incurred prior to the date of submission of the grant application or the request for assistance for that action, provided that that expenditure was not incurred prior to 1 January 2021.

6. On duly justified imperative grounds of urgency and to ensure that there is a timely availability of resources for emergency assistance, the Commission may separately adopt a financing decision, as referred to in Article 110 of the Financial Regulation, for emergency assistance by way of an immediately applicable implementing act in accordance with the procedure referred to in Article 33(4). Such an act shall remain in force for a period not exceeding 18 months.

ARTICLE 26 CUMULATIVE AND ALTERNATIVE FINANCING

1. An action that has received a contribution under the Fund may also receive a con-

tribution from any other Union programme, including Funds under shared management, provided that the contributions do not cover the same costs. The rules of the relevant Union programme shall apply to the corresponding contribution to the action. The cumulative financing shall not exceed the total eligible costs of the action. 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. In accordance with Article 73(4) of Regulation (EU) 2021/1060, the European Regional Development Fund or the European Social Fund Plus may support actions attributed a Seal of Excellence label as defined in point (45) of Article 2 of that Regulation. In order to be attributed a Seal of Excellence label, the actions shall comply with the following cumulative conditions:

- (a) they have been assessed in a call for proposals under the Fund;
- (b) they comply with the minimum quality requirements of that call for proposals; and
- (c) they cannot be financed under that call for proposals due to budgetary constraints.

SECTION 5: Monitoring, reporting and evaluation

SUBSECTION 1: COMMON PROVISIONS

ARTICLE 27 MONITORING AND REPORTING

1. In compliance with its reporting requirements pursuant to point (h)(iii) of the first subparagraph of Article 41(3) of the Financial Regulation, the Commission shall present to the European Parliament and to the Council information on the core performance indicators listed in Annex V to this Regulation.

2. The Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex V in order to make the necessary adjustments to the core performance indicators listed in that Annex.

3. Indicators to report on the progress of the Fund towards the achievement of the specific objectives set out in Article 3(2) are set out in Annex VIII. For output indicators, the baselines shall be set at zero. The milestones set for 2024 and the targets set for 2029 shall be cumulative.

4. The performance reporting system shall ensure that data for monitoring the implementation and the results of the programme 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 appropriate, on Member States.

5. To ensure the effective assessment of the Fund's progress towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex VIII to review or complement the indicators where considered necessary and to supplement this Regula-

tion with provisions on the establishment of a monitoring and evaluation framework, including on project information to be provided by the Member States. Any amendment to Annex VIII shall apply only to projects selected after the entry into force of that amendment.

ARTICLE 28 REPORTING ON THE THEMATIC FACILITY

The Commission shall report on the use and distribution of the thematic facility, referred to in Article 8, between its components, including on the support provided to actions in or in relation to third countries under Union actions. When, on the basis of the information presented to it, the European Parliament makes recommendations for actions to be supported under the thematic facility, the Commission shall endeavour to take such recommendations into account.

ARTICLE 29 EVALUATION

1. By 31 December 2024, the Commission shall carry out a mid-term evaluation of this Regulation. In addition to what is provided for in Article 45(1) of Regulation (EU) 2021/1060, the mid-term evaluation shall assess the following:

(a) the effectiveness of the Fund, including the progress made towards the achievement of its objectives, taking into account all relevant information already available, in particular the annual performance reports referred to in Article 30 and the output and result indicators set out in Annex VIII;

(b) the efficiency of the use of resources allocated to the Fund and the efficiency of the

management and control measures put in place to implement it;

(c) the continued relevance and appropriateness of the implementation measures listed in Annex II;

(d) the coordination, coherence and complementarity between the actions supported under the Fund and support provided by other Union funds;

(e) the Union added value of actions implemented under the Fund.

That midterm evaluation shall take into account the results of the retrospective evaluation of the effects of the Internal Security Fund for the 2014-2020 period.

2. In addition to what is provided for in Article 45(2) of Regulation (EU) 2021/1060, the

retrospective evaluation shall include the elements listed in paragraph 1 of this Article. Moreover, the impact of the Fund shall be evaluated.

3. The mid-term evaluation and the retrospective evaluation shall be carried out in a timely manner in order to contribute to the decision-making process, including, where appropriate, to the revision of this Regulation.

4. The Commission shall ensure that the evaluations do not include information the dissemination of which may jeopardise security operations.

5. In the mid-term evaluation and retrospective evaluation, the Commission shall pay particular attention to the evaluation of actions implemented with, in or in relation to third countries in accordance with Article 13(11) and Article 19.

SUBSECTION 2: RULES FOR SHARED MANAGEMENT

ARTICLE 30 ANNUAL PERFORMANCE REPORTS

1. By 15 February 2023 and by 15 February of each subsequent year up to and including 2031, Member States shall submit to the Commission an annual performance report as referred to in Article 41(7) of Regulation (EU) 2021/1060.

The reporting period shall cover the last accounting year, as defined in point 29 of Article 2 of Regulation (EU) 2021/1060, preceding the year of submission of the report. The report submitted by 15 February 2023 shall cover the period from 1 January 2021.

2. The annual performance reports shall, in particular, set out information on:

(a) the progress in the implementation of the Member State's programme and in achieving the milestones and targets set out therein, taking into account the most recent data as required under Article 42 of Regulation (EU) 2021/1060;

(b) any issues affecting the performance of the Member State's programme and the action taken to address them, including information on any reasoned opinions issued by the Commission in respect of infringement proceedings under Article 258 TFEU linked to the implementation of the Fund;

(c) the complementarity between the actions supported under the Fund and the support provided by other Union funds, in particular

those actions taken in or in relation to third countries;

(d) the contribution of the Member State's programme to the implementation of the relevant Union *acquis* and action plans;

(e) the implementation of communication and visibility actions;

(f) the fulfilment of the applicable enabling conditions and their application throughout the programming period, in particular compliance with fundamental rights;

(g) the implementation of projects in or in relation to a third country.

The annual performance reports shall include a summary covering all the points set out in the first subparagraph of this paragraph. The Commission shall ensure that the summaries provided by Member States are translated into all official languages of the Union and made publicly available.

3. The Commission may provide observations on annual performance reports within two months of the date of their receipt. Where the Commission does not provide observations by that deadline, the report shall be deemed to have been accepted.

4. On its website, the Commission shall provide the links to the websites referred to in Article 49(1) of Regulation (EU) 2021/1060.

5. 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. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 33(2).

ARTICLE 31 MONITORING AND REPORTING UNDER SHARED MANAGEMENT

1. Monitoring and reporting in accordance with Title IV of Regulation (EU) 2021/1060 shall use, as appropriate, the codes for the types of intervention set out in Annex VI to this Regulation. In order to address unforeseen or new circumstances and to ensure the effective implementation of funding, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex VI.

2. The indicators set out in Annex VIII to this Regulation shall be used in accordance with Article 16(1) and Articles 22 and 42 of Regulation (EU) 2021/1060.

CHAPTER III TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 32 EXERCISE OF THE DELEGATION

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 13(10), Article 16(5), Article 27(2)

and (5) and Article 31(1) shall be conferred on the Commission until 31 December 2027.

3. The delegation of power referred to in Article 13(10), Article 16(5), Article 27(2) and (5) and Article 31(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 13(10), Article 16(5), Article 27(2) and (5) or Article 31(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council 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 of the Council.

ARTICLE 33 COMMITTEE PROCEDURE

1. The Commission shall be assisted by the Committee for the Home Affairs Funds established by Article 32 of Regulation (EU) 2021/1148. 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 reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

ARTICLE 34 TRANSITIONAL PROVISIONS

1. This Regulation shall not affect the continuation of or modification of actions initiated pursuant to the Police Instrument of the Internal Security Fund for the period 2014-2020 ('ISF Police'), established by Regulation (EU) No 513/2014. Regulation (EU) No 513/2014 shall continue to apply to those actions until their closure.

2. The financial envelope for the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted pursuant to ISF Police.

3. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, taking into account the delayed entry into force of this Regulation, and in order to ensure continuity, for a limited period, costs incurred in respect of actions supported under this Regulation under direct management and which have already begun may be considered eligible for financing as of 1 January 2021, even if those costs were incurred before the grant application or the request for assistance was submitted.

4. Member States may continue after 1 January 2021 to support a project selected and started pursuant to Regulation (EU) No 513/2014, in accordance with Regulation (EU) No 514/2014, provided that all of the following conditions are met:

(a) the project has two phases identifiable from a financial point of view, with separate audit trails;

(b) the total cost of the project exceeds EUR 500000;

(c) payments made by the responsible authority to beneficiaries for the first phase of the project shall be included in payment requests to the Commission under Regulation (EU) No 514/2014 and expenditure for the second phase of the project shall be included in payment applications under Regulation (EU) 2021/1060;

(d) the second phase of the project complies with the applicable law and is eligible for support from the Fund under this Regulation and Regulation (EU) 2021/1060;

(e) the Member State commits to complete the project, render it operational and report on it in the annual performance report submitted by 15 February 2024.

The provisions of this Regulation and of Regulation (EU) 2021/1060 shall apply to the second phase of a project as referred to in the first subparagraph of this paragraph.

This paragraph shall apply only to projects which have been selected under shared management pursuant to Regulation (EU) No 514/2014.

ARTICLE 35 ENTRY INTO FORCE AND APPLICATION

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

It shall apply from 1 January 2021.

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

Done at Strasbourg, 7 July 2021.

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

A. LOGAR

ANNEX I Criteria for the allocation of funding to the member states' programmes

The budgetary resources referred to in Article 10 shall be allocated to the Member States' programmes as follows:

(1) a one-time fixed amount of EUR 8000000 shall be allocated to each Member State at the start of the programming period;

(2) the remaining budgetary resources referred to in Article 10 shall be distributed according to the following criteria:

(a) 45 % of those remaining budgetary resources shall be allocated in inverse proportion to the gross domestic product of each Member State (purchasing power standard per inhabitant);

(b) 40 % of those remaining budgetary resources shall be allocated in proportion to the size of the population of each Member State;

(c) 15 % of those remaining budgetary resources shall be allocated in proportion to the size of the territory of each Member State.

The initial allocation of the remaining budgetary resources referred to in point (2) of the first paragraph shall be based on the annual statistical data produced by the Commission (Eurostat) covering the year 2019. For the purposes of the mid-term review, the reference figures shall be based on the annual statistical data produced by the Commission (Eurostat) covering the year 2023. Where a Member State has not provided the Commission (Eurostat) with the data for a given year, the Commission may instead use the most recent available statistical data preceding the year concerned for that Member State.

ANNEX II Implementation measures

1. The Fund shall contribute to achieving the specific objective set out in point (a) of Article 3(2) of this Regulation by focusing on the following implementation measures:

(a) ensuring the uniform application of the Union *acquis* on security by supporting the exchange of relevant information, for example via Prüm, EU PNR and SIS II, including through the implementation of recommendations from quality control and evaluation mechanisms such as the Schengen evaluation and monitoring mechanism or other quality control and evaluation mechanisms;

(b) setting up, adapting and maintaining security-relevant EU and decentralised information systems, including ensuring their interoperability, and developing appropriate tools to address identified gaps;

(c) increasing the active use of security-relevant EU and decentralised information systems, ensuring that those systems are provided with high quality data; and

(d) supporting relevant national measures, including the interconnection of security-relevant national databases and the connection of those databases to Union databases,

when provided for in relevant legal bases, if relevant to implementing the specific objectives set out in point (a) of Article 3(2).

2. The Fund shall contribute to achieving the specific objective set out in point (b) of Article 3(2) by focusing on the following implementation measures:

(a) increasing the number of law enforcement operations involving two or more Member States, including, where appropriate, operations involving other relevant actors, in particular through facilitating and improving the use of joint investigation teams, joint patrols, hot pursuits, discreet surveillance and other operational cooperation mechanisms in the context of the EU policy cycle, with special emphasis on cross-border operations;

(b) improving the coordination and increasing the cooperation of competent authorities within and between Member States and with other relevant actors, for example through networks of specialised national units, Union networks and cooperation structures, and Union centres; and

(c) improving inter-agency cooperation at Union level between the Member States, and between Member States and relevant Union bodies, offices and agencies, as well as cooperation at national level among the competent authorities within each Member State.

3. The Fund shall contribute to achieving the specific objective set out in point (c) of Article

3(2) by focusing on the following implementation measures:

(a) increasing training, exercises and mutual learning, specialised exchange programmes and sharing of best practices in and between Member States' competent authorities, including at local level, and with third countries and other relevant actors;

(b) exploiting synergies by pooling resources and knowledge and sharing best practices between Member States and other relevant actors, including civil society, through, for example, the creation of joint centres of excellence, development of joint risk assessments, or common operational support centres for jointly conducted operations;

(c) promoting and developing measures, safeguards, mechanisms and best practices for the early identification, protection and support of witnesses, whistleblowers and victims of crime and developing partnerships between public authorities and other relevant actors to this effect;

(d) acquiring relevant equipment and setting up or upgrading specialised training facilities and other essential security-relevant infrastructure to increase preparedness, resilience, public awareness and adequate response as regards security threats; and

(e) protecting critical infrastructure against security-related incidents by detecting, assessing and closing vulnerabilities.

ANNEX III Scope of support

Within its objectives, the Fund may support, inter alia, the following types of actions:

(a) setting up, adapting and maintaining ICT systems that contribute to the achievement of the objectives of this Regulation, training on the use of such systems, and testing and

improving the interoperability components and data quality of such systems;

(b) monitoring of the implementation of Union law and Union policy objectives in the Member States in the area of security-relevant information systems, including data protection, privacy and data security;

(c) EU policy cycle/EMPACT operational actions;

(d) actions supporting an effective and coordinated response to crises and linking up existing sector-specific capabilities, expertise centres and situational awareness centres, including those for health, civil protection, terrorism and cybercrime;

(e) actions developing innovative methods or deploying new technologies with a potential for transferability to other Member States, in particular projects aimed at testing and validating the outcome of Union-funded security research projects;

(f) actions that improve resilience as regards emerging threats, including trafficking via online channels, hybrid threats, the malicious use of unmanned aerial systems and chemical, biological, radiological and nuclear threats;

(g) providing support to thematic or cross-theme networks of specialised national units and national contact points to improve mutual confidence, the exchange and dissemination of know-how, information, experience and best practices, the pooling of resources and expertise in joint centres of excellence;

(h) education and training for staff and experts in relevant law enforcement and judicial authorities and administrative agencies, taking into account operational needs and risk analyses, in cooperation with CEPOL and, when applicable, the European Judicial Training Network, including education and training on prevention policies, with special emphasis on fundamental rights and non-discrimination;

(i) cooperation with the private sector, for example in the fight against cybercrime, in order to build trust and improve coordination, contingency planning and the exchange and dissemination of information and best practices among public and private actors, including in the protection of public spaces and critical infrastructure;

(j) actions empowering communities to develop local approaches and prevention policies, and awareness-raising and communication activities among stakeholders and the general public on Union security policies;

(k) financing of equipment, means of transport, communication systems and security-relevant facilities;

(l) financing the cost of staff involved in the actions that are supported by the Fund or actions requiring involvement of staff for technical or security-related reasons.

ANNEX IV Actions referred to in article 12(3) and article 13(10)

- | | |
|---|---|
| <p>(1) Projects which aim to prevent and counter radicalisation</p> <p>(2) Projects which aim to improve the interoperability of EU information systems and national ICT systems, insofar as provided for by Union or Member State law</p> <p>(3) Projects which aim to fight the most important threats posed by serious and</p> | <p>organised crime, in the framework of EU policy cycle/EMPACT operational actions</p> <p>(4) Projects which aim to prevent and fight cybercrime, in particular child sexual exploitation online, and crimes where the internet is the primary platform for evidence collection</p> <p>(5) Projects which aim to improve the security and resilience of critical infrastructure</p> |
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ANNEX V Core performance indicators as referred to in article 27(1)

SPECIFIC OBJECTIVE SET OUT IN POINT (A) OF ARTICLE 3(2)

1. Number of ICT systems made interoperable in the Member States/with security-relevant EU and decentralised information systems/with international databases
2. Number of administrative units that have set up new, or adapted existing, information exchange mechanisms/procedures/tools/guidance for exchange of information with other Member States/Union bodies, offices or agencies/third countries/international organisations
3. Number of participants who consider the training activity useful for their work
4. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity

SPECIFIC OBJECTIVE SET OUT IN POINT (B) OF ARTICLE 3(2)

5. The estimated value of assets frozen in the context of cross-border operations
6. Quantity of illicit drugs seized in the context of cross-border operations, by type of product⁽¹⁾

⁽¹⁾ Breakdown of types of drugs (based on the categories used in reports on illicit drugs: EU Drug Markets Report, the European Drug Report as well as the EMCDDA Statistical Bulletin):

- cannabis;
- opioids, including heroin;
- cocaine;
- synthetic drugs, including amphetamine-type stimulants (including amphetamine and methamphetamine) and MDMA;
- new psychoactive substances;
- other illicit drugs.

7. Quantity of weapons seized in the context of cross-border operations, by type of weapon⁽²⁾

8 Number of administrative units that have developed/adapted existing mechanisms/procedures/tools/guidance for cooperation with other Member States/Union bodies, offices or agencies/third countries/international organisations

9. Number of staff involved in cross-border operations

10. Number of Schengen evaluation recommendations addressed

SPECIFIC OBJECTIVE SET OUT IN POINT (C) OF ARTICLE 3(2)

11. Number of initiatives developed/expanded to prevent radicalisation

12. Number of initiatives developed/expanded to protect/support witnesses and whistleblowers

13. Number of critical infrastructure/public spaces with new/adapted facilities protecting against security-related risks

14. Number of participants who consider the training activity useful for their work

15. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity

⁽²⁾ Breakdown of types of weapons (based on existing legislation, namely Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. The proposed categories are simplified, compared to those mentioned in Annex I to Directive 91/477/EEC, and in line with those inside the Schengen Information System, used by national authorities):

- weapons of war: automatic firearms and heavy firearms (anti-tank, rocket launcher, mortar, etc.);
- other short firearms: revolvers and pistols (including salute and acoustic weapons);
- other long firearms: rifles and shotguns (including salute and acoustic weapons).

ANNEX VI Types of intervention

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

001	TER-Countering terrorist financing
002	TER-Prevention and countering of radicalisation
003	TER-Protection and resilience of public spaces and other soft targets
004	TER-Protection and resilience of critical infrastructure
005	TER-Chemical Biological Radioactive Nuclear
006	TER-Explosives
007	TER-Crisis management
008	TER-Other
009	OC-Corruption
010	OC-Economic and financial crime
011	OC-Laundering of the proceeds of crime
012	OC-Drugs
013	OC-Firearms trafficking
014	Trafficking in cultural objects
015	OC-Trafficking in human beings
016	OC-Migrant smuggling
017	OC-Environmental crime
018	OC-Organised property crime
019	OC-Other
020	CC-Cybercrime – Other
021	CC-Cybercrime – Prevention
022	CC-Cybercrime – Facilitating investigations
023	CC-Cybercrime – Victims assistance
024	CC-Child Sexual Exploitation – Prevention
025	CC-Child Sexual Exploitation – Facilitating investigations
026	CC-Child Sexual Exploitation – Victims assistance
027	CC-Child Sexual Exploitation, including distribution of child abuse images and child pornography
028	CC-Other
029	GEN-Information exchange
030	GEN-Police or interagency cooperation (customs, border guards, intelligence services)
031	GEN-Forensics
032	GEN-Victim support
033	GEN-Operating support
034	TA-Technical assistance – information and communication
035	TA-Technical assistance – preparation, implementation, monitoring and control
036	TA-Technical assistance – evaluation and studies, data collection
037	TA-Technical assistance – capacity building

TABLE 2: CODES FOR THE TYPE OF ACTION DIMENSION

001	ICT systems, interoperability, data quality (excluding equipment)
002	Networks, centres of excellence, cooperation structures, joint actions and operations
003	Joint Investigation Teams (JITs) or other joint operations
004	Secondment or deployment of experts
005	Training
006	Exchange of best practices, workshops, conferences, events, awareness-raising campaigns, communication activities
007	Studies, pilot projects, risk assessments
008	Equipment
009	Means of transport
010	Buildings, facilities
011	Deployment or other follow-up of research projects

TABLE 3: CODES FOR THE IMPLEMENTATION DIMENSION

001	Actions covered by Article 12(1)
002	Specific actions
003	Actions listed in Annex IV
004	Operating support
005	Emergency assistance as referred to in Article 25

TABLE 4: CODES FOR THE PARTICULAR THEMES DIMENSION

001	Cooperation with third countries
002	Actions in or in relation to third countries
003	Implementation of Schengen evaluation recommendations in the area of police cooperation
004	None of the above

ANNEX VII Expenditure eligible for operating support

1. Within the specific objective set out in point (a) of Article 3(2), operating support within the Member States' programmes shall cover:

(a) maintenance of and helpdesk for security-relevant EU and, where relevant, national ICT systems that contribute to the achievement of the objectives of this Regulation;

(b) staff costs that contribute to the achievement of the objectives of this Regulation.

2. Within the specific objective set out in point (b) of Article 3(2), operating support within the Member States' programmes shall cover:

(a) maintenance of technical equipment or means of transport used for actions in the area of prevention, detection and investigation of serious and organised crime with a cross-border dimension;

(b) staff costs that contribute to the achievement of the objectives of this Regulation.

3. Within the specific objective set out in point (c) of Article 3(2), operating support within the Member States' programmes shall cover:

(a) maintenance of technical equipment or means of transport used for actions in the area of prevention, detection and investigation of serious and organised crime with a cross-border dimension;

(b) staff costs that contribute to the achievement of the objectives of this Regulation.

4. Expenditure concerning actions which are not eligible under Article 5(5) shall not be covered.

ANNEX VIII Output and result indicators as referred to in article 27(3)

SPECIFIC OBJECTIVE SET OUT IN POINT (A) OF ARTICLE 3(2)

Output indicators

1. Number of participants in training activities
2. Number of expert meetings/workshops/study visits
3. Number of ICT systems set up/adapted/maintained
4. Number of equipment items purchased

Result indicators

5. Number of ICT systems made interoperable in the Member States/with security-relevant EU and decentralised information systems/with international databases
6. Number of administrative units that have set up new, or adapted existing, information exchange mechanisms/procedures/tools/guidance for exchange of information with other Member States/Union bodies, offices or agencies/third countries/international organisations

7. Number of participants who consider the training useful for their work

8. Number of participants who report three months after the training activity that they are using the skills and competences acquired during that training activity

SPECIFIC OBJECTIVE SET OUT IN POINT (B) OF ARTICLE 3(2)

Output indicators

1. Number of cross-border operations, separately specifying:
 - 1.1. the number of joint investigation teams
 - 1.2. the number of EU policy cycle/EMPACT operational actions
2. Number of expert meetings/workshops/study visits/common exercises
3. Number of equipment items purchased
4. Number of transport means purchased for cross-border operations

Result indicators

5. The estimated value of assets frozen in the context of cross-border operations

6. Quantity of illicit drugs seized in the context of cross-border operations, by type of product⁽¹⁾

7. Quantity of weapons seized in the context of cross-border operations, by type of weapon⁽²⁾

8. Number of administrative units that have developed/adapted existing mechanisms/procedures/tools/guidance for cooperation with other Member States/Union bodies, offices or agencies/third countries/international organisations

9. Number of staff involved in cross-border operations

10. Number of Schengen evaluation recommendations addressed

SPECIFIC OBJECTIVE SET OUT IN POINT (C) OF ARTICLE 3(2)*Output indicators*

1. Number of participants in training activities

2. Number of exchange

⁽¹⁾ Breakdown of types of drugs (based on the categories used in reports on illicit drugs: EU Drug Markets Report, the European Drug Report as well as the EMCDDA Statistical Bulletin):

- cannabis;
- opioids, including heroin;
- cocaine;
- synthetic drugs, including amphetamine-type stimulants (including amphetamine and methamphetamine) and MDMA;
- new psychoactive substances;
- other illicit drugs.

⁽²⁾ Breakdown of types of weapons (based on existing legislation, namely Council Directive 91/477/EEC of 18 June 1991 on control of the acquisition and possession of weapons. The proposed categories are simplified, compared to those mentioned in Annex I to Directive 91/477/EEC, and in line with those inside the Schengen Information System, used by national authorities):

- weapons of war: automatic firearms and heavy firearms (anti-tank, rocket launcher, mortar, etc.);
- other short firearms: revolvers and pistols (including salute and acoustic weapons);
- other long firearms: rifles and shotguns (including salute and acoustic weapons).

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REGULATION (EU) 2021/1060 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 24 JUNE 2021 LAYING DOWN COMMON PROVISIONS ON THE EUROPEAN REGIONAL DEVELOPMENT FUND, THE EUROPEAN SOCIAL FUND PLUS, THE COHESION FUND, THE JUST TRANSITION FUND AND THE EUROPEAN MARITIME, FISHERIES AND AQUACULTURE FUND AND FINANCIAL RULES FOR THOSE AND FOR THE ASYLUM, MIGRATION AND INTEGRATION FUND, THE INTERNAL SECURITY FUND AND THE INSTRUMENT FOR FINANCIAL SUPPORT FOR BORDER MANAGEMENT AND VISA POLICY

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Acting in accordance with the ordinary legislative procedure⁽⁴⁾,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177, point (a) of Article 322(1) and Article 349 thereof,

Whereas:

(1) Article 174 of the Treaty on the Functioning of the European Union (TFEU) provides that, in order to strengthen its economic, social and territorial cohesion, the Union is to aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, and that particular attention is to be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps. Those regions particularly benefit from cohesion policy. Article 175 TFEU requires the Union to support the achievement of those objectives by the action it takes through the European Agricultural Guidance and Guarantee Fund, Guidance Section, the European Social Fund, the European Regional Development Fund, the

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⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Having regard to the opinion of the Court of Auditors⁽³⁾,

⁽¹⁾ OJ C 62, 15.2.2019, p. 83.

⁽²⁾ OJ C 86, 7.3.2019, p. 41.

⁽³⁾ OJ C 17, 14.1.2019, p. 1.

⁽⁴⁾ Position of the European Parliament of 27 March 2019 (OJ C 108, 26.3.2021, p. 638) and position of the Council at first reading of 27 May 2021 (not yet published in the Official Journal). Position of the European Parliament of 24 June 2021 (not yet published in the Official Journal).

European Investment Bank and other instruments. Article 322 TFEU provides the basis for adopting financial rules determining the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts, as well as for checks on the responsibility of financial actors.

(2) In order to further develop a coordinated and harmonised implementation of Union Funds implemented under shared management, namely the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion Fund, the Just Transition Fund (JTF), and measures financed under shared management in the European Maritime, Fisheries and Aquaculture Fund (EMFAF), the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF) and the Instrument for Financial Support for Border Management and Visa Policy (BMVI), financial rules based on Article 322 TFEU should be established for all these Funds (together referred to as 'the Funds'), clearly specifying the scope of application of the relevant provisions. In addition, common provisions based on Article 177 TFEU should be established to cover policy-specific rules for the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF.

(3) Due to the specificities of each Fund, specific rules applicable to each Fund and to the European territorial cooperation goal (Interreg) under the ERDF should be laid down in separate Regulations ('Fund-specific Regulations') to complement this Regulation.

(4) The outermost regions should benefit from specific measures and from additional funding to offset their structural social and economic situation together with the handicaps resulting from the factors referred to in Article 349 TFEU.

(5) The northern sparsely populated regions should benefit from specific measures and additional funding to offset the severe and natural or demographic handicaps referred to in Article 2 of Protocol No 6 to the 1994 Act of Accession.

(6) Horizontal principles as set out in Article 3 of the Treaty on European Union (TEU) and in Article 10 TFEU, including the principles of subsidiarity and proportionality as set out in Article 5 TEU, should be respected in the implementation of the Funds, taking into account the Charter of Fundamental Rights of the European Union. Member States should also respect the obligations set out in the United Nations Convention on the Rights of the Child, and in the United Nations Convention on the Rights of Persons with Disabilities, and ensure accessibility in line with Article 9 thereof and in accordance with Union law harmonising accessibility requirements for products and services. In that context, the Funds should be implemented in a way that promotes the transition from institutional to family-based and community-based care. Member States and the Commission should aim at eliminating inequalities and at promoting equality between men and women and integrating the gender perspective, as well as at combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Funds should not support actions that contribute to any form of segregation or exclusion, and, when financing infrastructure, should ensure the accessibility for persons with disabilities. The objectives of the Funds should be pursued in the framework of sustainable development and the Union's promotion of the aim of preserving, protecting and improving the quality of the environment as set out in Article 11 and Article 191(1) TFEU, taking into account the polluter pays principle, the UN Sustainable Development Goals and the Paris Agreement adopted under the United Nations Framework

Convention on Climate Change⁽⁵⁾ (the ‘Paris Agreement’). In order to protect the integrity of the internal market, operations benefiting undertakings are to comply with Union State aid rules as set out in Articles 107 and 108 TFEU. Poverty is a particularly important challenge in the Union. The objectives of the Funds should therefore be pursued with a view to contributing to the eradication of poverty. The objectives of the Funds should be pursued with a view to providing adequate support, in particular to local and regional authorities of coastal and urban areas, to address the socio-economic challenges linked to the integration of third-country nationals and to providing adequate support to disadvantaged areas and communities in urban areas.

(7) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁽⁶⁾ (‘the Financial Regulation’) and determine in particular the procedure for establishing and implementing the Union budget through grants, procurement, prizes, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.

⁽⁵⁾ OJ L 282, 19.10.2016, p. 4.

⁽⁶⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

(8) Where a time limit is set for the Commission to take any action towards Member States, the Commission should take account of all necessary information and documents in a timely and efficient manner. Where submissions from Member States in any form under this Regulation are incomplete or non-compliant with the requirements of this Regulation and of Fund-specific Regulations, thus not allowing the Commission to take fully-informed action, that time limit should be suspended until the Member States comply with the regulatory requirements. Further, as the Commission is precluded from making payments for the expenditure incurred by beneficiaries and paid in implementing operations linked to specific objectives for which enabling conditions are not fulfilled, which is included in payment applications, the time limit for the Commission to make payments should not be triggered for such expenditure.

(9) In order to contribute to Union priorities, the Funds should focus their support on a limited number of policy objectives in line with their Fund-specific missions pursuant to their Treaty-based objectives. The policy objectives for the **AMIF**, the **ISF** and the **BMVI** should be set out in the respective Fund-specific Regulations. The JTF and any resources of the ERDF and the ESF+ that are transferred, on a voluntary basis, as a complementary support to the JTF, should contribute to a single specific objective.

(10) 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, the Funds should contribute to mainstreaming climate actions and to the achievement of an overall target of 30 % of the Union budget expenditure supporting climate objectives. In that context, the Funds should support activities that would respect the climate and environmental standards

and priorities of the Union and would do no significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council⁽⁷⁾. Adequate mechanisms to ensure the climate proofing of supported investment in infrastructure should be an integral part of programming and implementation of the Funds.

(11) Reflecting the importance of tackling the loss of biodiversity, the Funds should contribute to mainstream biodiversity action in the Union policies and to the achievement of the overall ambition of providing 7,5 % of annual spending under the multiannual financial framework (MFF) to biodiversity objectives in the year 2024 and 10 % of annual spending under the MFF to biodiversity objectives in 2026 and 2027, while considering the existing overlaps between climate and biodiversity goals.

(12) Part of the budget of the Union allocated to the Funds should be implemented by the Commission under shared management with Member States within the meaning of the Financial Regulation. Therefore, when implementing the Funds under shared management, the Commission and the Member States should respect the principles referred to in the Financial Regulation, such as sound financial management, transparency and non-discrimination.

(13) Member States at the appropriate territorial level, in accordance with their institutional, legal and financial framework and the bodies designated by them for that purpose, should be responsible for preparing and

implementing programmes. The Union and Member States should refrain from imposing unnecessary rules resulting in excessive administrative burden for beneficiaries.

(14) The principle of partnership is a key feature in the implementation of the Funds, building on the multi-level governance approach and ensuring the involvement of regional, local, urban and other public authorities, civil society, economic and social partners and, where appropriate, research organisations and universities. In order to provide continuity in the organisation of partnership, the European code of conduct on partnership for Partnership Agreements and programmes supported by the European Structural and Investment Funds established by the Commission Delegated Regulation (EU) No 240/2014⁽⁸⁾ (the 'European code of conduct on partnership') should continue to apply to the Funds.

(15) At Union level, the European Semester of economic policy coordination, including the principles of the European Pillar of Social Rights, is the framework to identify national reform priorities and monitor their implementation. Member States develop their own national multiannual investment strategies in support of those reforms. Those strategies should be presented alongside the yearly National Reform Programmes as a way to outline and coordinate priority investment projects to be supported by national or Union funding, or both. They should also serve to use Union funding in a coherent manner and to maximise the added value of the financial support to be received, in particular from the Funds, the Recovery and Resilience Facility

⁽⁷⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁽⁸⁾ Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds (OJ L 74, 14.3.2014, p. 1).

established by Regulation (EU) 2021/241 of the European Parliament and of the Council⁽⁹⁾ and the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council⁽¹⁰⁾ (the 'InvestEU Regulation').

(16) Member States should take into account relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and relevant Council recommendations adopted in accordance with Article 148(4) of the TFEU and complementary Commission recommendations issued in accordance with Article 34 of Regulation (EU) 2018/1999 of the European Parliament and of the Council⁽¹¹⁾, and for the **AMIF**, the **ISF** and the **BMVI** other relevant Union recommendations addressed to the Member State in the preparation of programming documents. During the 2021–2027 programming period ('programming period'), Member States should regularly present to the monitoring committee and to the Commission the progress in implementing the programmes in support of the country-specific recommendations. During a mid-term review, Member States

should, among other elements, consider the need for programme modifications to accommodate new challenges identified in relevant country-specific recommendations adopted or modified since the start of the programming period.

(17) Member States should take account of the contents of their integrated national energy and climate plan, to be developed under Regulation (EU) 2018/1999, and the outcome of the process resulting in Union recommendations regarding these plans, for their programmes, including during the mid-term review, as well as for the financial needs allocated for low-carbon investments.

(18) The Partnership Agreement, prepared by each Member State, should be a concise and strategic document guiding the negotiations between the Commission and the Member State concerned on the design of programmes under the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF. In order to streamline the approval process, the Commission should respect the principle of proportionality in its assessment, particularly concerning the length of the Partnership Agreement and requests for additional information. In order to reduce the administrative burden, it should not be necessary to amend Partnership Agreements during the programming period. However, if the Member State so wishes, it should be able to submit to the Commission one amendment to its Partnership Agreement to take into account the outcome of the mid-term review. To facilitate the programming and avoid overlapping content in programming documents, a Partnership Agreement can be included as part of a programme.

(19) In order to provide Member States with sufficient flexibility in the implementation of their shared management allocations, it should be possible to transfer certain levels

⁽⁹⁾ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

⁽¹⁰⁾ Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

⁽¹¹⁾ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

of funding between the Funds and between shared management and direct and indirectly managed instruments. Where the specific economic and social circumstances of a Member State justify it, that level of transfer should be higher.

(20) Each Member State should have the flexibility to contribute to the InvestEU Programme for the provision of the EU guarantee and the InvestEU Advisory Hub for investments in that Member State, under certain conditions set out in this Regulation.

(21) To ensure the necessary prerequisites for the effective and efficient use of Union support granted by the Funds, a limited list of enabling conditions as well as a concise and exhaustive set of objective criteria for their assessment should be established. Each enabling condition should be linked to a specific objective and should be automatically applicable where the specific objective is selected for support. Without prejudice to the rules on decommitment, where those conditions are not fulfilled, expenditure related to operations under the related specific objectives should not be reimbursed by the Commission. In order to maintain a favourable investment framework, the continued fulfilment of the enabling conditions should be monitored regularly. At the request of a Member State, the EIB should be able to contribute to the assessment of the fulfilment of enabling conditions. It is also important to ensure that operations selected for support are implemented consistently with the strategies and planning documents in place underlying the fulfilled enabling conditions, thus ensuring that all co-financed operations are in line with the Union policy framework.

(22) While pursuing the objectives of economic, social and territorial cohesion, support to network connectivity by the ERDF and the Cohesion Fund should aim at completing

missing links to the trans-European transport network.

(23) Member States should establish a performance framework for each programme covering all indicators, milestones and targets to monitor, report on and evaluate programme performance. This should allow monitoring, reporting on and evaluating performance during implementation, and contribute to measuring the overall performance of the Funds.

(24) The Member State should carry out a mid-term review of each programme supported by the ERDF, the ESF+, the Cohesion Fund and the JTF. That review should provide a fully-fledged adjustment of programmes based on programme performance, while also providing an opportunity to take account of new challenges and relevant country-specific recommendations issued in 2024, as well as progress in implementing the integrated national energy and climate plans and the principles of the European Pillar of Social Rights. For the purposes of the mid-term review, the socioeconomic situation of the Member State or region concerned, including any major negative financial, economic or social development or demographic challenges and the progress towards reaching the climate contribution targets at national level should also be taken into account. The Commission should prepare a report about the outcome of the mid-term review, including its assessment of the application of the management costs and fees under financial instruments managed by bodies selected through direct award.

(25) Mechanisms to ensure a link between Union funding policies and the economic governance of the Union should be further refined, allowing the Commission to make a proposal to the Council to suspend all or part of the commitments or payments for one or

more of the programmes of the Member State concerned where that Member State fails to take effective action in the context of the economic governance process. The obligation of the Commission to propose a suspension should be suspended when and for as long as the so-called general escape clause under the Stability and Growth Pact has been activated. In order to ensure uniform implementation and in view of the importance of the financial effects of measures being imposed, implementing powers should be conferred on the Council which should act on the basis of a Commission proposal. To facilitate the adoption of decisions which are required to ensure effective action in the context of the economic governance process, reversed qualified majority voting should be used. Given the type of operations that are supported by the ESF+ and Interreg programmes, the ESF+ and these programmes should be excluded from the scope of those mechanisms.

(26) In order to allow for a rapid response to exceptional or unusual circumstances as referred to in the Stability and Growth Pact that may arise during the programming period, implementing powers should be conferred on the Commission to adopt temporary measures to facilitate the use of the Funds in response to such circumstances. The Commission should adopt the measures that are most appropriate in light of the exceptional or unusual circumstances that a Member State is facing, while preserving the objectives of the Funds. The Commission should also monitor the implementation and assess the appropriateness of those measures.

(27) It is necessary to set out common requirements as regards the content of the programmes, taking into account the specific nature of each Fund. Those common requirements can be complemented by Fund-specific rules. Regulation (EU) 2021/1060 of the

European Parliament and of the Council⁽¹²⁾ (the 'Interreg Regulation') should set out specific provisions on the content of Interreg programmes.

(28) In order to allow for flexibility in programme implementation and reduce administrative burden, limited financial transfers should be allowed between priorities of the same programme without requiring a Commission decision amending the programme. The revised financial tables should be submitted to the Commission in order to ensure up-to-date information on financial allocations for each priority.

(29) In order to enhance the effectiveness of the JTF, it should be possible that complementary resources from the ERDF and the ESF+ are made available to the JTF on a voluntary basis. Those complementary resources should be provided through a specific voluntary transfer from those funds to the JTF, taking into account the transition challenges set out in the territorial just transition plans, which need to be addressed. Amounts to be transferred should be provided from resources of the categories of region where the territories identified in territorial just transition plans are located. Given these specific arrangements for the use of the JTF resources, only the specific transfer mechanism should apply for the constitution of the JTF resources. Furthermore, it should be clarified that only this Regulation and Regulation (EU) 2021/1060 of the European Parliament

⁽¹²⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (see page 159 of this Official Journal).

and of the Council⁽¹³⁾ (the 'JTF Regulation') should apply to the JTF and to the resources of the ERDF and the ESF+ transferred to the JTF, which also become JTF support. Neither Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽¹⁴⁾ (the 'ERDF and CF Regulation') nor Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽¹⁵⁾ (the 'ESF+ Regulation') should apply to the complementary support. Therefore, the ERDF resources transferred as a complementary support to the JTF should be excluded from the basis of calculation of the thematic concentration requirements set out in the ERDF and CF Regulation and from the basis of calculation of minimum allocations to sustainable urban development as set out in the ERDF and CF Regulation. The same applies to the ESF+ resources transferred as a complementary support to the JTF in respect of thematic concentration requirements set out in the ESF+ Regulation.

(30) To strengthen the integrated territorial development approach, investments in the form of territorial tools, such as integrated territorial investments, community-led local development, referred to as 'LEADER' under the European Agricultural Fund for Rural Development (EAFRD), or any other territorial tool which supports initiatives designed by the Member State, should be based on territorial and local development strategies.

The same should apply to related initiatives such as the Smart Villages. For the purposes of integrated territorial investments and territorial tools designed by Member States, minimum requirements should be set out for the content of territorial strategies. Those territorial strategies should be developed and endorsed under the responsibility of relevant authorities or bodies. To ensure the involvement of relevant authorities or bodies in implementing territorial strategies, those authorities or bodies should be responsible for the selection of operations to be supported, or be involved in that selection. Territorial strategies, when promoting sustainable tourism initiatives, should ensure an appropriate balance between the needs of both residents and tourists, such as interconnecting cycling and railway networks.

(31) In order to address effectively the development challenges in rural areas, coordinated support from the Funds and the EAFRD should be facilitated. Member States and regions should ensure that the interventions supported through the Funds and the EAFRD are complementary and are implemented in a coordinated manner with a view to creating synergies and in order to reduce the administrative cost and burden for managing bodies and beneficiaries.

(32) To better mobilise potential at the local level, it is necessary to strengthen and facilitate community-led local development. It should take local needs and potential as well as relevant socio-cultural characteristics into account, and should provide for structural changes, build community capacity and stimulate innovation. The close cooperation and integrated use of the Funds and the EAFRD to deliver local development strategies should be strengthened. It is crucial that local action groups, representing the interests of the community, are responsible for the design and implementation of com-

⁽¹³⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (see page 159 of this Official Journal).

⁽¹⁴⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (see page 159 of this Official Journal).

⁽¹⁵⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+), and repealing Regulation (EU) No 1296/2013 (see page 159 of this Official Journal).

munity-led local development strategies. In order to facilitate coordinated support from different Funds and the EAFRD to community-led local development strategies and to facilitate their implementation, the use of a 'Lead Fund' approach should be facilitated. When the EAFRD is selected as a Lead Fund, it should follow the rules established for the 'Lead Fund' approach.

(33) In order to reduce the administrative burden, it should be possible to implement technical assistance linked to programme implementation at the initiative of the Member State through a flat rate based on progress in programme implementation which may also cover horizontal tasks. However, in order to simplify the implementation for the AMIF, the ISF and the BMVI, and for Interreg programmes, only the flat-rate approach should be used. In order to facilitate financial management, Member States should have the possibility to indicate one or more bodies to which related reimbursements should be made. Since those reimbursements are based on the application of a flat rate, verifications and audits should be limited to verifying that the conditions triggering reimbursement of the Union contribution are met but underlying expenditure should not be subject to verification or audit. Nevertheless, where continuity with the 2014-2020 period is preferred, the Member State should also be provided with the possibility to continue receiving reimbursement of eligible costs actually incurred by the beneficiary and paid in implementing operations for technical assistance implemented through one or more separate programmes or one or more priorities within programmes. The Member State should indicate in its Partnership Agreement its choice of the form of Union contribution for technical assistance for the entire programming period. Regardless of the option chosen, it should be possible for technical assistance to be complemented by targeted administrative

capacity building measures using reimbursement methods that are not linked to costs. It should also be possible for actions and deliverables as well as corresponding Union payments to be agreed in a roadmap and lead to payments for results on the ground.

(34) Where a Member State proposes to the Commission that a priority of a programme or a part thereof be supported through a financing scheme not linked to costs, the actions, deliverables and conditions agreed should be related to actual investments undertaken under the shared management programmes in that Member State or region. In that context, the respect of the principle of sound financial management should be ensured. In particular, as regards the appropriateness of the amounts linked to the fulfilment of the respective conditions or the achievement of results, the Commission and the Member State should ensure that resources employed are adequate for the investments undertaken. Where a financing scheme not linked to costs is used in a programme, the underlying costs linked to the implementation of that scheme should not be subject to any verifications or audits because the Commission provides an *ex-ante* agreement on the amounts linked to the fulfilment of the conditions or the achievement of results in the programme or in a delegated act. Verifications and audits should be limited instead to checking that the conditions or results triggering the reimbursement of the Union contribution are fulfilled.

(35) In order to examine the performance of programmes, Member States should set up monitoring committees, whose composition should include representatives of relevant partners. For the ERDF, the ESF+, the Cohesion Fund and the EMFAF, annual implementation reports should be replaced by an annual structured policy dialogue based on the latest information and data on pro-

gramme implementation made available by the Member State. The review meeting should be organised also for programmes covering the JTF.

(36) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽¹⁶⁾, the Funds should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators, as a basis for evaluating the effects of the Funds on the ground. Those requirements should also enable the monitoring of the support of gender equality.

(37) To ensure availability of comprehensive up-to-date information on programme implementation, effective and timely electronic reporting on quantitative data should be required.

(38) In order to support the preparation of related programmes and activities of the subsequent programming period, the Commission should carry out a mid-term assessment of the Funds. At the end of the programming period, the Commission should carry out retrospective evaluations of the Funds, which should focus on the impact of the Funds. The results of these evaluations should be made public.

(39) Programme authorities, beneficiaries and stakeholders in Member States should raise awareness of the achievements of Union funding and inform the general public accordingly. Transparency, communication and visibility activities are essential in making Union action visible on the ground

and should be based on true, accurate and updated information. In order for those requirements to be enforceable, programme authorities and, in the event of non-compliance, the Commission should be able to apply remedial measures.

(40) Managing authorities should publish structured information on selected operations and beneficiaries on the website of the programme providing support to the operation, while taking account of requirements for data protection of personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council⁽¹⁷⁾.

(41) With a view to simplifying the use of the Funds and reducing the risk of error, it is appropriate to define both the forms of Union contribution to Member States and the forms of support provided by Member States to beneficiaries. It should also be possible for managing authorities to provide grants through the form of financing not linked to costs where these grants are covered by reimbursement of the Union contribution based on the same form, in order to increase experience with such a simplification possibility.

(42) As regards grants provided to beneficiaries, Member States should increasingly make use of simplified cost options. The threshold linked to the obligatory use of simplified cost options should be linked to the total costs of the operation in order to ensure the same treatment of all operations below the threshold, regardless of whether the sup-

⁽¹⁷⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽¹⁶⁾ OJ L 123, 12.5.2016, p. 1.

port is public or private. Where a managing authority intends to propose the use of a simplified cost option in a call for proposals, it should be possible to consult the monitoring committee. Amounts and rates established by Member States need to be a reliable proxy to real costs. Periodic adjustments are a good practice in the context of multiannual programme implementation to take into account factors affecting rates and amounts. In order to facilitate the uptake of simplified cost options, this Regulation should also provide methods and rates that are able to be used without the requirement for Member States to carry out a calculation or define a methodology.

(43) To enable immediate implementation of flat rates, any flat rate established by Member States in the 2014-2020 period based on a fair, equitable and verifiable calculation method should continue to be applied for similar operations supported under this Regulation without requiring a new calculation method.

(44) In order to optimise the uptake of co-financed environmental investments, synergies should be ensured with the LIFE programme for the Environment and Climate Action established by Regulation (EU) 2021/783 of the European Parliament and of the Council⁽¹⁸⁾, in particular through LIFE strategic integrated projects and strategic nature projects, as well as with projects funded under Horizon Europe established by Regulation (EU) 2021/695 Regulation of the

European Parliament and of the Council⁽¹⁹⁾ (the 'Horizon Europe Regulation') and other Union programmes.

(45) In order to provide legal clarity, it is appropriate to specify the eligibility period for expenditure or costs linked to operations supported by the Funds under this Regulation and to restrict support for completed operations. The date from which expenditure becomes eligible for support from the Funds in case of adoption of new programmes or of changes in the programmes should also be clarified, including the exceptional possibility to extend the eligibility period to the start of a natural disaster in case there is urgent need to mobilise resources to respond to such disaster. At the same time, programme implementation should provide for flexibility in relation to the eligibility of expenditure for operations which contribute to the objectives of the programme, regardless of whether they are implemented outside of a Member State or the Union or in the same category of region within a Member State.

(46) In order to provide the necessary flexibility for implementation of public-private partnerships (PPPs), the PPP agreement should specify when expenditure is considered to be eligible, in particular under which conditions it is incurred by the beneficiary or by the private partner of the PPP, irrespective of who is carrying out the payments in implementing the PPP operation.

(47) To ensure the effectiveness, fairness and sustainable impact of the Funds, there should

⁽¹⁸⁾ Regulation (EU) 2021/783 of the European Parliament and of the Council of 29 April 2021 establishing a Programme for the Environment and Climate Action (LIFE), and repealing Regulation (EU) No 1293/2013 (OJ L 172, 17.5.2021, p. 53).

⁽¹⁹⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

be provisions guaranteeing that investments in infrastructure or productive investment are long-lasting and prevent the Funds from being used to undue advantage. Managing authorities should pay particular attention not to support relocation when selecting operations and to treat sums unduly paid to operations not complying with the requirement of durability as irregularities.

(48) With a view to improving complementarities and simplifying implementation, it should be possible to combine support from the ERDF, the Cohesion Fund and the JTF with support from the ESF+ in joint programmes under the Investment for jobs and growth goal.

(49) In order to optimise the added value from investments funded wholly or in part through the budget of the Union, synergies should be sought in particular between the Funds and other relevant instruments, including the Recovery and Resilience Facility and the Brexit Adjustment Reserve. Those synergies should be achieved through user-friendly key mechanisms, namely the recognition of flat rates for eligible costs from Horizon Europe for a similar operation and the possibility of combining funding from different Union instruments in the same operation as long as double financing is avoided. This Regulation should therefore set out rules for complementary financing from the Funds.

(50) Financial instruments should not be used to support refinancing activities, such as replacing existing loan agreements or other forms of financing for investments which have already been physically completed or fully implemented at the date of the investment decision, but rather to support any type of new investments in line with the underlying policy objectives.

(51) The decision by the managing authorities to finance support measures through

financial instruments should be determined on the basis of an *ex ante* assessment. This Regulation should lay down the mandatory elements of *ex ante* assessments, for which indicative information available at the date of their completion should be provided, and should allow Member States to make use of the *ex ante* assessments carried out for the 2014-2020 period, updated where necessary, in order to avoid administrative burden and delays in setting up financial instruments.

(52) In order to facilitate the implementation of certain types of financial instruments where programme support in the form of grants, including in the form of capital rebates, is envisaged, it is possible to apply the rules on financial instruments on such a combination in one financial instrument operation. However, conditions for such programme support and specific conditions preventing double financing should be set out.

(53) In full respect of the applicable State aid and public procurement rules that have been clarified during the 2014-2020 programming period, managing authorities should have the possibility to decide on the most appropriate implementation options for financial instruments in order to address the specific needs of target regions. In addition, in order to ensure continuity with the 2014-2020 programming period, managing authorities should have the possibility to implement financial instruments through a direct award of a contract to the EIB and to international financial institutions in which a Member State is a shareholder. Managing authorities should also have the possibility to award contracts directly to publicly-owned banks or institutions fulfilling the same strict conditions as provided for by the Financial Regulation for the 2014-2020 programming period. This Regulation should provide clear conditions in order to ensure that the possibility of direct award remains consistent with the principles

of the internal market. In this framework, the Commission should provide support to auditors, managing authorities and beneficiaries with a view to ensuring compliance with State aid rules.

(54) Given the protracted low-interest rate environment and in order not to unduly penalise bodies implementing financial instruments, it is necessary, subject to active treasury management by these bodies, to enable the financing of negative interest generated as a result of investments of the Funds from resources paid back to the financial instrument. Through active treasury management, the bodies implementing financial instruments should seek to optimise returns and minimise charges, to an acceptable level of risk.

(55) In accordance with the principle and rules of shared management, Member States and the Commission should be responsible for the management and control of programmes and give assurance on the legal and regular use of the Funds. Since Member States should have the primary responsibility for such management and control and should ensure that operations supported by the Funds comply with applicable law, their obligations in that regard should be specified. The powers and responsibilities of the Commission in that context should also be laid down.

(56) In order to hasten the start of programme implementation, the roll-over of implementation arrangements from the previous programming period should be facilitated. The use of the computerised system already established for the previous programming period, adapted as required, should be maintained, unless a new technology is necessary.

(57) To support the effective use of the Funds, EIB support should be available to all

Member States at their request. Such support could cover capacity building, support for project identification, preparation and implementation, as well as advice on financial instruments and investment platforms.

(58) A Member State should have the possibility, at its own initiative, to identify a coordinating body to liaise with and provide information to the Commission and to coordinate activities of the programme authorities in that Member State.

(59) To streamline programme management functions, the integration of accounting functions with those of the managing authority should be maintained for the programmes supported by the **AMIF**, the **ISF** and the **BMVI**, and should be an option for the other Funds.

(60) Since the managing authority bears the main responsibility for the effective and efficient implementation of the Funds and therefore fulfils a wide range of functions, its functions in relation to the selection of operations, programme management and support for the monitoring committee should be set out in detail. Procedures for the selection of operations can be competitive or non-competitive provided that criteria applied and procedures used are non-discriminatory, inclusive and transparent and the operations selected maximise the contribution of the Union funding and are in line with the horizontal principles defined in this Regulation. With a view to pursuing the objective of achieving a climate-neutral Union by 2050, Member States should ensure the climate proofing of investments in infrastructure and should prioritise operations that respect the 'energy efficiency first' principle when selecting such investments.

(61) The synergies between the Funds and directly managed instruments should be

optimised. The provision of support for operations that have already received a Seal of Excellence or were co-funded by Horizon Europe with a contribution from the Funds should be facilitated. Conditions already assessed at Union level, prior to the attributing of the Seal of Excellence quality label or the co-funding by Horizon Europe, should not be assessed again, as long as the operations comply with a limited set of requirements established in this Regulation. This should also facilitate following the appropriate rules set out in Commission Regulation (EU) No 651/2014⁽²⁰⁾.

(62) To ensure an appropriate balance between the effective and efficient implementation of the Funds and the related administrative costs and burdens, the frequency, scope and coverage of management verifications should be based on a risk assessment that takes into account factors such as the number, type, size and content of operations implemented, the beneficiaries as well as the level of the risk identified by previous management verifications and audits. Management verifications should be proportionate to the risks resulting from that risk assessment and audits should be proportionate to the level of risk to the budget of the Union.

(63) The audit authority should carry out audits and ensure that the audit opinion provided to the Commission is reliable. That audit opinion should provide assurance to the Commission on three points, namely the legality and regularity of the declared expenditure, the effective functioning of the management and control systems and the completeness, accuracy and veracity of the

accounts. Where an audit based on internationally accepted audit standards providing reasonable assurance has been conducted by an independent auditor on the financial statements and reports setting out the use of a Union contribution, that audit should form the basis of the overall assurance the audit authority provides to the Commission, insofar as there is sufficient evidence of the independence and competence of the auditor in accordance with Article 127 of the Financial Regulation.

(64) A reduction of verifications and audit requirements should be possible where there is assurance that the programme has functioned effectively for the latest two consecutive years, since this demonstrates that the Funds are being implemented effectively and efficiently over a prolonged period of time.

(65) To reduce the administrative burden on beneficiaries and administrative costs as well as to avoid duplication of audits and management verifications of the same expenditure declared to the Commission, the concrete application of the single audit principle should be specified for the Funds.

(66) In order to enhance the preventive role of audit, provide legal transparency and share good practice, the Commission should be able to share audit reports at the request of Member States, with the consent of the audited Member States.

(67) In order to improve financial management, a simplified pre-financing scheme should be provided for. The pre-financing scheme should ensure that a Member State has the means to provide support to beneficiaries from the start of the implementation of the programme.

(68) To reduce the administrative burden for Member States as well as for the Commission,

⁽²⁰⁾ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

a schedule of payment applications should be established. Commission payments should be subject to a 5 % retention until the payment of the annual balance of accounts when the Commission is able to conclude that the accounts are complete, accurate and true.

(69) In order to reduce the administrative burden, the procedure for the annual acceptance of accounts should be simplified by providing simpler arrangements for payments and recoveries where there is no disagreement between the Commission and the Member State.

(70) In order to safeguard the financial interests and the budget of the Union, proportionate measures should be established and implemented at the level of Member States and the Commission. The Commission should be able to interrupt payments deadlines, suspend interim payments and apply financial corrections where the respective conditions are fulfilled. The Commission should respect the principle of proportionality by taking into account the nature, gravity and frequency of irregularities and their financial implications for the budget of the Union. Where it is not possible for the Commission to quantify precisely the amount of irregular expenditure in order to apply financial corrections linked to individual cases, it should apply a flat-rate or statistically extrapolated financial correction. Suspension of interim payments based on a reasoned opinion issued by the Commission pursuant to Article 258 TFEU, should be possible provided there is a sufficiently direct link between the matter addressed by the reasoned opinion and the expenditure at stake so as to put at risk its legality and regularity.

(71) Member States should prevent, detect and deal effectively with any irregularities, including fraud committed by economic operators. Moreover, in accordance

with Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁽²¹⁾, and Council Regulations (EC, Euratom) No 2988/95⁽²²⁾ and (Euratom, EC) No 2185/96⁽²³⁾, the European Anti-Fraud Office (OLAF) has the power to 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. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Council Regulation (EU) 2017/1939⁽²⁴⁾, to 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⁽²⁵⁾. Member States should take the necessary measures to ensure that any person or entity receiving Union funds fully cooperates in the protection of the financial interests of the Union, grants the necessary

⁽²¹⁾ 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).

⁽²²⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽²³⁾ 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).

⁽²⁴⁾ 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).

⁽²⁵⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, EPPO, and ensures that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should swiftly report to the Commission irregularities detected, including fraud, and any follow-up action they have taken with regard to such irregularities and with regard to any OLAF investigations.

(72) To enhance the protection of the Union's budget, the Commission should make available an integrated and interoperable information and monitoring system, including a single data-mining and risk-scoring tool to access and analyse the relevant data, and the Commission should encourage its use with a view to a generalised application by Member States.

(73) In line with the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 16 December 2020 on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap for the introduction of new own resources⁽²⁶⁾, in order to enhance the protection of the Union budget and Next Generation EU against irregularities including fraud, standardised measures to collect, compare and aggregate information and figures on the recipients of Union funding should be introduced for the purposes of control and audit. The collection of data on those ultimately benefiting, directly or indirectly, from Union funding under shared management, including data on beneficial owners of the recipients of Union funding, is necessary to ensure effective controls and audits.

(74) In order to enhance the protection of the Union's budget against irregularities, including fraud, it is necessary to process personal data of beneficial owners who are natural persons. In particular, in order to effectively detect, investigate and prosecute such frauds or remedy irregularities, it is necessary to be able to identify beneficial owners who are natural persons that ultimately profit from irregularities, including fraud. For that purpose, and for the sake of simplification and in order to reduce the administrative burden, Member States should be allowed to comply with their obligation regarding information on beneficial owners by using the data stored in the register already used for the purposes of Directive (EU) 2015/849 of the European Parliament and of the Council⁽²⁷⁾. In that regard, the purposes of processing of personal data of beneficial owners under this Regulation, namely to prevent, detect and correct and report irregularities including fraud, are compatible with the purposes of processing of personal data under the Directive (EU) 2015/849.

(75) In order to encourage financial discipline, it is appropriate to set out the arrangements for decommitment of budgetary commitments at programme level.

(76) In order to allow Member States appropriate time to declare to the Commission expenditure up to the available level of resources in the event of the adoption of the new rules or programmes under shared man-

⁽²⁷⁾ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

⁽²⁶⁾ OJ L 433 I, 22.12.2020, p. 28.

agement after 1 January 2021, the amounts corresponding to the allocations not used in year 2021 should be transferred in equal proportions to the years 2022 to 2025 as envisaged under Article 7 of the Council Regulation (EU, Euratom) 2020/2093⁽²⁸⁾.

(77) In order to promote the objectives of the TFEU related to economic, social and territorial cohesion, the Investment for jobs and growth goal should support all regions. To provide balanced and gradual support and reflect the level of economic and social development, resources under that goal should be allocated from the ERDF and the ESF+ on the basis of an allocation key which is predominantly based on gross domestic product (GDP) per capita. Member States whose per capita gross national income (GNI) is less than 90 % of that of the Union average should benefit under the Investment for jobs and growth goal from the Cohesion Fund.

(78) The resources for the European territorial cooperation goal (Interreg) should be allocated to Member States on the basis of the allocation methodology which takes into account in particular population density in border areas. Additionally, to ensure continuity of existing programmes, specific provisions to define programme areas and the eligibility of regions under the different strands of Interreg should be set out in the relevant Fund-specific Regulation.

(79) Objective criteria should be established for designating eligible regions and areas for support from the Funds. To that end, the identification of the regions and areas at Union level should be based on the common

system of classification of the regions established by Regulation (EC) No 1059/2003 of the European Parliament and the Council⁽²⁹⁾, as amended by Commission Regulation (EU) 2016/2066⁽³⁰⁾.

(80) In order to set out an appropriate financial framework for the ERDF, the ESF+, the Cohesion Fund and the JTF, the Commission should set out the annual breakdown of available allocations per Member State under the Investment for jobs and growth goal, together with the list of eligible regions, as well as the allocations for the European territorial cooperation goal (Interreg).

(81) Trans-European transport network projects under Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (the 'CEF Regulation ') are to continue to be financed from the Cohesion Fund via both shared management and the direct implementation mode under the Connecting Europe Facility (CEF). Building on the successful approach of the 2014-2020 programming period, EUR 10000000000 from the Cohesion Fund should be transferred to the CEF for this purpose.

(82) A certain amount of the resources from the ERDF, the ESF+ and the Cohesion Fund should be allocated to the European Urban Initiative which should be implemented

⁽²⁸⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

⁽²⁹⁾ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

⁽³⁰⁾ Commission Regulation (EU) 2016/2066 of 21 November 2016 amending the annexes to Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 322, 29.11.2016, p. 1).

through direct or indirect management by the Commission.

(83) With a view to ensuring an appropriate allocation to categories of region, and as a matter of principle, the total allocations to Member States in respect of less developed, transitional and more developed regions should not be transferable between the categories. Nevertheless, to accommodate Member States' needs to tackle specific challenges, Member States should be able to request a transfer from their allocations for more developed regions or transition regions to less developed regions and from more developed regions to transition regions and, in such a case, should justify that choice. In order to ensure sufficient financial resources for less developed regions, a ceiling should be established for transfers to more developed regions or transition regions. Transferability of resources between goals should not be possible except for cases strictly set out in this Regulation.

(84) Where a region was categorised as a more developed region for the 2014-2020 period but is categorised as a transition region for the 2021-2027 period and therefore would receive less support for the 2021-2027 period based on the allocation methodology, the Member State concerned is invited to take this factor into account when deciding on its internal distribution of funding.

(85) Within the context of the unique and specific circumstances on the island of Ireland, and with a view to supporting North-South cooperation under the Good Friday Agreement, a 'PEACE PLUS' cross-border programme is to continue and build on the work of previous programmes, Peace and Interreg, between the border counties of Ireland and Northern Ireland. Taking into account its practical importance, that programme should

be supported with a specific allocation to continue support for peace and reconciliation actions, and an appropriate share of the Irish allocation under Interreg should also be allocated to that programme.

(86) It is necessary to establish the maximum rates of co-financing in the area of cohesion policy by category of region, where applicable, in order to ensure that the principle of co-financing is respected through an appropriate level of public or private national support. Those rates should reflect the level of economic development of regions in terms of GDP per capita in relation to the EU-27 average, while safeguarding no less favourable treatment due to shifts in their categorisation.

(87) Within the framework of the relevant rules under the Stability and Growth Pact as clarified in the European code of conduct on partnership, Member States may make a duly justified request for further flexibility for the public or equivalent structural expenditure supported by the public administration by way of co-financing of investments.

(88) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the elements contained in certain Annexes to this Regulation, namely for the dimensions and codes for the types of intervention, the templates for partnership agreements and programmes, the templates for the transmission of data, the template for forecasts of payment applications to the Commission, the use of the emblem of the Union, the elements for funding agreements and strategy documents, the electronic data exchange system between the Member States and the Commission, the templates for the description of the management and control system,

for the management declaration, for the annual audit opinion, for the annual control report, for the annual audit report for financial instruments implemented by the EIB or other international financial institutions, for the audit strategy, for payment applications, for the accounts, for detailed rules and the template for the reporting of irregularities and for the determination of the level of financial corrections.

(89) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the European code of conduct on partnership in order to adapt that code of conduct to this Regulation, the definition at Union level of unit costs, lump sums, flat rates and financing not linked to costs applicable to all Member States as well as the establishment of standardised off-the-shelf sampling methodologies.

(90) It is of particular importance that the Commission carries out appropriate, transparent consultations with all interested parties 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 of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(91) In order to ensure uniform conditions for the adoption of Partnership Agreements, the adoption or amendment of programmes as well as the application of financial corrections, implementing powers should be conferred on the Commission. The implementing

powers in relation to the establishment of the breakdown of financial allocations for the ERDF, the ESF+ and the Cohesion Fund should be adopted without committee procedures, given that they merely reflect the application of a pre-defined calculation methodology. Likewise, the implementing powers in relation to the temporary measures for the use of the Funds in response to exceptional circumstances should be adopted without committee procedures, given that the scope of application is determined by the Stability and Growth Pact and limited to the measures set out in this Regulation.

(92) The implementing powers relating to the template for the final performance report should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽³¹⁾. Although the implementing act is of a general nature, the advisory procedure should be used for its adoption, given that it only sets out technical aspects, forms and templates.

(93) Since Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽³²⁾ or any act applicable to the 2014–2020 programming period should continue

⁽³¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽³²⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

to apply to programmes and operations supported by the Funds covered under the 2014–2020 programming period and since the implementation period of that Regulation is expected to extend over to the programming period covered by this Regulation and in order to ensure continuity of implementation of certain operations approved by that Regulation, phasing provisions should be established. Each individual phase of the phased operation, which serves the same overall objective, should be implemented in accordance with the rules of the programming period under which it receives funding, while the managing authority may proceed with selecting the second phase on the basis of the selection procedure carried out under 2014–2020 programming period for the relevant operation, provided that it satisfies itself that the conditions set out in this Regulation for phased implementation are complied with.

(94) Since the objectives of this Regulation, namely to strengthen economic, social and territorial cohesion and to lay down common financial rules for part of the budget of the Union implemented under shared management, cannot be sufficiently achieved by the Member States by reason of the extent of the disparities between the levels of devel-

opment of the various regions and the specific challenges faced by the least favoured regions, the limit on the financial resources of the Member States and regions and the need for a coherent implementation framework covering several Union funds under shared management, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(95) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

(96) In view of the adoption of this Regulation after the start of the programming period, and taking into account the need to implement Union Funds covered by this Regulation in a coordinated and harmonised manner, and in order to allow for its prompt implementation, it should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

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TITLE I OBJECTIVES AND GENERAL RULES ON SUPPORT

CHAPTER I SUBJECT MATTER, DEFINITIONS AND GENERAL RULES

ARTICLE 1 SUBJECT MATTER AND SCOPE

1. This Regulation lays down:

(a) financial rules for the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion Fund, the Just Transition Fund (JTF), the European Maritime, Fisheries and Aquaculture Fund (EMFAF), [the Asylum, Migration and Integration Fund \(AMIF\)](#), [the Internal Security Fund \(ISF\)](#) and the Instrument for Financial Support for Border Management and Visa Policy ([BMVI](#)) (together referred to as the 'Funds');

(b) common provisions applicable to the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF.

2. This Regulation does not apply to the Employment and Social Innovation strand of the ESF+ or to the direct or indirect management components of the EMFAF, the [AMIF](#), the [ISF](#) and the [BMVI](#), except for technical assistance at the initiative of the Commission.

3. Articles 5, 14, 19, 28 to 34 and 108 to 112 do not apply to the [AMIF](#), the [ISF](#) or the [BMVI](#).

4. Articles 108 to 112 do not apply to the EMFAF.

5. Articles 14, 15, 18, 19, 21 to 27, 37 to 42, Article 43(1) to (4), Articles 44 and 50, Article 55(1) and Articles 73, 77, 80 and 83 to 85 do not apply to Interreg programmes.

6. The Fund-specific Regulations listed below may establish rules to complement this Regulation which shall not be in contradiction with this Regulation:

(a) Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽³³⁾ (the 'ERDF and CF Regulation');

(b) Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽³⁴⁾ (the 'ESF+ Regulation');

(c) Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽³⁵⁾ (the 'Interreg Regulation');

(d) Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽³⁶⁾ (the 'JTF Regulation').

(e) Regulation of the European Parliament and of the Council establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004 (the 'EMFAF Regulation');

(f) Regulation of the European Parliament and of the Council establishing [the Asylum,](#)

⁽³³⁾ Regulation (EU) 2021/1060 (OJ L231, 30.6.2021, p. 159).

⁽³⁴⁾ Regulation (EU) 2021/1060 (OJ L231, 30.6.2021, p. 159).

⁽³⁵⁾ Regulation (EU) 2021/1060 (OJ L231, 30.6.2021, p. 159).

⁽³⁶⁾ Regulation (EU) 2021/1060 (OJ L231, 30.6.2021, p. 159).

Migration and Integration Fund (the ‘**AMIF** Regulation’);

(g) Regulation of the European Parliament and of the Council establishing the **Internal Security Fund** (the ‘**ISF** Regulation’);

(h) 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 Policy** (the ‘**BMVI** Regulation’);

In case of doubt about the application between this Regulation and Fund-specific Regulations, this Regulation shall prevail.

ARTICLE 2 DEFINITIONS

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

(1) ‘relevant country-specific recommendations’ mean Council recommendations adopted in accordance with Articles 121(2) and 148(4) TFEU relating to structural challenges as well as complementary Commission recommendations issued in accordance with Article 34 of Regulation (EU) 2018/1999, which are appropriate to be addressed through multiannual investments that fall within the scope of the Funds as set out in Fund-specific Regulations;

(2) ‘enabling condition’ means a prerequisite condition for the effective and efficient implementation of the specific objectives;

(3) ‘applicable law’ means Union law and the national law relating to its application;

(4) ‘operation’ means:

(a) a project, contract, action or group of projects selected under the programmes concerned;

(b) in the context of financial instruments, a programme contribution to a financial instrument and the subsequent financial support provided to final recipients by that financial instrument;

(5) ‘operation of strategic importance’ means an operation which provides a significant contribution to the achievement of the objectives of a programme and which is subject to particular monitoring and communication measures;

(6) ‘priority’ in the context of the **AMIF**, the **ISF** and the **BMVI**, means a specific objective;

(7) ‘priority’ in the context of the EMFAF, for the purpose of Title VII only, means a specific objective;

(8) ‘intermediate body’ means a public or private body which acts under the responsibility of a managing authority, or which carries out functions or tasks on behalf of such an authority;

(9) ‘beneficiary’ means:

(a) a public or private body, an entity with or without legal personality, or a natural person, responsible for initiating or both initiating and implementing operations;

(b) in the context of public-private partnerships (‘PPPs’), the public body initiating a PPP operation or the private partner selected for its implementation;

(c) in the context of State aid schemes, the undertaking which receives the aid;

(d) in the context of *de minimis* aid provided in accordance with Commission Regulations (EU) No 1407/2013⁽³⁷⁾ or (EU) No 717/2014⁽³⁸⁾, the Member State may decide that the beneficiary for the purposes of this Regulation is the body granting the aid, where it is responsible for initiating or both initiating and implementing the operation;

(e) in the context of financial instruments, the body that implements the holding fund or, where there is no holding fund structure, the body that implements the specific fund or, where the managing authority manages the financial instrument, the managing authority;

(10) 'small project fund' means an operation in an Interreg programme aimed at the selection and implementation of projects, including people-to-people actions, of limited financial volume;

(11) 'target' means a pre-agreed value to be achieved by the end of the eligibility period in relation to an indicator included under a specific objective;

(12) 'milestone' means an intermediate value to be achieved at a given point in time during the eligibility period in relation to an output indicator included under a specific objective;

(13) 'output indicator' means an indicator to measure the specific deliverables of the intervention;

⁽³⁷⁾ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1).

⁽³⁸⁾ Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

(14) 'result indicator' means an indicator to measure the effects of the interventions supported, with particular reference to the direct addressees, population targeted or users of infrastructure;

(15) 'PPP operation' means an operation which is implemented under a partnership between public bodies and the private sector in line with a PPP agreement, and which aims to provide public services through risk sharing by the pooling of either private sector expertise or additional sources of capital or both;

(16) 'financial instrument' means a form of support delivered via a structure through which financial products are provided to final recipients;

(17) 'financial product' means equity or quasi-equity investments, loans and guarantees as defined in Article 2 of the Financial Regulation;

(18) 'final recipient' means a legal or natural person receiving support from the Funds through a beneficiary of a small project fund or from a financial instrument;

(19) 'programme contribution' means the support from the Funds and the national public and private, if any, co-financing to a financial instrument;

(20) 'holding fund' means a fund set up under the responsibility of a managing authority under one or more programmes, to implement one or more specific funds;

(21) 'specific fund' means a fund through which a managing authority or a holding fund provides financial products to final recipients;

(22) 'body implementing a financial instrument' means a body, governed by public or

private law, carrying out tasks of a holding fund or specific fund;

(23) 'leverage effect' means the amount of reimbursable financing provided to final recipients divided by the amount of the contribution from the Funds;

(24) 'multiplier ratio' in the context of guarantee instruments means a ratio established on the basis of a prudent *ex ante* risk assessment in respect of each a guarantee product to be offered, between the value of the underlying disbursed new loans, equity or quasi-equity investments, and the amount of the programme contribution set aside for guarantee contracts to cover expected and unexpected losses from these new loans, equity or quasi-equity investments;

(25) 'management costs' means direct or indirect costs reimbursed against evidence of expenditure incurred in the implementation of financial instruments;

(26) 'management fees' means a price for services rendered, as determined in the funding agreement between the managing authority and the body implementing a holding fund or a specific fund; and, where applicable, between the body implementing a holding fund and the body implementing a specific fund;

(27) 'relocation' means a transfer of the same or similar activity or part thereof within the meaning of point (61a) of Article 2 of Regulation (EU) No 651/2014;

(28) 'public contribution' means any contribution to the financing of operations the source of which is the budget of national, regional or local public authorities or of any European grouping of territorial cooperation (EGTC) established in accordance with Regulation (EC) No 1082/2006 of the Euro-

pean Parliament and of the Council⁽³⁹⁾, the budget of the Union made available to the Funds, the budget of public law bodies or the budget of associations of public authorities or of public law bodies and, for the purpose of determining the co-financing rate for ESF+ programmes or priorities, may include any financial resources collectively contributed by employers and workers;

(29) 'accounting year' means the period from 1 July to 30 June of the following year, except for the first accounting year of the programming period, in respect of which it means the period from the start date for eligibility of expenditure until 30 June 2022; for the final accounting year, it means the period from 1 July 2029 to 30 June 2030;

(30) 'economic operator' means any natural or legal person, or other entity involved in the implementation of the Funds, with the exception of a Member State exercising its prerogatives as a public authority;

(31) 'irregularity' means any breach of applicable law, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the budget of the Union by charging unjustified expenditure to that budget;

(32) 'serious deficiency' means a deficiency in the effective functioning of the management and control system of a programme for which significant improvements in the management and control systems are required and where any of the key requirements 2, 4, 5, 9, 12, 13 and 15 referred to in Annex XI, or two or more of the other key requirements

⁽³⁹⁾ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

are assessed into categories 3 and 4 of that Annex;

(33) 'systemic irregularity' means any irregularity, which may be of a recurring nature, with a high probability of occurrence in similar types of operations, which results from a serious deficiency, including a failure to establish appropriate procedures in accordance with this Regulation and the Fund-specific rules;

(34) 'total errors' means the sum of the projected random errors and, if applicable, delimited systemic errors and uncorrected anomalous errors;

(35) 'total error rate' means total errors divided by the audit population;

(36) 'residual error rate' means the total errors less the financial corrections applied by the Member State to reduce the risks identified by the audit authority, divided by the expenditure to be declared in the accounts;

(37) 'completed operation' means an operation that has been physically completed or fully implemented and in respect of which all related payments have been made by beneficiaries and the corresponding public contribution has been paid to the beneficiaries;

(38) 'sampling unit' means one of the units, which may be an operation, a project within an operation or a payment claim by a beneficiary, into which an audit population is divided for the purpose of sampling;

(39) 'escrow account' means, in the case of a PPP operation, a bank account covered by a written agreement between a public body beneficiary and the private partner approved by the managing authority or an intermediate body used for payments during or after the eligibility period;

(40) 'participant' means a natural person benefiting directly from an operation without being responsible for initiating or both initiating and implementing the operation and who, in the context of the EMFAF, does not receive financial support;

(41) 'energy efficiency first' means taking utmost account in energy planning, and in policy and investment decisions, of alternative cost-efficient energy efficiency measures to make energy demand and energy supply more efficient, in particular by means of cost-effective end-use energy savings, demand response initiatives and more efficient conversion, transmission and distribution of energy, whilst still achieving the objectives of those decisions;

(42) 'climate proofing' means a process to prevent infrastructure from being vulnerable to potential long-term climate impacts whilst ensuring that the 'energy efficiency first' principle is respected and that the level of greenhouse gas emissions arising from the project is consistent with the climate neutrality objective in 2050;

(43) 'grants under conditions' means a category of grant subject to conditions linked to the repayment of support;

(44) 'EIB' means the European Investment Bank, the European Investment Fund or any subsidiary of the European Investment Bank;

(45) 'Seal of Excellence' means the quality label attributed by the Commission in respect of a proposal, which shows that the proposal which has been assessed in a call for proposals under a Union instrument is deemed to comply with the minimum quality requirements of that Union instrument, but could not be funded due to lack of budget available for that call for proposals, and might receive support from other Union or national sources of funding.

ARTICLE 3 CALCULATION OF TIME LIMITS FOR COMMISSION ACTIONS

Where a time limit is set for an action by the Commission, that time limit shall start when all information in accordance with the requirements laid down in this Regulation or in Fund-specific Regulations have been submitted by the Member State.

That time limit shall be suspended from the day following the date on which the Commission sends its observations or a request for revised documents to the Member State and until the Member State responds to the Commission.

ARTICLE 4 PROCESSING AND PROTECTION OF PERSONAL DATA

The Member States and the Commission shall be allowed to process personal data

only where necessary for the purpose of carrying out their respective obligations under this Regulation, in particular for monitoring, reporting, communication, publication, evaluation, financial management, verifications and audits and, where applicable, for determining the eligibility of participants. The personal data shall be processed in accordance with Regulation (EU) 2016/679 or Regulation (EU) 2018/1725 of the European Parliament and of the Council⁽⁴⁰⁾, whichever is applicable.

⁽⁴⁰⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

CHAPTER II POLICY OBJECTIVES AND PRINCIPLES FOR THE SUPPORT OF THE FUNDS

ARTICLE 5 POLICY OBJECTIVES

1. The ERDF, the ESF+, the Cohesion Fund and the EMFAF shall support the following policy objectives:

- (a) a more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT connectivity;
- (b) a greener, low-carbon transitioning towards a net zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate change mitiga-

tion and adaptation, risk prevention and management, and sustainable urban mobility;

- (c) a more connected Europe by enhancing mobility;
- (d) a more social and inclusive Europe implementing the European Pillar of Social Rights;
- (e) a Europe closer to citizens by fostering the sustainable and integrated development of all types of territories and local initiatives.

The JTF shall support the specific objective of enabling regions and people to address the social, employment, economic and environ-

mental impacts of the transition towards the Union's 2030 targets for energy and climate and a climate-neutral economy of the Union by 2050, based on the Paris Agreement.

The first subparagraph of paragraph 1 of this Article shall not apply to the resources of the ERDF and the ESF+ that are transferred to the JTF in accordance with Article 27.

2. The ERDF, the ESF+, the Cohesion Fund and the JTF shall contribute to the actions of the Union, leading to the strengthening of its economic, social and territorial cohesion in accordance with Article 174 TFEU, by pursuing the following goals:

(a) the Investment for jobs and growth goal in Member States and regions, to be supported by the ERDF, the ESF+, the Cohesion Fund and the JTF; and

(b) the European territorial cooperation goal (Interreg), to be supported by the ERDF.

3. Member States and the Commission shall promote the coordination, complementarity and coherence between the Funds and other Union instruments and funds. They shall optimise mechanisms for coordination between those responsible to avoid duplication during planning and implementation. Accordingly, Member States and the Commission shall also take into account the relevant country-specific recommendations in the programming and implementation of the Funds.

ARTICLE 6 CLIMATE TARGETS AND CLIMATE ADJUSTMENT MECHANISM

1. Member States shall provide information on support for environment and climate objectives by using a methodology based on types of intervention for each of the Funds. That methodology shall consist of assign-

ing a specific weighting to the support provided at a level which reflects the extent to which such support makes a contribution to environmental objectives and to climate objectives. In the case of the ERDF, the ESF+ and the Cohesion Fund, weightings shall be attached to dimensions and codes for the types of intervention established in Annex I. The ERDF and the Cohesion Fund shall contribute with 30 % and 37 % respectively of the Union contribution to expenditure supported for the achievement of the climate objectives set for the Union budget.

2. The climate contribution target for each Member State shall be established as a percentage of its total ERDF and Cohesion Fund allocation and included in programmes as a result of the types of intervention and the indicative financial breakdown pursuant to point (d)(viii) of Article 22(3). As provided for in Article 11(1), the preliminary climate contribution target shall be established in the Partnership Agreement.

3. The Member State and the Commission shall regularly monitor respect of the climate contribution targets, based on the total eligible expenditure declared by the beneficiaries to the managing authority as broken down by types of intervention in accordance with Article 42 and on data submitted by the Member State. Where the monitoring shows insufficient progress towards reaching the climate contribution target, the Member State and the Commission shall agree on remedial measures in the annual review meeting.

4. Where there is insufficient progress towards reaching the climate contribution target at national level by 31 December 2024, the Member State shall take this into account in its mid-term review in accordance with Article 18(1).

ARTICLE 7 SHARED MANAGEMENT

1. The Member States and the Commission shall implement the budget of the Union allocated to the Funds under shared management in accordance with Article 63 of the Financial Regulation. Member States shall prepare and implement programmes at the appropriate territorial level in accordance with their institutional, legal and financial framework.

2. The Commission shall implement the amount of support from the Cohesion Fund transferred to the Connecting Europe Facility (CEF), the European Urban Initiative, Inter-regional Innovative Investments, the amount of support transferred from the ESF+ to transnational cooperation, the amounts contributed to the InvestEU Programme and technical assistance at the initiative of the Commission under direct or indirect management in accordance with points (a) and (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

3. The Commission may, with the agreement of the Member State and the regions concerned, implement outermost regions' cooperation under the European territorial cooperation goal (Interreg) under indirect management.

ARTICLE 8 PARTNERSHIP AND MULTI-LEVEL GOVERNANCE

1. For the Partnership Agreement and each programme, each Member State shall organise and implement a comprehensive partnership in accordance with its institutional and legal framework and taking into account the specificities of the Funds. That partnership shall include at least the following partners:

(a) regional, local, urban and other public authorities;

(b) economic and social partners;

(c) relevant bodies representing civil society, such as environmental partners, non-governmental organisations, and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality and non-discrimination;

(d) research organisations and universities, where appropriate.

2. The partnership established under paragraph 1 of this Article shall operate in accordance with the multi-level governance principle and a bottom-up approach. The Member State shall involve partners referred to in paragraph 1 in the preparation of the Partnership Agreement and throughout the preparation, implementation and evaluation of programmes, including through participation in monitoring committees in accordance with Article 39.

In that context, Member States shall, where relevant, allocate an appropriate percentage of the resources coming from the Funds for the administrative capacity building of social partners and civil society organisations.

3. For Interreg programmes, the partnership shall include partners from all participating Member States.

4. The organisation and implementation of partnership shall be carried out in accordance with the European code of conduct on partnership established by Delegated Regulation (EU) No 240/2014.

5. At least once a year, the Commission shall consult organisations which represent partners at Union level on the implementation of programmes, and shall report to the European Parliament and Council on the outcome.

ARTICLE 9 HORIZONTAL PRINCIPLES

1. Member States and the Commission shall ensure respect for fundamental rights and compliance with the Charter of Fundamental Rights of the European Union in the implementation of the Funds.

2. Member States and the Commission shall ensure that equality between men and women, gender mainstreaming and the integration of a gender perspective are taken into account and promoted throughout the preparation, implementation, monitoring, reporting and evaluation of programmes.

3. Member States and the Commission shall take appropriate steps to prevent any discrimination based on gender, racial or eth-

nic origin, religion or belief, disability, age or sexual orientation during the preparation, implementation, monitoring, reporting and evaluation of programmes. In particular, accessibility for persons with disabilities shall be taken into account throughout the preparation and implementation of programmes.

4. The objectives of the Funds shall be pursued in line with the objective of promoting sustainable development as set out in Article 11 TFEU, taking into account the UN Sustainable Development Goals, the Paris Agreement and the “do no significant harm” principle.

The objectives of the Funds shall be pursued in full respect of the Union environmental *acquis*.

TITLE II STRATEGIC APPROACH

CHAPTER I PARTNERSHIP AGREEMENT

ARTICLE 10 PREPARATION AND SUBMISSION OF THE PARTNERSHIP AGREEMENT

1. Each Member State shall prepare a Partnership Agreement which sets out the strategic orientation for programming and the arrangements for using the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF in an effective and efficient way for the period from 1 January 2021 to 31 December 2027.

2. The Partnership Agreement shall be prepared in accordance with the European code of conduct on partnership. Where a Member State already provides for a comprehensive partnership during the preparation of its pro-

grammes, that requirement is considered to be complied with.

3. The Member State shall submit the Partnership Agreement to the Commission before or at the same time as the submission of the first programme.

4. The Partnership Agreement may be submitted together with the relevant annual National Reform Programme and the integrated national energy and climate plan.

5. The Partnership Agreement shall be a strategic and concise document. It shall be no longer than 35 pages, unless the Member

State, at its own initiative, decides to extend the length of the document.

6. The Member State shall draw up the Partnership Agreement in accordance with the template set out in Annex II. The Member State may include the Partnership Agreement in one of its programmes.

7. Interreg programmes may be submitted to the Commission before the submission of the Partnership Agreement.

8. The EIB may, at the request of the Member State concerned, participate in the preparation of the Partnership Agreement, as well as in activities relating to the preparation of operations, financial instruments and PPPs.

ARTICLE 11 CONTENT OF THE PARTNERSHIP AGREEMENT

1. The Partnership Agreement shall contain the following elements:

(a) the selected policy objectives and the specific objective of the JTF, indicating by which of the funds covered by the Partnership Agreement and programmes these objectives will be pursued and a justification thereto, taking into account relevant country-specific recommendations, the integrated national energy and climate plan, the principles of the European Pillar of Social Rights and, where relevant, regional challenges;

(b) for each of the selected policy objectives and the specific objective of the JTF:

(i) a summary of the policy choices and the main results expected for each of the funds covered by the Partnership Agreement;

(ii) coordination, demarcation and complementarities between the Funds and, where

appropriate, coordination between national and regional programmes;

(iii) complementarities and synergies between the funds covered by the Partnership Agreement, the AMIF, the ISF, the BMVI, and other Union instruments, including LIFE strategic integrated projects and strategic nature projects, and, where appropriate, projects funded under Horizon Europe;

(c) the preliminary financial allocation from each of the funds covered by the Partnership Agreement by policy objective at national and where appropriate at regional level, respecting Fund-specific rules on thematic concentration and the preliminary financial allocation for the specific objective of the JTF, including any ERDF and ESF+ resources to be transferred to the JTF in accordance with Article 27;

(d) the preliminary climate contribution target in accordance with Article 6(2);

(e) where applicable, the breakdown of financial resources by category of region drawn up in accordance with Article 108(2) and the amounts of allocations proposed to be transferred pursuant to Articles 26 and 111, including a justification for such transfers;

(f) for technical assistance, the choice of the Member State of the form of Union contribution pursuant to Article 36(3) and, where applicable, the preliminary financial allocation from each of the funds covered by the Partnership Agreement at national level and breakdown of financial resources by programme and category of region;

(g) the amounts to be contributed to the InvestEU Programme by Fund and by category of region, where applicable;

(h) the list of planned programmes under the funds covered by the Partnership Agreement with the respective preliminary financial allocations by fund and the corresponding national contribution by category of region, where applicable;

(i) a summary of the actions which the Member State concerned plans to take to reinforce its administrative capacity of the implementation of the funds covered by the Partnership Agreement;

(j) where appropriate, an integrated approach to address the demographic challenges or specific needs of regions and areas.

As regards the European territorial cooperation goal (Interreg), the Partnership Agreement shall only contain the list of planned programmes.

2. The Partnership Agreement may also contain a summary of the assessment of the fulfilment of relevant enabling conditions referred to in Article 15 and Annexes III and IV.

ARTICLE 12 APPROVAL OF THE PARTNERSHIP AGREEMENT

1. The Commission shall assess the Partnership Agreement and its compliance with this Regulation and with the Fund-specific rules while respecting the principle of proportionality, taking into account the strategic nature of the document, the number of programmes covered and the total amount of resources allocated to the Member State concerned. In its assessment, the Commission shall, in particular, take into account how the Member State intends to address relevant country-specific recommendations, its integrated national energy and climate plan as well as the European Pillar of Social Rights.

2. The Commission may make observations within 3 months of the date of submission by the Member State of the Partnership Agreement.

3. The Member State shall review the Partnership Agreement, taking into account the observations made by the Commission.

4. The Commission shall adopt a decision by means of an implementing act approving the Partnership Agreement no later than 4 months after the date of first submission of that Partnership Agreement by the Member State concerned.

5. When the Partnership Agreement is included in a programme in accordance with Article 10(6), the Commission shall adopt a single decision by means of an implementing act approving both the Partnership Agreement and the programme no later than 6 months after the date of first submission of the programme by the Member State concerned.

ARTICLE 13 AMENDMENT OF THE PARTNERSHIP AGREEMENT

1. A Member State may submit to the Commission by 31 March 2025 an amended Partnership Agreement, taking into account the outcome of the mid-term review.

2. The Commission shall assess the amendment and may make observations within 3 months of the submission of the amended Partnership Agreement.

3. The Member State shall review the amended Partnership Agreement, taking into account the observations made by the Commission.

4. The Commission shall approve the amendment of a Partnership Agreement no later

than 6 months after its first submission by the Member State.

ARTICLE 14 USE OF THE ERDF, THE ESF+, THE COHESION FUND AND THE EMFAF DELIVERED THROUGH THE INVESTEU PROGRAMME

1. Member States may allocate, in the Partnership Agreement, an amount of up to 2 % of the initial national allocation for the ERDF, the ESF+, the Cohesion Fund and the EMFAF, respectively, to be contributed to the InvestEU Programme and delivered through the EU guarantee and the InvestEU Advisory Hub in accordance with Article 10 of the InvestEU Regulation. Member States, with the agreement of the managing authority concerned, may further allocate an amount of up to 3 % of the initial national allocation of each of those Funds after 1 January 2023 through one or more programme amendment requests.

Such amounts shall contribute to the achievement of the policy objectives selected in the Partnership Agreement or the programme and shall support investments essentially in the category of contributing regions.

Such contributions shall be implemented in accordance with the rules established in the InvestEU Regulation and shall not constitute transfers of resources under Article 26.

2. Member States shall determine the total amount contributed for each year by Fund and by category of region, where applicable. For the Partnership Agreement, resources of the current and future calendar years may be allocated. Where a Member State requests an amendment of a programme, only resources of future calendar years may be allocated.

3. The amounts referred to in paragraph 1 of this Article shall be used for the provision-

ing of the part of the EU guarantee under the Member State compartment and for the InvestEU Advisory Hub upon conclusion of the contribution agreement in accordance with Article 10(3) of the InvestEU Regulation. The budgetary commitments of the Union in respect of each contribution agreement may be made by the Commission in annual instalments during the period between 1 January 2021 and 31 December 2027.

4. Notwithstanding Article 12 of the Financial Regulation, where a contribution agreement, as set out in Article 10(2) of the InvestEU Regulation, has not been concluded within 4 months of the date of the Commission decision adopting the Partnership Agreement, for an amount referred to in paragraph 1 of this Article allocated in the Partnership Agreement, the corresponding amount shall be allocated to a programme or programmes within the contributing Fund and category of region, where relevant following a request by the Member State.

The contribution agreement for the amounts referred to in paragraph 1 allocated in the request of the amendment of a programme shall be concluded simultaneously with the adoption of the decision amending the programme.

5. In accordance with the second subparagraph of Article 10(4) of the InvestEU Regulation, where a guarantee agreement has not been concluded within 9 months from the conclusion of the contribution agreement, the contribution agreement shall be terminated or prolonged by mutual agreement.

Where the participation of a Member State in the InvestEU Fund is discontinued, the amounts concerned paid into the common provisioning fund as a provisioning shall be recovered as internal assigned revenue pursuant to Article 21(5) of the Financial Regu-

lation. The Member State concerned shall submit a request for one or more programme amendments to use the amounts recovered and the amounts allocated to future calendar years according to paragraph 2 of this Article. The termination or amendment of the contribution agreement shall be concluded simultaneously with the adoption of the decisions amending the programme or programmes concerned.

6. In accordance with the third subparagraph of Article 10(4) of the InvestEU Regulation, where a guarantee agreement has not been duly implemented within 4 years from the conclusion of the guarantee agreement, the contribution agreement shall be amended. The Member State may request that amounts contributed to the EU guarantee under paragraph 1 of this Article and committed in

the guarantee agreement but not covering underlying loans, equity investments or other risk bearing instruments be treated in accordance with paragraph 5 of this Article.

7. Resources generated by or attributable to the amounts contributed to the EU guarantee shall be made available to the Member State in accordance with point (a) of Article 10(5) of the InvestEU Regulation and shall be used for support under the same objective or objectives in the form of financial instruments or budgetary guarantees.

8. For the amounts to be reused in a programme in accordance with paragraphs 4, 5 and 6 of this Article, the decommitment time limit as set out in Article 105(1) shall start in the year in which the corresponding budgetary commitments are made.

CHAPTER II ENABLING CONDITIONS AND PERFORMANCE FRAMEWORK

ARTICLE 15 ENABLING CONDITIONS

1. For the specific objectives, enabling conditions are laid down in this Regulation.

Annex III contains horizontal enabling conditions applicable to all specific objectives and the criteria necessary for the assessment of their fulfilment.

Annex IV contains thematic enabling conditions for the ERDF, the ESF+ and the Cohesion Fund and the criteria necessary for the assessment of their fulfilment.

The enabling condition regarding the tools and capacity for effective application of State aid rules shall not be applicable to pro-

grammes supported by the **AMIF**, the **ISF** or the **BMVI**.

2. . When preparing a programme or introducing a new specific objective as part of a programme amendment, the Member State shall assess whether the enabling conditions linked to the selected specific objective are fulfilled. An enabling condition is fulfilled where all the related criteria are met. The Member State shall identify in each programme or in the programme amendment the fulfilled and non-fulfilled enabling conditions and shall provide a justification where it considers that an enabling condition has been fulfilled.

3. Where an enabling condition is not fulfilled at the time of approval of the programme or the programme amendment, the Member

State shall inform the Commission as soon as it considers that the enabling condition has been fulfilled with a justification of the fulfilment.

4. The Commission shall, as soon as possible and no later than 3 months after receipt of the information referred to in paragraph 3, carry out an assessment and inform the Member State whether it agrees with the Member State regarding the fulfilment of the enabling condition.

Where the Commission disagrees with the Member State regarding the fulfilment of the enabling condition, it shall inform the Member State and set out its assessment.

Where the Member State disagrees with the Commission's assessment, it shall present its observations within 1 month and the Commission shall proceed in accordance with the first subparagraph.

Where the Member State accepts the Commission's assessment, it shall proceed in accordance with paragraph 3.

5. Without prejudice to Article 105, expenditure related to operations linked to the specific objective may be included in payment applications but shall not be reimbursed by the Commission until the Commission has informed the Member State of the fulfilment of the enabling condition pursuant to the first subparagraph of paragraph 4 of this Article.

The first subparagraph shall not apply to operations that contribute to the fulfilment of the corresponding enabling condition.

6. The Member State shall ensure that enabling conditions remain fulfilled and respected throughout the programming period. It shall inform the Commission of any

modification impacting the fulfilment of enabling conditions.

Where the Commission considers that an enabling condition is no longer fulfilled, it shall inform the Member State setting out its assessment. Subsequently, the procedure set out in the second and third subparagraphs of paragraph 4 shall be followed.

Where the Commission concludes that the non-fulfilment of the enabling condition persists and without prejudice to Article 105, based on the observations of the Member State, expenditure related to the specific objective concerned may be included in payment applications but shall not be reimbursed by the Commission until the Commission has informed the Member State of the fulfilment of the enabling condition pursuant to the first subparagraph of paragraph 4 of this Article.

7. Annex IV shall not apply to priorities supported by the JTF or to any ERDF and ESF+ resources transferred to the JTF in accordance with Article 27.

ARTICLE 16 PERFORMANCE FRAMEWORK

1. Each Member State shall establish a performance framework to allow monitoring, reporting on and evaluating programme performance during implementation of the programme, and to contribute to measuring the overall performance of the Funds.

The performance framework shall consist of:

- (a) output and result indicators linked to specific objectives set out in the Fund-specific Regulations selected for the programme;
- (b) milestones to be achieved by the end of the year 2024 for output indicators; and

(c) targets to be achieved by the end of the year 2029 for output and result indicators.

2. Milestones and targets shall be established in relation to each specific objective within a programme, with the exception of technical assistance and of the specific objective addressing material deprivation set out in point (m) of Article 4(1) of the ESF+ Regulation.

3. Milestones and targets shall allow the Commission and the Member State to measure progress towards the achievement of the specific objectives. They shall meet the requirements set out in Article 33(3) of the Financial Regulation.

ARTICLE 17 METHODOLOGY FOR THE ESTABLISHMENT OF THE PERFORMANCE FRAMEWORK

1. The methodology to establish the performance framework shall include:

(a) the criteria applied by the Member State to select indicators;

(b) data or evidence used, data quality assurance and the calculation method;

(c) factors that may influence the achievement of the milestones and targets and how they were taken into account.

2. The Member State shall make the methodology to establish the performance framework available to the Commission on request.

ARTICLE 18 MID-TERM REVIEW AND FLEXIBILITY AMOUNT

1. For programmes supported by the ERDF, the ESF+, the Cohesion Fund and the JTF, the Member State shall review each programme, taking into account the following elements:

(a) the new challenges identified in relevant country-specific recommendations adopted in 2024;

(b) the progress in implementing the integrated national energy and climate plan, if relevant;

(c) the progress in implementing the principles of the European Pillar of Social Rights;

(d) the socioeconomic situation of the Member State or region concerned, with special emphasis on territorial needs, taking into account any major negative financial, economic or social development;

(e) the main results of relevant evaluations;

(f) the progress in achieving the milestones, taking into account major difficulties encountered in the implementation of the programme;

(g) for programmes supported by the JTF, the assessment carried out by the Commission, pursuant to point (b) of Article 29(1) of Regulation (EU) 2018/1999.

2. The Member State shall submit an assessment for each programme on the outcome of the mid-term review, including a proposal for the definitive allocation of the flexibility amount referred to in the second subparagraph of Article 86(1), to the Commission by 31 March 2025.

3. If deemed necessary following the mid-term review of the programme or in the event that new challenges are identified pursuant to point (a) of paragraph 1, the Member State shall submit to the Commission the assessment referred to in paragraph 2 together with the amended programme.

The revisions shall include:

(a) the allocations of the financial resources by priority;

(b) revised or new targets;

(c) the amounts to be contributed to the InvestEU Programme per Fund and per category of region, where applicable.

The Commission shall approve the revised programme in accordance with Article 24, including a definitive allocation of the flexibility amount.

4. Where, as a result of the mid-term review, the Member State considers that the programme does not need to be amended, the Commission shall either:

(a) adopt a decision within 3 months of the submission of the assessment referred to in paragraph 2 confirming the definitive allocation of the flexibility amount; or

(b) request the Member State within 2 months of the submission of the assessment referred to in paragraph 2 of this Article to submit an amended programme in accordance with Article 24.

5. Until the adoption of the Commission decision confirming the definitive allocation of the flexibility amount, this amount shall not be available for selection of operations.

6. The Commission shall prepare a report about the outcome of the mid-term review and submit it to the European Parliament and to the Council by the end of 2026.

CHAPTER III MEASURES LINKED TO SOUND ECONOMIC GOVERNANCE AND TO EXCEPTIONAL OR UNUSUAL CIRCUMSTANCES

ARTICLE 19 MEASURES LINKING EFFECTIVENESS OF FUNDS TO SOUND ECONOMIC GOVERNANCE

1. The Commission may request a Member State to review and propose amendments of relevant programmes, where this is necessary to support the implementation of relevant Council Recommendations.

Such a request may be made for the following purposes:

(a) to support the implementation of a relevant country-specific recommendation adopted in accordance with Article 121(2) TFEU and of a relevant Council recommendation adopted in accordance with Article 148(4) TFEU, addressed to the Member State concerned;

(b) to support the implementation of relevant Council Recommendations addressed to the Member State concerned and adopted in accordance with Article 7(2) or 8(2) of Regulation (EU) No 1176/2011 of the European Parliament and of the Council⁽⁴¹⁾ provided that these amendments are deemed necessary to help correct the macroeconomic imbalances.

2. A request by the Commission to a Member State in accordance with paragraph 1 shall be justified, with reference to the need to support the implementation of the relevant

⁽⁴¹⁾ Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances (OJ L 306, 23.11.2011, p. 25).

recommendations, and shall indicate the programmes or priorities which it considers are concerned and the nature of the amendments expected. Such a request shall not be made before 2023 or after 2026, nor in relation to the same programmes in two consecutive years.

3. The Member State shall submit its response to the request referred to in paragraph 1 within 2 months of its receipt, setting out the amendments it considers necessary in the relevant programmes, the reasons for such amendments, identifying the programmes concerned and outlining the nature of the amendments proposed and their expected effects on the implementation of recommendations and on the implementation of the Funds. If necessary, the Commission shall make observations within 1 month of the receipt of that response.

4. The Member State shall submit a proposal to amend the relevant programmes within 2 months of the date of submission of the response referred to in paragraph 3.

5. Where the Commission has not submitted observations or where it is satisfied that any observations submitted have been duly taken into account, it shall adopt a decision approving the amendments of the relevant programmes no later than 4 months after its submission by the Member State.

6. Where the Member State fails to take effective action in response to a request made in accordance with paragraph 1, within the deadlines set out in paragraphs 3 and 4, the Commission may, within 3 months, following its observations under paragraph 3 or following the submission of the proposal of the Member State under paragraph 4, make a proposal to the Council to suspend part or all of the payments for the programmes or priorities concerned. In its proposal, the Com-

mission shall set out the grounds for concluding that the Member State has failed to take effective action. In making its proposal, the Commission shall take account of all relevant information, and shall give due consideration to any elements arising from and opinions expressed through the structured dialogue under paragraph 14.

The Council shall decide on that proposal by means of an implementing act. That implementing act shall only apply with respect to payment applications submitted after the date of the adoption of that implementing act.

7. The Commission shall make a proposal to the Council to suspend all or part of the commitments or payments for one or more of the programmes of a Member State where the Council decides in accordance with Article 126(8) or (11) TFEU that a Member State has not taken effective action to correct its excessive deficit, unless it has determined the existence of a severe economic downturn in the euro area or in the Union as a whole within the meaning of Articles 3(5) and 5(2) of Council Regulation (EC) No 1467/97⁽⁴²⁾.

8. The Commission may make a proposal to the Council to suspend all or part of the commitments or payments for one or more of the programmes of a Member State in the following cases:

(a) where the Council adopts two successive recommendations in the same excessive imbalance procedure in accordance with Article 8(3) of Regulation (EU) No 1176/2011 on

⁽⁴²⁾ Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 209, 2.8.1997, p. 6).

the grounds that a Member State has submitted an insufficient corrective action plan;

(b) where the Council adopts two successive decisions in the same excessive imbalance procedure in accordance with Article 10(4) of Regulation (EU) No 1176/2011 establishing non-compliance by a Member State on the grounds that it has not taken the recommended corrective action;

(c) where the Commission concludes that a Member State has not taken measures as referred to in Council Regulation (EC) No 332/2002⁽⁴³⁾ and as a consequence decides not to authorise the disbursement of the financial assistance granted to that Member State;

(d) where the Council decides that a Member State does not comply with the macro-economic adjustment programme referred to in Article 7 of Regulation (EU) No 472/2013 of the European Parliament and of the Council⁽⁴⁴⁾, or with the measures requested by a Council decision adopted in accordance with Article 136(1) TFEU.

9. Priority shall be given to the suspension of commitments. Payments shall be suspended only when immediate action is sought and in the case of significant non-compliance. The suspension of payments shall apply to payment applications submitted for the pro-

grammes concerned after the date of the decision to suspend.

10. A proposal by the Commission for a decision to suspend commitments shall be deemed adopted by the Council unless the Council decides, by means of an implementing act, to reject such a proposal by qualified majority within 1 month of the submission of the Commission proposal.

The suspension of commitments shall apply to the commitments from the Funds for the Member State concerned from 1 January of the year following the adoption of the decision to suspend.

The Council shall adopt a decision, by means of an implementing act, on a proposal by the Commission referred to in paragraphs 7 and 8 in relation to the suspension of payments.

11. The scope and level of the suspension of commitments or payments to be imposed shall be proportionate, respect the equality of treatment between Member States and take into account the economic and social circumstances of the Member State concerned, in particular the level of unemployment, the level of poverty or social exclusion in the Member State concerned compared to the Union average and the impact of the suspension on the economy of the Member State concerned. The impact of suspensions on programmes of critical importance to address adverse economic or social conditions shall be a specific factor to be taken into account.

12. The suspension of commitments shall be subject to a maximum of 25 % of the commitments relating to the next calendar year for the Funds or 0,25 % of nominal GDP, whichever is lower, in any of the following cases:

⁽⁴³⁾ Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).

⁽⁴⁴⁾ Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability (OJ L 140, 27.5.2013, p. 1).

(a) in the first case of non-compliance with an excessive deficit procedure as referred to in paragraph 7;

(b) in the first case of non-compliance relating to a corrective action plan under an excessive imbalance procedure as referred to in point (a) of paragraph 8;

(c) in the case of non-compliance with the recommended corrective action pursuant to an excessive imbalance procedure as referred to in point (b) of paragraph 8;

(d) in the first case of non-compliance as referred to in points (c) and (d) of paragraph 8.

In the case of persistent non-compliance, the suspension of commitments may exceed the maximum percentages set out in the first subparagraph.

13. The Council shall lift the suspension of commitments on a proposal from the Commission in the following cases:

(a) where the excessive deficit procedure is held in abeyance in accordance with Article 9 of Regulation (EC) No 1467/97 or the Council has decided in accordance with Article 126(12) TFEU to abrogate the decision on the existence of an excessive deficit;

(b) where the Council has endorsed the corrective action plan submitted by the Member State concerned in accordance with Article 8(2) of Regulation (EU) No 1176/2011 or the excessive imbalance procedure is placed in a position of abeyance in accordance with Article 10(5) of that Regulation or the Council has closed the excessive imbalance procedure in accordance with Article 11 of that Regulation;

(c) where the Commission has concluded that the Member State concerned has taken appropriate measures as referred to in Regulation (EC) No 332/2002;

(d) where the Commission has concluded that the Member State concerned has taken appropriate measures to implement the macroeconomic adjustment programme referred to in Article 7 of Regulation (EU) No 472/2013 or the measures requested by a Council decision adopted in accordance with Article 136(1) TFEU.

After the Council has lifted the suspension of commitments, the Commission shall re-budget the suspended commitments in accordance with Article 6 of Regulation (EU, Euratom) 2020/2093.

Suspended commitments may not be re-budgeted beyond the year 2027.

The decommitment time limit for the re-budgeted amount in accordance with Article 105 shall start from the year in which the suspended commitment has been re-budgeted.

A decision concerning the lifting of the suspension of payments shall be taken by the Council on a proposal by the Commission where the applicable conditions set out in the first subparagraph are fulfilled. A proposal by the Commission for a decision to lift the suspension of commitments shall be deemed adopted by the Council unless the Council decides, by means of an implementing act, to reject such a proposal by qualified majority within 1 month of the submission of the Commission proposal.

14. The Commission shall keep the European Parliament informed of the implementation of this Article. In particular, the Commission shall, when one of the conditions set out in

paragraph 6, 7 or 8 is fulfilled for a Member State, immediately inform the European Parliament and provide details of the Funds and programmes which could be subject to a suspension.

The European Parliament may invite the Commission for a structured dialogue on the application of this Article, having regard to the transmission of the information referred to in the first subparagraph.

The Commission shall transmit the proposal for suspension or the proposal to lift such a suspension to the European Parliament and to the Council without delay after its adoption. The European Parliament may invite the Commission to explain the reasons for its proposal.

15. By 31 December 2025, the Commission shall carry out a review of the application of this Article. To that end, the Commission shall prepare a report which it shall transmit to the European Parliament and the Council, accompanied where necessary by a legislative proposal.

16. Where there are major changes in the social and economic situation in the Union, the Commission may submit a proposal to review the application of this Article, or the European Parliament or the Council, acting in accordance with Article 225 or 241 TFEU respectively, may request the Commission to submit such a proposal.

17. This Article shall not apply to the ESF+, the AMIF, the ISF, the BMVI or to Interreg programmes.

ARTICLE 20 TEMPORARY MEASURES FOR THE USE OF THE

FUNDS IN RESPONSE TO EXCEPTIONAL OR UNUSUAL CIRCUMSTANCES

1. Where after 1 July 2021 the Council has recognised the occurrence of an unusual event outside the control of one or more Member States, which has a major impact on the financial position of the general government or a severe economic downturn for the euro area or the Union as a whole as referred to in the tenth subparagraph of Article 5(1), the fourth subparagraph of Article 6(3), the tenth subparagraph of Article 9(1) and the fourth subparagraph of Article 10(3) of Regulation (EC) No 1466/97⁽⁴⁵⁾ or the occurrence of unexpected adverse economic events with major unfavourable consequences for government finances as referred to in Articles 3(5) and 5(2) of Regulation (EC) No 1467/97, the Commission may, by means of an implementing decision and for a period of a maximum of 18 months, adopt one or more of the following measures provided that they are strictly necessary to respond to such exceptional or unusual circumstances:

(a) on request of one or more Member States concerned, increase interim payments by 10 percentage points above the co-financing rate applicable, not exceeding 100 %, by way of derogation from Article 112(3) and (4) of this Regulation, as well as from Article 40 of the EMFAF Regulation, Article 15 of the AMIF Regulation, Article 12 of the ISF Regulation and Article 12 of the BMVI Regulation;

(b) allow the authorities of a Member State to select for support operations that have been physically completed or fully implemented before the application for the funding under

⁽⁴⁵⁾ Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1).

the programme is duly submitted to the managing authority, by way of derogation from Article 63(6), provided that the operation is in response to the exceptional circumstances;

(c) provide that expenditure for operations in response to such circumstances may be eligible from the date on which the Council endorsed the occurrence of those circumstances, by way of derogation from Article 63(7);

(d) extend the deadlines for the submission of documents and the submission of data to the Commission by up to 3 months, by way of derogation from Articles 41(6), 42(1), 44(2) and the first subparagraph of Article 49(3).

2. The Commission shall keep the European Parliament and the Council informed of the implementation of this Article. When one of the conditions set out in paragraph 1 is fulfilled, the Commission shall immediately inform the European Parliament and the Council on its assessment of the situation and its envisaged follow-up.

3. The European Parliament or the Council may invite the Commission for a structured dialogue on the application of this Article. When assessing the situation and envisaging a follow-up, the Commission shall give due consideration to the positions taken and views expressed through the structured dialogue.

4. If after the period not exceeding 18 months, as referred to in paragraph 1, the specific circumstances that led to the adoption of these temporary measures persist, the Commission shall reassess the situation and put forward a legislative proposal, as appropriate, amending this Regulation, providing for the necessary flexibility to address these circumstances.

5. The Commission shall inform the European Parliament and the Council of the implementing decision adopted under paragraph 1 without delay, at the latest within 2 working days of its adoption.

TITLE III PROGRAMMING

CHAPTER I GENERAL PROVISIONS ON THE FUNDS

ARTICLE 21 PREPARATION AND SUBMISSION OF PROGRAMMES

1. Member States shall prepare, in cooperation with the partners referred to in Article 8(1), programmes to implement the Funds for the period from 1 January 2021 to 31 December 2027.

2. Member States shall submit programmes to the Commission no later than 3 months

after the submission of the Partnership Agreement. For the **AMIF**, the **ISF** and the **BMVI**, Member States shall submit programmes to the Commission no later than 3 months after the entry into force of this Regulation or the relevant fund-specific Regulation, whichever is later.

3. Member States shall prepare programmes in accordance with the programme template set out in Annex V.

For the **AMIF**, the **ISF** and the **BMVI**, Member States shall prepare programmes in accordance with the programme template set out in Annex VI.

4. Where an environmental report is prepared in accordance with Directive 2001/42/EC of the European Parliament and of the Council⁽⁴⁶⁾, it shall be published on the programme website referred to in Article 49(1) of this Regulation.

ARTICLE 22 CONTENT OF PROGRAMMES

1. Each programme shall set out a strategy for the contribution of the programme to the policy objectives or to the specific objective of the JTF and the communication of its results.

2. A programme shall consist of one or more priorities. Each priority shall correspond to a single policy objective, the specific objective of the JTF, or to technical assistance implemented pursuant to Article 36(4) or Article 37. A priority may use support from one or more Funds unless it receives support from the JTF or concerns technical assistance implemented pursuant to Article 36(4) or Article 37. A priority corresponding to a policy objective shall consist of one or more specific objectives. More than one priority may correspond to the same policy objective or to the specific objective of the JTF.

For programmes supported by the **AMIF**, the **ISF** and the **BMVI**, a programme shall use support from one Fund and consist of spe-

cific objectives and of technical assistance specific objectives.

3. Each programme shall set out:

(a) a summary of the main challenges, taking into account:

(i) economic, social and territorial disparities as well as inequalities, except for programmes supported by the EMFAF;

(ii) market failures;

(iii) investment needs and complementarity and synergies with other forms of support;

(iv) challenges identified in relevant country-specific recommendations, relevant national or regional strategies of that Member State, including its integrated national energy and climate plan, in relation to the principles of the European Pillar of Social Rights and, for the **AMIF**, the **ISF** and the **BMVI**, other relevant Union recommendations addressed to the Member State;

(v) challenges in administrative capacity and governance and simplification measures;

(vi) an integrated approach to address demographic challenges, where relevant;

(vii) lessons learnt from past experience;

(viii) macro-regional strategies and sea-basin strategies where Member States and regions participate in such strategies;

(ix) for programmes supported by the **AMIF**, the **ISF** and the **BMVI**, progress in implementing the relevant Union *acquis* and action plans and a justification for the choice of specific objectives;

⁽⁴⁶⁾ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

(x) for programmes supported by the JTF, transition challenges identified in the territorial just transition plans;

Points (i), (ii) and (viii) shall not apply to programmes supported by the **AMIF**, the **ISF** or the **BMVI**.

(b) a justification for the selected policy objectives, corresponding priorities, specific objectives and the forms of support;

(c) for each priority, except for technical assistance, specific objectives;

(d) for each specific objective:

(i) the related types of actions and their expected contribution to those specific objectives, to macro-regional strategies, sea-basin strategies, and to territorial just transition plans supported by the JTF, where appropriate;

(ii) output indicators and result indicators with the corresponding milestones and targets;

(iii) the main target groups;

(iv) actions safeguarding equality, inclusion and non-discrimination;

(v) indication of the specific territories targeted, including the planned use of integrated territorial investment, community-led local development or other territorial tools;

(vi) the interregional, cross-border and transnational actions with beneficiaries located in at least one other Member State or outside the Union, where relevant;

(vii) the planned use of financial instruments;

(viii) the types of intervention and an indicative breakdown of the programmed resources by type of intervention;

(ix) for the specific objective of the JTF, the justification of any amounts transferred from the ERDF and the ESF+ resources in accordance with Article 27, as well as their breakdown by category of region, reflecting the types of interventions planned in accordance with the territorial just transition plans;

(e) for each priority on technical assistance implemented pursuant to Article 36(4):

(i) the related types of actions;

(ii) output indicators with the corresponding milestones and targets;

(iii) the main target groups;

(iv) the types of intervention and an indicative breakdown of the programmed resources by type of intervention;

(f) the planned use of technical assistance pursuant to Article 37, if applicable, and relevant types of intervention;

(g) a financing plan containing:

(i) a table specifying the total financial allocations for each of the Funds and, where applicable, for each category of region for the whole programming period and by year, including any amounts transferred pursuant to Article 26 or 27;

(ii) for programmes supported by ERDF, the ESF+, the Cohesion Fund and the JTF, a table specifying the total financial allocations for each priority by Fund and by category of region, where applicable, and the national contribution and whether it is made up of public or private contribution, or both;

(iii) for programmes supported by the EMFAF, a table specifying for each specific objec-

tive, the amount of the total financial allocations of the support from the Fund and the national contribution;

(iv) for programmes supported by the **AMIF**, the **ISF** and the **BMVI**, a table specifying, by specific objective, the total financial allocations by type of action, the national contribution and whether it is made up of public or private contribution, or both;

(h) the actions taken to involve the relevant partners referred to in Article 8(1) in the preparation of the programme, and the role of those partners in the implementation, monitoring and evaluation of the programme;

(i) for each enabling condition linked to the selected specific objective, established in accordance with Article 15 and Annexes III and IV, an assessment of whether the enabling condition is fulfilled at the date of submission of the programme;

(j) the envisaged approach to communication and visibility for the programme through defining its objectives, target audiences, communication channels, including social media outreach, where appropriate, planned budget and relevant indicators for monitoring and evaluation;

(k) the programme authorities and the body or, in case of technical assistance pursuant to Article 36(5), where applicable, bodies which receive payments from the Commission.

Points (a)(i), (ii) and (viii) of this paragraph shall not apply to programmes limited to supporting the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation. Point (d) of this paragraph shall not apply to the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation.

For the ERDF, the Cohesion Fund, the ESF+, the JTF and the EMFAF, the programme shall be accompanied for information purposes by a list of planned operations of strategic importance, with a timetable.

If, in accordance with point (k), more than one body is identified to receive payments from the Commission, the Member State shall set out the share of the reimbursed amounts between those bodies.

4. By way of derogation from point (b) to (e) of paragraph 3, for each specific objective of programmes supported by the **AMIF**, the **ISF** and the **BMVI**, the following shall be provided:

(a) a description of the initial situation, challenges and responses supported by the Fund;

(b) indication of the implementation measures;

(c) an indicative list of actions and their expected contribution to the specific objectives;

(d) where applicable, a justification for the operating support, specific actions, emergency assistance, and actions as referred to in Articles 19 and 20 of the **AMIF** Regulation;

(e) output and result indicators with the corresponding milestones and targets;

(f) an indicative breakdown of the programmed resources by type of intervention.

5. Types of intervention shall be based on a nomenclature set out in Annex I. For programmes supported by the EMFAF, the **AMIF**, the **ISF** and the **BMVI**, types of intervention shall be based on a nomenclature set out in the Fund-specific Regulations.

6. For ERDF, ESF+, Cohesion Fund and JTF programmes, the table referred to in point (g) (ii) of paragraph 3 shall include the amounts for the years 2021 to 2027, including the flexibility amount.

7. The Member State shall communicate to the Commission any changes in the information referred to in point (k) of the first subparagraph of paragraph (3) without requiring a programme amendment.

8. For programmes supported by the JTF, Member States shall submit to the Commission the territorial just transition plans as part of the programme or programmes or of a request for amendment.

ARTICLE 23 APPROVAL OF PROGRAMMES

1. The Commission shall assess the programme and its compliance with this Regulation and with the Fund-specific Regulations, as well as, for the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, its consistency with the relevant Partnership Agreement. In its assessment, the Commission shall, in particular, take into account relevant country-specific recommendations, relevant challenges identified in the integrated national energy and climate plan, and the principles of the European Pillar of Social Rights, and the way they are addressed.

2. The Commission may make observations within 3 months of the date of submission of the programme by the Member State.

3. The Member State shall review the programme, taking into account the observations made by the Commission.

4. The Commission shall adopt a decision by means of an implementing act approving the programme no later than 5 months after

the date of the first submission of the programme by the Member State.

ARTICLE 24 AMENDMENT OF PROGRAMMES

1. The Member State may submit a reasoned request for an amendment of a programme, together with the amended programme, setting out the expected impact of that amendment on the achievement of the objectives.

2. The Commission shall assess the amendment and its compliance with this Regulation and with the Fund-specific Regulations, including requirements at national level, and may make observations within 2 months of the submission of the amended programme.

3. The Member State shall review the amended programme, taking into account the observations made by the Commission.

4. The Commission shall adopt a decision approving the amendment of a programme no later than 4 months after its submission by the Member State.

5. For programmes supported by the ERDF, the ESF+, the Cohesion Fund and the JTF, the Member State may transfer during the programming period an amount of up to 8 % of the initial allocation of a priority and no more than 4 % of the programme budget to another priority of the same Fund of the same programme. For programmes supported by the ERDF, the ESF+ and the JTF, the transfer shall only concern allocations for the same category of region.

For programmes supported by the EMFAF, the Member State may transfer during the programming period an amount of up to 8 % of the initial allocation of a specific objective to another specific objective, including tech-

nical assistance implemented pursuant to Article 36(4).

For programmes supported by the **AMIF**, the **ISF** and the **BMVI**, the Member State may transfer during the programming period allocations between types of actions within the same priority and, in addition, an amount of up to 15 % of the initial allocation of a priority to another priority of the same Fund.

Such transfers shall not affect previous years. The transfers and related changes shall be considered to be not substantial and shall not require a decision of the Commission approving the amendment of the programme. They shall however, comply with all regulatory requirements and shall be approved by the monitoring committee in advance pursuant to point (d) of Article 40(2). The Member State shall submit to the Commission the amended table referred to under points (g)(ii), (iii) or (iv) of Article 22(3), as applicable, together with any related changes in the programme.

6. The approval of the Commission shall not be required for corrections of a purely clerical or editorial nature that do not affect the implementation of the programme. Member States shall inform the Commission of such corrections.

7. For programmes supported by the EMFAF, amendments of the programmes relating to the introduction of indicators shall not require the approval of the Commission.

ARTICLE 25 JOINT SUPPORT FROM THE ERDF, THE ESF+, THE COHESION FUND AND THE JTF

1. The ERDF, the ESF+, the Cohesion Fund and the JTF may jointly provide support for programmes under the Investment for jobs and growth goal.

2. The ERDF and the ESF+ may finance, in a complementary manner and subject to a limit of 15 % of support from those Funds for each priority of a programme, all or part of an operation for which the costs are eligible for support from the other Fund on the basis of eligibility rules applied to that Fund, provided that such costs are necessary for the implementation. That option shall not apply to any resources of the ERDF and the ESF+ that are transferred to the JTF in accordance with Article 27.

ARTICLE 26 TRANSFER OF RESOURCES

1. Member States may request, in the Partnership Agreement or in a request for an amendment of a programme if agreed by the monitoring committee of the programme pursuant to point (d) of Article 40(2), the transfer of up to 5 % of the initial national allocation of each Fund to any other instrument under direct or indirect management, where such possibility is provided for in the basic act of such an instrument.

The sum of the transfers referred to in the first subparagraph of this paragraph and the contributions in accordance with the first subparagraph of Article 14(1) shall not exceed 5 % of the initial national allocation of each Fund.

Member States may also request in the Partnership Agreement or in the request for an amendment of a programme the transfer of up to 5 % of the initial national allocation of each Fund to another Fund or Funds, except for transfers which are set out in the fourth subparagraph.

Member States may also request in the Partnership Agreement or in the request for an amendment of a programme an additional transfer of up to 20 % of the initial national

allocation by Fund between the ERDF, the ESF+ or the Cohesion Fund within the Member State's global resources under the Investment for jobs and growth goal. The Member States whose average total unemployment rate for the period 2017-2019 is under 3 % may request such an additional transfer of up to 25 % of the initial national allocation.

2. Transferred resources shall be implemented in accordance with the rules of the Fund or the instrument to which the resources are transferred and, in the case of transfers to instruments under direct or indirect management, for the benefit of the Member State concerned.

3. Requests for an amendment of a programme shall set out the total amount transferred for each year by Fund and by category of region, where applicable, shall be duly justified with a view to the complementarities and impact to be achieved, and shall be accompanied by the amended programme or programmes in accordance with Article 24.

4. After consultation with the Member State concerned, the Commission shall object to a request for transfer in the related programme amendment where such a transfer would undermine the achievement of the objectives of the programme from which the resources are to be transferred.

The Commission shall also object to the request where it considers that the Member State has not provided an adequate justification for the transfer with regard to the results to be achieved or the contribution to be made to the objectives of the receiving Fund or instrument in direct or indirect management.

5. Where the request for transfer concerns an amendment of a programme, only resources of future calendar years may be transferred.

6. JTF resources, including any resources transferred from the ERDF and the ESF+ in accordance with Article 27, shall not be transferable to other Funds or instruments pursuant to paragraphs 1 to 5 of this Article.

The JTF shall not receive transfers pursuant to paragraphs 1 to 5.

7. Where the Commission has not entered into a legal commitment under direct or indirect management for resources transferred in accordance with paragraph 1, the corresponding uncommitted resources may be transferred back to the Fund from which they have been initially transferred and allocated to one or more programmes.

To this end, the Member State shall submit a request for a programme amendment in accordance with Article 24(1), at the latest 4 months before the time limit for commitments set out in the first subparagraph of Article 114(2) of the Financial Regulation.

8. Resources transferred back to the Fund from which they have been initially transferred and allocated to one or more programmes shall be implemented in accordance with the rules set out in this Regulation and the Fund-specific Regulations as from the date of submission of the request for programme amendment.

9. For the resources transferred back to the Fund from which they have been initially transferred and allocated to a programme in accordance with paragraph 7 of this Article, the decommitment time limit as defined in Article 105(1) shall start in the year in which the corresponding budgetary commitments are made.

ARTICLE 27 TRANSFER OF RESOURCES FROM THE ERDF AND THE ESF+ TO THE JTF

1. Member States may request on a voluntary basis that the amount of resources available for the JTF under the Investment for jobs and growth goal in accordance with Article 3 of the JTF Regulation be complemented with resources from the ERDF, the ESF+ or a combination thereof, of the category of region where the territory concerned is located. The total of the ERDF and the ESF+ resources transferred to the JTF shall not exceed three times the amount of the JTF allocation referred to in point (g) of Article 110(1). The resources transferred from either the ERDF or the ESF+ shall not exceed 15 % of the respective ERDF and ESF+ allocation to the Member State concerned. Mem-

ber States shall set out in those requests the total amount transferred for each year by category of region.

2. The respective transfers from the ERDF and the ESF+ resources to the priority or priorities supported by the JTF shall reflect the types of interventions in accordance with the information set out in the programme pursuant to point (d)(ix) of Article 22(3). Such transfers shall be considered to be definitive.

3. The JTF resources, including the resources transferred from the ERDF and the ESF+, shall be implemented in accordance with the rules set out in this Regulation and in the JTF Regulation. The rules set out in the ERDF and CF Regulation and in the ESF+ Regulation shall not apply to the ERDF and ESF+ resources transferred in accordance with paragraph 1.

CHAPTER II TERRITORIAL DEVELOPMENT

ARTICLE 28 INTEGRATED TERRITORIAL DEVELOPMENT

Where a Member State supports integrated territorial development, it shall do so through territorial or local development strategies in any of the following forms:

- (a) integrated territorial investments;
- (b) community-led local development; or
- (c) another territorial tool supporting initiatives designed by the Member State.

Where implementing territorial or local development strategies under more than one Fund, the Member State shall ensure coherence and coordination among the Funds concerned.

ARTICLE 29 TERRITORIAL STRATEGIES

1. Territorial strategies implemented pursuant to point (a) or (c) of Article 28 shall contain the following elements:

- (a) the geographical area covered by the strategy;
- (b) an analysis of the development needs and the potential of the area, including economic, social and environmental interlinkages;
- (c) a description of an integrated approach to address the identified development needs and the potential of the area;
- (d) a description of the involvement of partners in accordance with Article 8 in the prep-

aration and in the implementation of the strategy.

They may also contain a list of operations to be supported.

2. Territorial strategies shall be under the responsibility of the relevant territorial authorities or bodies. Existing strategic documents concerning the covered areas may be used for territorial strategies.

3. Where the list of operations to be supported has not been included in the territorial strategy, the relevant territorial authorities or bodies shall select or shall be involved in the selection of operations.

4. When preparing territorial strategies, the authorities or bodies referred to in paragraph 2 shall cooperate with relevant managing authorities, in order to determine the scope of operations to be supported under the relevant programme.

Selected operations shall comply with the territorial strategy.

5. Where a territorial authority or body carries out tasks falling under the responsibility of the managing authority other than the selection of operations, the authority shall be identified by the managing authority as an intermediate body.

6. Support may be provided for the preparation and design of territorial strategies.

ARTICLE 30 INTEGRATED TERRITORIAL INVESTMENT

Where a territorial strategy referred to in Article 29 involves investments that receive support from one or more Funds, from more than one programme or from more than one priority of the same programme, actions may

be carried out as an integrated territorial investment.

ARTICLE 31 COMMUNITY-LED LOCAL DEVELOPMENT

1. Where a Member State considers it appropriate pursuant to Article 28, the ERDF, the ESF+, the JTF and the EMFAF shall support community-led local development.

2. The Member State shall ensure that community-led local development is:

(a) focused on sub regional areas;

(b) led by local action groups composed of representatives of public and private local socioeconomic interests, in which no single interest group controls the decision-making;

(c) carried out through strategies in accordance with Article 32;

(d) supportive of networking, accessibility, innovative features in the local context and, where appropriate, cooperation with other territorial actors.

3. Where support to strategies referred to in point (c) of paragraph 2 is available from more than one Fund, the relevant managing authorities shall organise a joint call for selection of those strategies and establish a joint committee for all the Funds concerned to monitor the implementation of those strategies. The relevant managing authorities may choose one of the Funds concerned to support all preparatory, management and animation costs referred to in points (a) and (c) of Article 34(1) related to those strategies.

4. Where the implementation of such a strategy involves support from more than one Fund, the relevant managing authorities may

choose one of the Funds concerned as the Lead Fund.

5. While respecting the scope and the eligibility rules of each fund involved in supporting the strategy, the rules of the Lead Fund shall apply to that strategy. The authorities of other funds shall rely on decisions and management verifications made by the competent authority of the Lead Fund.

6. The authority of the Lead Fund shall provide the authorities of other Funds with information necessary to monitor and make payments in accordance with the rules set out in the Fund-specific Regulations.

ARTICLE 32 COMMUNITY-LED LOCAL DEVELOPMENT STRATEGIES

1. The relevant managing authorities shall ensure that each strategy referred to in point (c) of Article 31(2) sets out the following elements:

(a) the geographical area and population covered by that strategy;

(b) the community involvement process in the development of that strategy;

(c) an analysis of the development needs and potential of the area;

(d) the objectives of that strategy, including measurable targets for results, and related planned actions;

(e) the management, monitoring and evaluation arrangements, demonstrating the capacity of the local action group to implement that strategy;

(f) a financial plan, including the planned allocation from each Fund, and also, where

appropriate, the planned allocation from the EAFRD and each programme concerned.

It may also contain types of measures and operations to be financed by each affected Fund.

2. The relevant managing authorities shall define criteria for the selection of those strategies, set up a committee to carry out this selection and approve the strategies selected by that committee.

3. The relevant managing authorities shall complete the first round of selection of strategies and ensure the local action groups selected can fulfil their tasks set out in Article 33(3) within 12 months of the date of the decision approving the programme or, in the case of strategies supported by more than one Fund, within 12 months of the date of the decision approving the last programme concerned.

4. The decision approving a strategy shall set out the allocation of each Fund and programme concerned and set out the responsibilities for the management and control tasks under the programme or programmes.

ARTICLE 33 LOCAL ACTION GROUPS

1. Local action groups shall design and implement the strategies referred to in point (c) of Article 31(2).

2. The managing authorities shall ensure that the local action groups are inclusive, and that they either select one partner within the group as a lead partner in administrative and financial matters or come together in a legally constituted common structure.

3. The following tasks shall be carried out exclusively by the local action groups:

(a) building the capacity of local actors to develop and implement operations;

(b) drawing up a non-discriminatory and transparent selection procedure and criteria, which avoids conflicts of interest and ensures that no single interest group controls selection decisions;

(c) preparing and publishing calls for proposals;

(d) selecting operations and fixing the amount of support and presenting the proposals to the body responsible for final verification of eligibility before approval;

(e) monitoring progress towards the achievement of objectives of the strategy;

(f) evaluating the implementation of the strategy.

4. Where local action groups carry out tasks not covered by paragraph 3 that fall under the responsibility of the managing authority, or of the paying agency where the EAFRD is selected as a Lead Fund, these local action groups shall be identified by the managing authority as intermediate bodies in accordance with the Fund-specific rules.

5. The local action group may be a beneficiary and may implement operations in accordance with the strategy, provided that the local action group ensures that the principle of separation of functions is respected.

ARTICLE 34 SUPPORT FROM FUNDS FOR COMMUNITY-LED LOCAL DEVELOPMENT

1. The Member State shall ensure that support from the Funds for community-led local development covers:

(a) capacity building and preparatory actions supporting the design and future implementation of the strategy;

(b) the implementation of operations, including cooperation activities and their preparation, selected under the strategy;

(c) the management, monitoring and evaluation of the strategy and its animation, including the facilitation of exchanges between stakeholders;

2. The support referred to under point (a) of paragraph 1 shall be eligible regardless of whether the strategy is subsequently selected for funding.

The support referred to under point (c) of paragraph 1 shall not exceed 25 % of the total public contribution to the strategy.

CHAPTER III TECHNICAL ASSISTANCE

ARTICLE 35 TECHNICAL ASSISTANCE AT THE INITIATIVE OF THE COMMISSION

1. At the initiative of the Commission, the Funds may support preparatory, monitoring, control, audit, evaluation, communication including corporate communication on the political priorities of the Union, visibility and all administrative and technical assistance actions necessary for the implementation of this Regulation and, where appropriate, with third countries.

2. The actions referred to in paragraph 1 may include in particular:

(a) assistance for project preparation and appraisal;

(b) support for institutional strengthening and administrative capacity-building for the effective management of the Funds;

(c) studies linked to the Commission's reporting on the Funds and the cohesion report;

(d) measures related to the analysis, management, monitoring, information exchange and implementation of the Funds, as well as measures relating to the implementation of control systems and technical and administrative assistance;

(e) evaluations, expert reports, statistics and studies, including those of a general nature, concerning the current and future operation of the Funds;

(f) actions to disseminate information, support networking where appropriate, carry out communication activities with particular attention to the results and added value of

support from the Funds, and to raise awareness and promote cooperation and exchange of experience, including with third countries;

(g) the installation, operation and interconnection of computerised systems for management, monitoring, audit, control and evaluation;

(h) actions to improve evaluation methods and the exchange of information on evaluation practices;

(i) actions related to auditing;

(j) the strengthening of national and regional capacity regarding investment planning, funding needs, preparation, design and implementation of financial instruments, joint action plans and major projects;

(k) the dissemination of good practices in order to assist Member States to strengthen the capacity of the relevant partners referred to in Article 8(1) and their umbrella organisations.

3. The Commission shall dedicate at least 15 % of the resources for technical assistance at the initiative of the Commission to the delivery of greater efficiency in communication to the public and stronger synergies between the communication activities undertaken at the initiative of the Commission, by extending the knowledge base about results, in particular through more effective data collection and dissemination, evaluations and reporting, and especially by highlighting the contribution of the Funds to improving the lives of citizens, and by increasing the visibility of support from the Funds as well as by raising awareness about the results and the added value of such support. Informa-

tion, communication and visibility measures on results and added value of support from the Funds, with particular focus on operations, shall be continued after the closure of the programmes, where appropriate. Such measures shall also contribute to the corporate communication of the political priorities of the Union as far as they are related to the general objectives of this Regulation.

4. The actions referred to in paragraph 1 may cover previous and subsequent programming periods.

5. The Commission shall set out its plans when a contribution from the Funds is envisaged in accordance with Article 110 of the Financial Regulation.

6. Depending on the purpose, the actions referred to in this Article may be financed either as operational or administrative expenditure.

7. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, in duly justified cases specified in the financing decision and for a limited period, technical assistance actions at the initiative of the Commission supported under this Regulation in direct management and the underlying costs may be considered to be eligible from 1 January 2021, even if these actions were implemented and incurred before the grant application was submitted.

ARTICLE 36 TECHNICAL ASSISTANCE OF MEMBER STATES

1. At the initiative of a Member State, the Funds may support actions, which may concern previous and subsequent programming periods, necessary for the effective administration and use of those Funds, including for the capacity building of the partners referred to in Article 8(1), as well as to provide

financing for carrying out, inter alia, functions such as preparation, training, management, monitoring, evaluation, visibility and communication.

The amounts for technical assistance under this Article and Article 37 shall not be taken into account for the purposes of thematic concentration in accordance with the fund-specific rules.

2. Each Fund may support technical assistance actions eligible under any of the other Funds.

3. The Union contribution for technical assistance in a Member State shall be made either pursuant to point (b) or (e) of Article 51.

The Member State shall indicate its choice of the form of Union contribution for technical assistance in the Partnership Agreement in accordance with Annex II. That choice shall apply to all programmes in the Member State concerned for the entire programming period and cannot be modified subsequently.

For programmes supported by the **AMIF**, the **ISF** and the **BMVI** and for Interreg programmes the Union contribution for technical assistance shall be made only pursuant to point (e) of Article 51.

4. Where the Union contribution for technical assistance in a Member State is reimbursed pursuant to point (b) of Article 51, the following elements shall apply:

(a) technical assistance takes the form of a priority relating to one single Fund in one or more programmes, or of a specific programme, or a combination thereof;

(b) the amount of the Funds allocated to technical assistance is limited to the following:

- (i) for the ERDF support under the Investment for jobs and growth goal: 3,5 %;
- (ii) for the Cohesion Fund support: 2,5 %;
- (iii) for the ESF+ support: 4 % and for programmes under point (m) of Article 4(1) of the ESF+ Regulation: 5 %;
- (iv) for the JTF support: 4 %;
- (v) for the ERDF, the ESF+ and the Cohesion Fund, where the total amount allocated to a Member State under the Investment for jobs and growth goal does not exceed EUR 1 billion: 6 %;
- (vi) for the EMFAF support: 6 %;
- (vii) for programmes under the Investment for jobs and growth goal that concern only the outermost regions, the percentage shall be increased by 1 percentage point.

5. Where the Union contribution for technical assistance is reimbursed pursuant to point (e) of Article 51, the following elements shall apply:

- (a) the amount of the Funds allocated to technical assistance is identified as part of the financial allocations of each priority of the programme in accordance with point (g) (ii) of Article 22(3), and for the EMFAF, each specific objective in accordance with point (g) (iii) of that paragraph; it does not take the form of a separate priority or a specific programme except for programmes supported by the AMIF, the ISF or the BMVI, for which it takes the form of a specific objective;
- (b) the reimbursement is made, by applying the percentages set out in points (i) to (vii) to the eligible expenditure included in each payment application pursuant to points (a) or (c) of Article 91(3) as appropriate and from the

same fund to which the eligible expenditure is reimbursed, to one or more bodies which receive payments from the Commission in accordance with point (k) of Article 22(3);

- (i) for the ERDF support under the Investment for jobs and growth goal: 3,5 %;
- (ii) for the Cohesion Fund support: 2,5 %;
- (iii) for the ESF+ support: 4 % and for programmes under point (m) of Article 4(1) of the ESF+ Regulation: 5 %;
- (iv) for the JTF support: 4 %;
- (v) for the ERDF, the ESF+ and the Cohesion Fund, where the total amount allocated to a Member State under the Investment for jobs and growth goal does not exceed EUR 1 billion, the percentage reimbursed for technical assistance: 6 %;

(vi) for the EMFAF, the AMIF, the ISF and the BMVI support: 6 %;

(vii) for programmes under the Investment for jobs and growth goal that concern only the outermost regions, the percentage shall be increased by 1 percentage point;

(c) the amounts allocated to technical assistance identified in the programme correspond to the percentages set out in points (i) to (vi) of point (b) for each priority and fund.

6. Specific rules for technical assistance for Interreg programmes shall be set out in the Interreg Regulation.

ARTICLE 37 FINANCING NOT LINKED TO COSTS FOR TECHNICAL ASSISTANCE OF MEMBER STATES

In addition to Article 36, the Member State may propose to undertake additional techni-

cal assistance actions to reinforce the capacity and efficiency of public authorities and bodies, beneficiaries and relevant partners necessary for the effective administration and use of the Funds.

Support for such actions shall be implemented by financing not linked to costs in accordance with Article 95. Such support may also take the form of a specific programme.

TITLE IV MONITORING, EVALUATION, COMMUNICATION AND VISIBILITY

CHAPTER I MONITORING

ARTICLE 38 MONITORING COMMITTEE

1. Each Member State shall set up a committee to monitor the implementation of the programme ('monitoring committee'), after consulting the managing authority, within 3 months of the date of notification to the Member State concerned of the decision approving the programme.

The Member State may set up a single monitoring committee to cover more than one programme.

2. Each monitoring committee shall adopt its rules of procedure, including provisions regarding the prevention of any conflict of interest and the application of the principle of transparency.

3. The monitoring committee shall meet at least once a year and shall review all issues that affect the progress of the programme towards achieving its objectives.

4. The rules of procedure of the monitoring committee and the data and information shared with the monitoring committee shall be published on the website referred

to in Article 49(1), without prejudice to Article 69(5).

5. Paragraphs 1 to 4 of this Article shall not apply to programmes limited to the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation and related technical assistance.

ARTICLE 39 COMPOSITION OF THE MONITORING COMMITTEE

1. Each Member State shall determine the composition of the monitoring committee and shall ensure a balanced representation of the relevant Member State authorities and intermediate bodies and of representatives of the partners referred to in Article 8(1) through a transparent process.

Each member of the monitoring committee shall have a vote. The rules of procedures shall regulate the exercise of the voting right and the details on the procedure in the monitoring committee in accordance with the institutional, legal and financial framework of the Member State concerned.

The rules of procedure may allow non-members, including the EIB, to participate in the work of the monitoring committee.

The monitoring committee shall be chaired by a representative of the Member State or of the managing authority.

The list of the members of the monitoring committee shall be published on the website referred to in Article 49(1).

2. Representatives of the Commission shall participate in the work of the monitoring committee in a monitoring and an advisory capacity.

3. For the **AMIF**, the **ISF** and the **BMVI**, relevant decentralised agencies may participate in the work of the monitoring committee.

ARTICLE 40 FUNCTIONS OF THE MONITORING COMMITTEE

1. The monitoring committee shall examine:

(a) the progress in programme implementation and in achieving the milestones and targets;

(b) any issues that affect the performance of the programme and the measures taken to address those issues;

(c) the contribution of the programme to tackling the challenges identified in the relevant country-specific recommendations that are linked to the implementation of the programme;

(d) the elements of the *ex ante* assessment listed in Article 58(3) and the strategy document referred to in Article 59(1);

(e) the progress made in carrying out evaluations, syntheses of evaluations and any follow-up given to findings;

(f) the implementation of communication and visibility actions;

(g) the progress in implementing operations of strategic importance, where relevant;

(h) the fulfilment of enabling conditions and their application throughout the programming period;

(i) the progress in administrative capacity building for public institutions, partners and beneficiaries, where relevant.

(j) information regarding the implementation of the contribution of the programme to the InvestEU Programme in accordance with Article 14 or of the resources transferred in accordance with Article 26, where applicable.

As regards the programmes supported by the EMFAF, the monitoring committee shall be consulted and shall, if it considers it appropriate, give an opinion on any amendment of the programme proposed by the managing authority.

2. The monitoring committee shall approve:

(a) the methodology and criteria used for the selection of operations, including any changes thereto, without prejudice to points (b), (c) and (d) of Article 33(3); at the request of the Commission, the methodology and criteria used for the selection of operations, including any changes thereto, shall be submitted to the Commission at least 15 working days prior to their submission to the monitoring committee.

(b) the annual performance reports for programmes supported by the **AMIF**, the **ISF** and the **BMVI**, and the final performance report for programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF.

(c) the evaluation plan and any amendment thereto;

(d) any proposal by the managing authority for the amendment of a programme including for transfers in accordance with Article 24(5) and Article 26, with the exception of programmes supported by the EMFAF.

3. The monitoring committee may make recommendations to the managing authority, including on measures to reduce the administrative burden for beneficiaries.

ARTICLE 41 ANNUAL PERFORMANCE REVIEW

1. Review meetings shall be organised once a year between the Commission and each Member State to examine the performance of each programme. Relevant managing authorities shall participate in the review meetings.

The review meeting may cover more than one programme.

The review meeting shall be chaired by the Commission or, if the Member State so requests, co-chaired by the Member State and the Commission.

2. By way of derogation from the first subparagraph of paragraph 1, for programmes supported by the **AMIF**, the **ISF** and the **BMVI**, the review meeting shall be organised at least twice during the programming period.

3. For programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, the Member State shall no later than 1 month before the review meeting provide the Commission with concise information on the elements listed in Article 40(1). That information shall be based on the most recent data available to the Member State.

For programmes limited to the specific objective set out in point (m) of Article 4(1) of the

ESF+ Regulation, the information to be provided, based on the most recent data available, shall be limited to points (a), (b), (e), (f) and (h) of Article 40(1) of this Regulation.

4. The Member State and the Commission may agree not to organise a review meeting. In such a case, the review may be carried out in writing.

5. The outcome of the review meeting shall be recorded in agreed minutes.

6. The Member State shall follow up issues raised during the review meeting which affect the implementation of the programme and shall inform the Commission within 3 months of the measures taken.

7. For programmes supported by the **AMIF**, the **ISF** and the **BMVI**, the Member State shall submit an annual performance report in accordance with the Fund-specific Regulations.

ARTICLE 42 TRANSMISSION OF DATA

1. The Member State or the managing authority shall electronically transmit to the Commission cumulative data for each programme by 31 January, 30 April, 31 July, 30 September and 30 November of each year, with the exception of the data required in point (b) of paragraph 2 and in paragraph 3 that shall be electronically transmitted by 31 January and 31 July of each year, in accordance with the template set out in Annex VII.

The first transmission shall be due by 31 January 2022 and the last one by 31 January 2030.

For priorities supporting the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation, data shall be transmitted annually by 31 January.

The ESF+ Regulation may determine specific rules for the frequency of collecting and transmitting longer-term result indicators.

2. The data shall be broken down for each priority by specific objective and, where applicable, by category of region and shall refer to:

(a) the number of selected operations, their total eligible cost, the contribution from the Funds and the total eligible expenditure declared by the beneficiaries to the managing authority, all broken down by type of intervention;

(b) the values of output and result indicators for selected operations and values achieved by operations.

3. For financial instruments data shall also be provided on the following:

(a) eligible expenditure by type of financial product;

(b) amount of management costs and fees declared as eligible expenditure;

(c) the amount, by type of financial product, of private and public resources mobilised in addition to the Funds;

(d) interest and other gains generated by support from the Funds to financial instruments referred to in Article 60 and resources returned attributable to support from the Funds as referred to in Article 62;

(e) total value of loans, equity or quasi-equity investments in final recipients which were guaranteed with programme resources and which were actually disbursed to final recipients.

4. The data submitted in accordance with this Article shall be reliable and reflect the data

stored electronically as referred to in point (e) of Article 72(1) as at the end of the month preceding the month of submission.

5. The Member State or the managing authority shall publish or provide a link to all the data transmitted to the Commission on the website portal referred to in point (b) of Article 46 or on the website referred to in Article 49(1).

ARTICLE 43 FINAL PERFORMANCE REPORT

1. For programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, each managing authority shall submit to the Commission a final performance report of the programme by 15 February 2031.

2. The final performance report shall assess the achievement of programme objectives based on the elements listed in Article 40(1) with the exception of the information provided under point (d) of that paragraph.

3. The Commission shall examine the final performance report and inform the managing authority of any observations within 5 months of the date of receipt of the final performance report. Where such observations are made, the managing authority shall provide all necessary information with regard to those observations and, where appropriate, inform the Commission, within 3 months, of measures taken. The Commission shall inform the managing authority of the acceptance of the report, within 2 months of receiving all necessary information. Where the Commission does not inform the managing authority within those deadlines, the report shall be deemed to be accepted.

4. The managing authority shall publish final performance reports on the website referred to in Article 49(1).

5. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt an implementing act establishing the template for the final per-

formance report. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 115(2).

CHAPTER II EVALUATION

ARTICLE 44 EVALUATIONS BY THE MEMBER STATE

1. The Member State or the managing authority shall carry out evaluations of the programmes related to one or more of the following criteria: effectiveness, efficiency, relevance, coherence and Union added value, with the aim to improve the quality of the design and implementation of programmes. Evaluations may also cover other relevant criteria, such as inclusiveness, non-discrimination and visibility, and may cover more than one programme.

2. In addition, an evaluation for each programme to assess its impact shall be carried out by 30 June 2029.

3. Evaluations shall be entrusted to internal or external experts who are functionally independent.

4. The Member State or the managing authority shall ensure the necessary procedures are set up to produce and collect the data necessary for evaluations.

5. The Member State or the managing authority shall draw up an evaluation plan which may cover more than one programme. For the **AMIF**, the **ISF** and the **BMVI**, that plan shall include a mid-term evaluation to be completed by 31 March 2024.

6. The Member State or the managing authority shall submit the evaluation plan to the

monitoring committee no later than one year after the decision approving the programme.

7. All evaluations shall be published on the website referred to in Article 49(1).

ARTICLE 45 EVALUATION BY THE COMMISSION

1. The Commission shall carry out a mid-term evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of each Fund by the end of 2024. The Commission may make use of all relevant information already available in accordance with Article 128 of the Financial Regulation.

2. The Commission shall carry out a retrospective evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of each Fund by 31 December 2031. In the case of the ERDF, the ESF+, the Cohesion Fund and the EMFAF, that evaluation shall focus in particular on the social, economic and territorial impact of those funds in relation to the policy objectives referred to in Article 5(1).

3. The Commission shall publish the results of the retrospective evaluation on its website and communicate those results to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

CHAPTER III VISIBILITY, TRANSPARENCY AND COMMUNICATION

SECTION I VISIBILITY OF SUPPORT FROM THE FUNDS

ARTICLE 46 VISIBILITY

Each Member State shall ensure:

(a) the visibility of support in all activities relating to operations supported by the Funds with particular attention to operations of strategic importance;

(b) communication to Union citizens of the role and achievements of the Funds through a single website portal providing access to all programmes involving that Member State.

ARTICLE 47 EMBLEM OF THE UNION

Member States, managing authorities and beneficiaries shall use the emblem of the Union in accordance with Annex IX when carrying out visibility, transparency and communication activities.

ARTICLE 48 COMMUNICATION OFFICERS AND NETWORKS

1. Each Member State shall identify a communication coordinator for visibility, transparency and communication activities in relation to the support from the Funds, including programmes under the European territorial cooperation goal (Interreg) where

that Member State hosts the managing authority. The communication coordinator may be appointed at the level of the body defined under Article 71(6) and shall coordinate communication and visibility measures across programmes.

The communication coordinator shall involve in the visibility, transparency and communication activities the following bodies:

(a) European Commission Representations and European Parliament Liaison Offices in the Member States, as well as Europe Direct Information Centres and other relevant networks, educational and research organisations;

(b) other relevant partners referred to in Article 8(1).

2. Each managing authority shall identify a communication officer for each programme. A communication officer may be responsible for more than one programme.

3. The Commission shall maintain the network comprising communication coordinators, communication officers and Commission representatives to exchange information on visibility, transparency and communication activities.

SECTION II TRANSPARENCY OF IMPLEMENTATION OF THE FUNDS AND COMMUNICATION ON PROGRAMMES

ARTICLE 49 RESPONSIBILITIES OF THE MANAGING AUTHORITY

1. The managing authority shall ensure that, within 6 months of the decision approving the programme, there is a website where information on programmes under its responsibility is available, covering the programme's objectives, activities, available funding opportunities and achievements.

2. The managing authority shall ensure the publication on the website referred to in paragraph 1, or on the single website portal referred to in point (b) of Article 46, of a timetable of the planned calls for proposals, that is updated at least three times a year, with the following indicative data:

- (a) geographical area covered by the call for proposal;
- (b) policy objective or specific objective concerned;
- (c) type of eligible applicants;
- (d) total amount of support for the call;
- (e) start and end date of the call.

3. The managing authority shall make the list of operations selected for support by the Funds publicly available on the website in at least one of the official languages of the institutions of the Union and shall update that list at least every 4 months. Each operation shall have a unique code. The list shall contain the following data:

(a) in the case of legal entities, the beneficiary's and, in the case of public procurement, the contractor's name;

(b) where the beneficiary is a natural person the first name and the surname;

(c) for EMFAF operations linked to a fishing vessel, the Union fishing fleet register identification number as referred to in Commission Implementing Regulation (EU) 2017/218⁽⁴⁷⁾;

(d) name of the operation;

(e) the purpose of the operation and its expected or actual achievements;

(f) start date of the operation;

(g) expected or actual date of completion of the operation;

(h) total cost of the operation;

(i) fund concerned;

(j) specific objective concerned;

(k) Union co-financing rate;

(l) location indicator or geolocation for the operation and country concerned;

(m) for mobile operations or operations covering several locations the location of the beneficiary where the beneficiary is a legal

⁽⁴⁷⁾ Commission Implementing Regulation (EU) 2017/218 of 6 February 2017 on the Union fishing fleet register (OJ L 34, 9.2.2017, p. 9).

entity; or the NUTS 2 level region where the beneficiary is a natural person;

(n) type of intervention for the operation in accordance with point (g) of Article 73(2).

For data referred to in points (b) and (c) of the first subparagraph, the data shall be removed 2 years from the date of the initial publication on the website.

4. The data referred to in paragraphs 2 and 3 of this Article shall be published on the website referred to in paragraph 1, or on the single website portal referred to in point (b) of Article 46 of this Regulation, in open, machine-readable formats, as set out in Article 5(1) of the Directive (EU) 2019/1024 of the European Parliament and of the Council⁽⁴⁸⁾, which allows data to be sorted, searched, extracted, compared and reused.

5. The managing authority shall inform the beneficiaries that the data will be made public before the publication takes place in accordance with this Article.

6. The managing authority shall ensure that communication and visibility material including at the level of beneficiaries is made available upon request to Union institutions, bodies, offices or agencies and that a royalty-free, non-exclusive and irrevocable licence to use such material and any pre-existing rights attached to it is granted to the Union in accordance with Annex IX. This shall not require significant additional costs or a significant administrative burden for the beneficiaries or for the managing authority.

⁽⁴⁸⁾ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

ARTICLE 50 RESPONSIBILITIES OF BENEFICIARIES

1. Beneficiaries and bodies implementing financial instruments shall acknowledge support from the Funds, including resources reused in accordance with Article 62, to the operation by:

(a) providing on the beneficiary's official website, where such a site exists, and social media sites, a short description of the operation, proportionate to the level of support, including its aims and results, and highlighting the financial support from the Union;

(b) providing a statement highlighting the support from the Union in a visible manner on documents and communication material relating to the implementation of the operation, intended for the public or for participants;

(c) displaying durable plaques or billboards clearly visible to the public, that present the emblem of the Union in accordance with the technical characteristics laid down in Annex IX, as soon as the physical implementation of operations involving physical investment starts or purchased equipment is installed, in respect of the following:

(i) operations supported by the ERDF and the Cohesion Fund the total cost of which exceeds EUR 500000;

(ii) operations supported by the ESF+, the JTF, the EMFAF, the **AMIF**, the **ISF** or the **BMVI** the total cost of which exceeds EUR 100000;

(d) for operations not falling under point (c), displaying at a location clearly visible to the public at least one poster of a minimum size A3 or equivalent electronic display with information about the operation highlighting the support from the Funds; where the benefi-

ciary is a natural person, the beneficiary shall ensure, to the extent possible, that appropriate information is available, highlighting the support from the funds, at a location visible to the public or through an electronic display;

(e) for operations of strategic importance and operations the total cost of which exceeds EUR 10000000, organising a communication event or activity, as appropriate, and involving the Commission and the responsible managing authority in a timely manner.

Where an ESF+ beneficiary is a natural person or for operations supported under the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation, the requirement set out in point (d) of the first subparagraph shall not apply.

By derogation from points (c) and (d) of the first subparagraph, for operations supported by the **AMIF**, the **ISF** and the **BMVI**, the document setting out the conditions for support

may establish specific requirements for the public display of information on the support from the Funds where this is justified by reasons of security and public order in accordance with Article 69(5).

2. For small project funds, the beneficiary shall comply with the obligations under Article 36(5) of the Interreg Regulation.

For financial instruments, the beneficiary shall ensure by means of the contractual terms that final recipients comply with the requirements set out in point (c) of paragraph 1.

3. Where the beneficiary does not comply with its obligations under Article 47 or paragraphs 1 and 2 of this Article, and where remedial actions have not been put into place, the managing authority shall apply measures, taking into account the principle of proportionality, by cancelling up to 3 % of the support from the Funds to the operation concerned.

TITLE V FINANCIAL SUPPORT FROM THE FUNDS

CHAPTER I FORMS OF UNION CONTRIBUTION

ARTICLE 51 FORMS OF UNION CONTRIBUTION TO PROGRAMMES

The Union contribution may take any of the following forms:

(a) financing not linked to costs of the relevant operations in accordance with Article 95 and based on either of the following:

- (i) the fulfilment of conditions;
- (ii) the achievement of results;

(b) reimbursement of support provided to beneficiaries in accordance with Chapters II and III of this Title;

(c) unit costs in accordance with Article 94, which cover all or certain specific categories of eligible costs, clearly identified in advance by reference to an amount per unit;

(d) lump sums in accordance with Article 94, which cover in global terms all or certain specific categories of eligible costs, clearly identified in advance;

(e) flat-rate financing in accordance with Article 94 or Article 36(5), which covers specific categories of eligible costs, clearly identified in advance, by applying a percentage;

(f) a combination of the forms referred to in points (a) to (e).

CHAPTER II FORMS OF SUPPORT BY MEMBER STATES

ARTICLE 52 FORMS OF SUPPORT

Member States shall use the contribution from the Funds to provide support to benefi-

ciaries in the form of grants, financial instruments or prizes or a combination thereof.

SECTION I FORMS OF GRANTS

ARTICLE 53 FORMS OF GRANTS

1. Grants provided by Member States to beneficiaries may take any of the following forms:

(a) reimbursement of eligible costs actually incurred by a beneficiary or the private partner of PPP operations and paid in implementing operations, contributions in kind and depreciation;

(b) unit costs;

(c) lump sums;

(d) flat-rate financing;

(e) a combination of the forms referred to in points (a) to (d), provided that each form covers different categories of costs or where they are used for different projects forming a part of an operation or for successive phases of an operation;

(f) financing not linked to costs, provided such grants are covered by a reimburse-

ment of the Union contribution pursuant to Article 95.

2. Where the total cost of an operation does not exceed EUR 200000, the contribution provided to the beneficiary from the ERDF, the ESF+, the JTF, the **AMIF**, the **ISF** and the **BMVI** shall take the form of unit costs, lump sums or flat rates, except for operations for which the support constitutes State aid. Where flat-rate financing is used, only the categories of costs to which the flat -rate applies may be reimbursed in accordance with point (a) of paragraph 1.

By way of derogation from the first subparagraph of this paragraph, the managing authority may agree to exempt some operations in the area of research and innovation from the requirement set out in that subparagraph, provided that the monitoring committee has given prior approval for such an exemption. In addition, allowances and salaries paid to participants may be reimbursed in accordance with point (a) of paragraph 1.

3. The amounts for the forms of grants referred to under points (b), (c) and (d) of

paragraph 1, shall be established in one of the following ways:

(a) a fair, equitable and verifiable calculation method based on:

(i) statistical data, other objective information or an expert judgement;

(ii) the verified historical data of individual beneficiaries;

(iii) the application of the usual cost accounting practices of individual beneficiaries;

(b) draft budget established on a case-by-case basis and agreed *ex ante* by the body selecting the operation, where the total cost of the operation does not exceed EUR 200000;

(c) in accordance with the rules for application of corresponding unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation;

(d) in accordance with the rules for application of corresponding unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of operation;

(e) flat rates and specific methods established by or on the basis of this Regulation or the Fund-specific Regulations.

ARTICLE 54 FLAT-RATE FINANCING FOR INDIRECT COSTS CONCERNING GRANTS

Where a flat rate is used to cover indirect costs of an operation, it may be based on one of the following:

(a) up to 7 % of eligible direct costs, in which case the Member State shall not be required

to perform a calculation to determine the applicable rate;

(b) up to 15 % of eligible direct staff costs, in which case the Member State shall not be required to perform a calculation to determine the applicable rate;

(c) up to 25 % of eligible direct costs, provided that the rate is calculated in accordance with point (a) of Article 53(3).

In addition, where a Member State has calculated a flat rate in accordance with point (a) of Article 67(5) of Regulation (EU) No 1303/2013, that flat rate may be used for a similar operation for the purposes of point (c) of this Article.

ARTICLE 55 DIRECT STAFF COSTS CONCERNING GRANTS

1. Direct staff costs of an operation may be calculated at a flat rate of up to 20 % of the direct costs other than the direct staff costs of that operation, without there being a requirement for the Member State to perform a calculation to determine the applicable rate, provided that the direct costs of the operation do not include public works contracts or supply or service contracts which exceed in value the thresholds set out in Article 4 of Directive 2014/24/EU of the European Parliament and of the Council⁽⁴⁹⁾ or in Article 15 of Directive 2014/25/EU of the European Parliament and of the Council⁽⁵⁰⁾.

⁽⁴⁹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽⁵⁰⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Where a flat rate is applied in accordance with the first subparagraph for the **AMIF**, the **ISF** and the **BMVI**, that flat rate shall only be applied to the direct costs of the operation not subject to public procurement.

2. For the purposes of determining direct staff costs, an hourly rate may be calculated in one of the following ways:

(a) by dividing the latest documented annual gross employment costs by 1720 hours for persons working full time, or by a corresponding pro-rata of 1720 hours, for persons working part-time;

(b) by dividing the latest documented monthly gross employment costs by the average monthly working time of the person concerned in accordance with applicable national rules referred to in the employment or work contract or an appointment decision (both referred to as the employment document).

3. When applying the hourly rate calculated in accordance with paragraph 2, the total number of hours declared per person for a given year or month shall not exceed the number of hours used for the calculation of that hourly rate.

4. Where annual gross employment costs are not available, they may be derived from the available documented gross employment costs or from the employment document, duly adjusted for a 12-month period.

5. Staff costs related to individuals who work on part-time assignment on the operation may be calculated as a fixed percentage of the gross employment costs, in line with a fixed percentage of time worked on the operation per month, with no obligation to establish a separate working time registration system. The employer shall issue a document for employees setting out that fixed percentage.

ARTICLE 56 **FLAT RATE FINANCING FOR ELIGIBLE COSTS OTHER THAN DIRECT STAFF COSTS CONCERNING GRANTS**

1. A flat rate of up to 40 % of eligible direct staff costs may be used in order to cover the remaining eligible costs of an operation. The Member State shall not be required to perform a calculation to determine the applicable rate.

2. For operations supported by the ERDF, the ESF+, the JTF, the **AMIF**, the **ISF** and the **BMVI**, salaries and allowances paid to participants shall be considered additional eligible costs not included in the flat rate.

3. The flat rate referred to in paragraph 1 of this Article shall not be applied to staff costs calculated on the basis of a flat rate as referred to in Article 55(1).

ARTICLE 57 **GRANTS UNDER CONDITIONS**

1. Member States may provide grants under conditions to beneficiaries which are fully or partially repayable as specified in the document setting out the conditions for support.

2. Repayments by the beneficiary shall be made under the conditions agreed by the managing authority and the beneficiary.

3. Member States shall reuse resources paid back by the beneficiary for the same purpose or in accordance with the objectives of the programme concerned by 31 December 2030, in the form of grants under conditions or of a financial instrument or in another form of support. The amounts paid back and information about their reuse shall be included in the final performance report.

4. Member States shall adopt the necessary measures to ensure that the resources are kept in separate accounts or under appropriate accounting codes.

5. Union resources paid back by beneficiaries at any time, but not reused by 31 December 2030, shall be repaid to the budget of the Union in accordance with Article 88.

SECTION II FINANCIAL INSTRUMENTS

ARTICLE 58 FINANCIAL INSTRUMENTS

1. Managing authorities may provide a programme contribution, from one or more programmes to existing or newly created financial instruments set up at national, regional, transnational or cross border level and implemented directly by, or under the responsibility of, the managing authority which contribute to achieving specific objectives.

2. Financial instruments shall provide support to final recipients only for investments in both tangible and intangible assets as well as working capital expected to be financially viable and which do not find sufficient funding from market sources. Such support shall be in compliance with applicable Union State aid rules.

Such support shall be provided only for the elements of the investments which are not physically completed or fully implemented at the date of the investment decision.

3. Appropriate support from the Funds through financial instruments shall be based on an *ex ante* assessment drawn up under the responsibility of the managing authority. The *ex ante* assessment shall be completed before managing authorities make programme contributions to financial instruments.

The *ex ante* assessment shall include at least the following elements:

(a) the proposed amount of programme contribution to a financial instrument and the estimated leverage effect accompanied by a short justification;

(b) the proposed financial products to be offered, including the possible need for differentiated treatment of investors;

(c) the proposed target group of final recipients;

(d) the expected contribution of the financial instrument to the achievement of specific objectives.

The *ex ante* assessment may be reviewed or updated, may cover part or the entire territory of the Member State, and may be based on existing or updated *ex ante* assessments.

4. Support to final recipients may be combined with support from any Fund or another Union instrument and may cover the same expenditure item. In such a case, the Fund's support under the financial instrument, which is part of a financial instrument operation, shall not be declared to the Commission for support under another form, another Fund or another Union instrument.

5. Financial instruments may be combined with programme support in the form of grants in a single financial instrument operation,

within a single funding agreement, where both distinct forms of support shall be provided by the body implementing the financial instrument. In such a case, the rules applicable to financial instruments shall apply to that single financial instrument operation. The programme support in the form of grants shall be directly linked and necessary for the financial instrument and shall not exceed the value of the investments supported by the financial product.

6. In the case of combined support under paragraphs 4 and 5, separate records shall be kept for each source of support.

7. The sum of all forms of combined support shall not exceed the total amount of the expenditure item concerned. Grants shall not be used to reimburse support received from financial instruments. Financial instruments shall not be used to pre-finance grants.

ARTICLE 59 IMPLEMENTATION OF FINANCIAL INSTRUMENTS

1. Financial instruments implemented directly by the managing authority may only provide loans or guarantees. The managing authority shall set out the terms and conditions of the programme contribution to the financial instrument in a strategy document which shall include the elements set out in Annex X.

2. Financial instruments implemented under the responsibility of the managing authority may be either of the following:

(a) an investment of programme resources into the capital of a legal entity;

(b) separate blocks of finance or fiduciary accounts.

The managing authority shall select the body implementing a financial instrument.

3. The managing authority may directly award a contract for the implementation of a financial instrument to:

(a) the EIB;

(b) international financial institutions in which a Member State is a shareholder;

(c) a publicly-owned bank or institution, established as a legal entity carrying out financial activities on a professional basis, which fulfils all of the following conditions:

(i) there is no direct private capital participation, with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the relevant bank or institution, and with the exception of forms of private capital participation which confer no influence on decisions regarding the day-to-day management of the financial instrument supported by the Funds;

(ii) operates under a public policy mandate given by the relevant authority of a Member State at national or regional level, which includes carrying out, as all or part of its activities, economic development activities contributing to the objectives of the Funds;

(iii) carries out, as all or part of its activities, economic development activities contributing to the objectives of the Funds in regions, policy areas or sectors for which access to funding from market sources is not generally available or sufficient;

(iv) operates without primarily focusing on maximising profits, but ensures a long-term financial sustainability for its activities;

(v) ensures that the direct award of a contract referred to in point (b) does not provide any direct or indirect benefit for commercial activities by way of appropriate measures in accordance with applicable law;

(vi) is subject to the supervision of an independent authority in accordance with applicable law,

(d) other bodies, also entering under the scope of Article 12 of Directive 2014/24/EU.

4. When the body selected by the managing authority implements a holding fund, that body may further select other bodies to implement specific funds.

5. The terms and conditions of programme contributions to financial instruments implemented in accordance with paragraph 2, shall be set out in funding agreements between:

(a) the duly mandated representatives of the managing authority and the body implementing a holding fund, where applicable;

(b) the duly mandated representatives of the managing authority, or, where applicable, the body implementing a holding fund and the body implementing a specific fund.

Those funding agreements shall include all the elements set out in Annex X.

6. The financial liability of the managing authority shall not exceed the amount committed by the managing authority to the financial instrument under the relevant funding agreements.

7. The bodies implementing the financial instruments concerned, or in the context of guarantees, the body providing the underlying loans, shall support final recipients, taking due account of the programme objectives and the potential for the financial viability of the investment as justified in the business plan or an equivalent document. The selection of final recipients shall be transparent and shall not give rise to a conflict of interest.

8. National co-financing of a programme may be provided either by the managing authority or at the level of holding funds, or at the level of specific funds, or at the level of investments in final recipients, in accordance with the Fund-specific rules. When the national co-financing is provided at the level of investments in final recipients, the body implementing financial instruments shall keep documentary evidence demonstrating the eligibility of the underlying expenditure.

9. The managing authority implementing directly the financial instrument pursuant to paragraph 1 of this Article, or the body implementing the financial instrument pursuant to paragraph 2 of this Article, shall keep separate accounts or maintain an accounting code for each priority or, for the EMFAF, each specific objective and, where applicable, each category of region for each programme contribution, and separately for resources referred to in Articles 60 and 62, respectively.

ARTICLE 60 INTEREST AND OTHER GAINS GENERATED BY SUPPORT FROM THE FUNDS TO FINANCIAL INSTRUMENTS

1. Support from the Funds paid to financial instruments shall be placed in accounts in financial institutions domiciled within Member States and shall be managed in line with active treasury management and the principle of sound financial management.

2. Interest and other gains attributable to support from the Funds paid to financial instruments shall be used under the same objective or objectives, as the initial support from the Funds, including for the payments of management fees and the reimbursement of management costs incurred by the bodies implementing the financial instrument in accordance with point (d) of Article 68(1), either within the same financial instrument; or, following the winding up of the financial instrument, in other financial instruments or other forms of support for further investments in final recipients, until the end of the eligibility period.

3. Interest and other gains referred to in paragraph 2 not used in accordance with that provision shall be deducted from the accounts submitted for the final accounting year.

ARTICLE 61 DIFFERENTIATED TREATMENT OF INVESTORS

1. Support from the Funds to financial instruments invested in final recipients and any type of income generated by those investments, including resources paid back, which are attributable to the support from the Funds, may be used for differentiated treatment of investors operating under the market economy principle through an appropriate sharing of risks and profits, taking into account the principle of sound financial management.

2. The level of such differentiated treatment shall not exceed that which is necessary

to create incentives for attracting private resources, established either by a competitive process or an independent assessment.

ARTICLE 62 RE-USE OF RESOURCES ATTRIBUTABLE TO THE SUPPORT FROM THE FUNDS

1. Resources paid back, before the end of the eligibility period, to financial instruments from investments in final recipients or from the release of resources set aside for guarantee contracts, including capital repayments and any type of generated income that is attributable to the support from the Funds, shall be re-used in the same or other financial instruments for further investments in final recipients, to cover the losses in the nominal amount of the Funds contribution to the financial instrument resulting from negative interest, if such losses occur despite active treasury management, or for any management costs and fees associated to such further investments, taking into account the principle of sound financial management.

2. Member States shall adopt the necessary measures to ensure that the resources referred to in paragraph 1 and paid back to financial instruments during a period of at least 8 years after the end of the eligibility period, are re-used in accordance with the policy objectives of the programme or programmes under which they were set up, either within the same financial instrument or, following the exit of those resources from the financial instrument, in other financial instruments or in other forms of support.

CHAPTER III ELIGIBILITY RULES

ARTICLE 63 ELIGIBILITY

1. The eligibility of expenditure shall be determined on the basis of national rules, except where specific rules are laid down in, or on the basis of, this Regulation or the Fund-specific Regulations.

2. Expenditure shall be eligible for a contribution from the Funds if it has been incurred by a beneficiary or the private partner of a PPP operation and paid in implementing operations, between the date of submission of the programme to the Commission or from 1 January 2021, whichever date is earlier, and 31 December 2029.

For costs reimbursed pursuant to points (b), (c) and (f) of Article 53(1), the actions constituting the basis for reimbursement shall be carried out between the date of submission of the programme to the Commission or from 1 January 2021, whichever is earlier, and 31 December 2029.

3. For the ERDF, expenditure related to operations covering more than one category of region as set out in Article 108(2) within a Member State shall be allocated to the categories of region concerned on a *pro rata* basis, based on objective criteria.

For the ESF+, expenditure related to operations may be allocated to any of the categories of region of the programme under the condition that the operation contributes to the achievement of the specific objectives of the programme.

For the JTF, expenditure related to operations shall contribute to the implementation of the relevant territorial just transition plan.

4. All or part of an operation may be implemented outside of a Member State, including outside the Union, provided that the operation contributes to the objectives of the programme.

5. For grants taking the forms of points (b), (c) and (d) of Article 53(1), the expenditure which shall be eligible for a contribution from the Funds shall equal the amounts calculated in accordance with Article 53(3).

6. Operations shall not be selected for support by the Funds where they have been physically completed or fully implemented before the application for funding under the programme is submitted, irrespective of whether all related payments have been made. This paragraph shall not apply to the EMFAF compensation for additional costs in outermost regions pursuant to Article 24 of the EMFAF Regulation and to support from the additional funding for the outermost regions pursuant to point (e) of Article 110(1) of this Regulation.

7. Expenditure which becomes eligible as a result of a programme amendment shall be eligible from the date of the submission of the corresponding request to the Commission.

For the ERDF, the Cohesion Fund and the JTF, expenditure becomes eligible as a result of a programme amendment when a new type of intervention referred to in Table 1 of Annex I or, for the EMFAF, the **AMIF**, the **ISF** and the **BMVI**, in the Fund-specific Regulations is added in the programme.

Where a programme is amended in order to provide a response to natural disasters, the programme may provide that the eligibility of expenditure relating to such amendment

starts from the date when the natural disaster occurred.

8. Where a new programme is approved, expenditure shall be eligible from the date of submission of the corresponding request to the Commission.

9. An operation may receive support from one or more Funds or from one or more programmes and from other Union instruments. In such cases, expenditure declared in a payment application for one of the Funds shall not be declared for either of the following:

(a) support from another Fund or Union instrument;

(b) support from the same Fund under another programme.

The amount of expenditure to be entered into a payment application of a Fund may be calculated for each Fund and for the programme or programmes concerned on a *pro rata* basis, in accordance with the document setting out the conditions for support.

ARTICLE 64 NON-ELIGIBLE COSTS

1. The following costs shall not be eligible for a contribution from the Funds:

(a) interest on debt, except in relation to grants given in the form of an interest rate subsidy or guarantee fee subsidy;

(b) the purchase of land for an amount exceeding 10 % of the total eligible expenditure for the operation concerned; for derelict sites and for those formerly in industrial use which comprise buildings, that limit shall be increased to 15 %; for financial instruments, those percentages shall apply to the programme contribution paid to the final recipient or, in case of guarantees, to the amount of the underlying loan;

(c) value added tax ('VAT'), except:

(i) for operations the total cost of which is below EUR 5000000 (including VAT);

(ii) for operations the total cost of which is at least EUR 5000000 (including VAT) where it is non-recoverable under national VAT legislation;

(iii) investments made by final recipients in the context of financial instruments; where these investments are supported by financial instruments combined with programme support in the form of a grant as referred to in Article 58(5), the VAT shall not be eligible for the part of the investment cost which corresponds to the programme support in the form of a grant, unless the VAT for the investment cost is non-recoverable under national VAT legislation or where the part of the investment cost corresponding to the programme support in the form of the grant is below EUR 5000000 (including VAT);

(iv) for small project funds and investments made by final recipients in the context of small project funds under Interreg.

Point (b) of the first subparagraph shall not apply to operations concerning environmental conservation.

2. The Fund-specific Regulations may identify additional costs that are not eligible for a contribution from each Fund.

ARTICLE 65 DURABILITY OF OPERATIONS

1. The Member State shall repay the contribution from the Funds to an operation comprising investment in infrastructure or

productive investment, if within 5 years of the final payment to the beneficiary or within the period of time set out in State aid rules, where applicable, that operation is subject to any of the following:

- (a) a cessation or transfer of a productive activity outside the NUTS level 2 region in which it received support;
- (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
- (c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.

The Member State may reduce the time limit set out in the first subparagraph to 3 years in cases concerning the maintenance of investments or jobs created by SMEs.

Repayment by the Member State due to non-compliance with this Article shall be made in proportion to the period of non-compliance.

2. Operations supported by the ESF+ or by the JTF in accordance with points (k), (l) and (m) of Article 8(2) of the JTF Regulation shall repay the support when they are subject to an obligation for maintenance of investment under State aid rules.

3. Paragraphs 1 and 2 shall not apply to programme contributions to or by financial instruments or to any operation which undergoes cessation of a productive activity due to a non-fraudulent bankruptcy.

ARTICLE 66 RELOCATION

1. Expenditure supporting relocation shall not be eligible for a contribution from the Funds.

2. Where a contribution from the Funds constitutes State aid, the managing authority shall satisfy itself that the contribution does not support relocation in accordance with Article 14(16) of Regulation (EU) No 651/2014.

ARTICLE 67 SPECIFIC ELIGIBILITY RULES FOR GRANTS

1. Contributions in kind in the form of provision of works, goods, services, land and real estate for which no payment supported by invoices, or documents of equivalent probative value, has been made, may be eligible where the following conditions are fulfilled:

(a) the public support paid to the operation which includes contributions in kind does not exceed the total eligible expenditure, excluding contributions in kind, at the end of the operation;

(b) the value attributed to contributions in kind does not exceed the costs generally accepted on the market in question;

(c) the value and the delivery of the contribution in kind can be independently assessed and verified;

(d) in the case of provision of land or real estate, a payment, for the purposes of a lease agreement of a nominal amount per annum not exceeding a single unit of the currency of the Member State, may be made;

(e) in the case of contributions in kind in the form of unpaid work, the value of that work is determined by taking into account the verified time spent and the rate of remuneration for equivalent work.

The value of the land or real estate referred to in point (d) of the first subparagraph of this paragraph shall be certified by an independent qualified expert or duly authorised

official body and shall not exceed the limit laid down in point (b) of Article 64(1).

2. Depreciation costs for which no payment supported by invoices has been made may be considered to be eligible where the following conditions are fulfilled:

(a) the eligibility rules of the programme allow for it;

(b) the amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices for eligible costs where those costs were reimbursed in the form referred to in point (a) of Article 53(1);

(c) the costs relate exclusively to the period of support for the operation;

(d) public grants have not contributed towards the acquisition of the depreciated assets.

ARTICLE 68 SPECIFIC ELIGIBILITY RULES FOR FINANCIAL INSTRUMENTS

1. Eligible expenditure of a financial instrument shall be the total amount of programme contribution paid to, or, in the case of guarantees, set aside for guarantee contracts, by the financial instrument within the eligibility period, where that amount corresponds to:

(a) payments to final recipients, in the case of loans, equity and quasi-equity investments;

(b) resources set aside for guarantee contracts, whether outstanding or having already come to maturity, in order to honour possible guarantee calls for losses, calculated based on a multiplier ratio established for the respective underlying disbursed new loans, equity or quasi-equity investments in final recipients;

(c) payments to, or for the benefit of, final recipients where financial instruments are combined with other Union contribution in a single financial instrument operation in accordance with Article 58(5);

(d) payments of management fees and reimbursements of management costs incurred by the bodies implementing the financial instrument.

2. Where a financial instrument is implemented across consecutive programming periods, support may be provided to, or for the benefit of, final recipients, including management costs and fees, based on agreements made under the previous programming period, provided that such support complies with the eligibility rules of the subsequent programming period. In such cases, the eligibility of expenditure submitted in payment applications shall be determined in accordance with the rules of the respective programming period.

3. For point (b) of paragraph 1, if the entity benefiting from the guarantees has not disbursed the planned amount of new loans, equity or quasi-equity investments to final recipients in accordance with the multiplier ratio, the eligible expenditure shall be reduced proportionally. The multiplier ratio may be reviewed, where justified by subsequent changes in market conditions. Such a review shall not have retroactive effect.

4. For point (d) of paragraph 1, management fees shall be performance based.

Where bodies implementing a holding fund are selected through a direct award of contract pursuant to Article 59(3), the amount of management costs and fees paid to those bodies that can be declared as eligible expenditure shall be subject to a threshold of up to 5 % of the total amount of programme

contributions disbursed to final recipients in loans or set aside for guarantee contracts and up to 7 % of the total amount of programme contributions disbursed to final recipients in equity and quasi-equity investments.

Where bodies implementing a specific fund are selected through a direct award of contract pursuant to Article 59(3), the amount of management costs and fees paid to those bodies that can be declared as eligible expenditure shall be subject to a threshold of up to 7 % of the total amount of programme contributions disbursed to final recipients in loans or set aside for in guarantee contracts and up to 15 % of the total amount of programme contributions disbursed to final recipients in equity or quasi-equity investments.

Where bodies implementing a holding fund or specific funds, or both, are selected through a competitive tender in accordance with the applicable law, the amount of management costs and fees shall be established in the funding agreement and shall reflect the result of the competitive tender.

5. Where arrangement fees, or any part thereof, are charged to final recipients, they shall not be declared as eligible expenditure.

6. The eligible expenditure declared in accordance with paragraph 1 shall not exceed the sum of the total amount of support from the Funds paid for the purposes of that paragraph and the corresponding national co-financing.

TITLE VI MANAGEMENT AND CONTROL

CHAPTER I GENERAL RULES ON MANAGEMENT AND CONTROL

ARTICLE 69 RESPONSIBILITIES OF MEMBER STATES

1. Member States shall have management and control systems for their programmes in accordance with this Title and ensure their functioning in accordance with the principle of sound financial management and the key requirements listed in Annex XI.

2. Member States shall ensure the legality and regularity of expenditure included in the accounts submitted to the Commission and shall take all required actions to prevent, detect and correct and report on irregularities including fraud. Those actions comprise the collection of information on the beneficial owners of the recipients of Union funding in accordance with Annex XVII. The

rules related to the collection and processing of such data shall comply with applicable data protection rules. The Commission, the European Anti-Fraud Office and the Court of Auditors shall have the necessary access to that information.

For programmes supported by the **AMIF**, the **ISF** and the **BMVI**, the obligations concerning the collection of information on the beneficial owners of the recipients of Union funding in accordance with Annex XVII as set out in the first subparagraph shall apply as from 1 January 2023.

3. Member States shall, upon request of the Commission, take the actions necessary to ensure the effective functioning of their management and control systems and the

legality and regularity of expenditure submitted to the Commission. Where that action is an audit, the Commission officials or their authorised representatives may take part.

4. Member States shall ensure the quality, accuracy and reliability of the monitoring system and of data on indicators.

5. Member States shall ensure the publication of information in accordance with the requirements established in this Regulation and in the Fund-specific Regulations, except where Union law or national law excludes such publication for reasons of security, public order, criminal investigations, or protection of personal data in accordance with Regulation (EU) 2016/679.

6. Member States shall have systems and procedures to ensure that all documents required for the audit trail as set out in Annex XIII are kept in accordance with the requirements set out in Article 82.

7. Member States shall make arrangements to ensure the effective examination of complaints concerning the Funds. The scope, rules and procedures concerning those arrangements shall be the responsibility of Member States in accordance with their institutional and legal framework. This is without prejudice to the general possibility to address complaints to the Commission by citizens and stakeholders. Member States shall, upon request by the Commission, examine complaints submitted to the Commission falling within the scope of their programmes and shall inform the Commission of the results of these examinations.

For the purposes of this Article, complaints cover any dispute between potential and selected beneficiaries with regard to the proposed or selected operation and any disputes with third parties on the implementation of

the programme or operations thereunder, irrespective of the qualification of means of legal redress established under national law.

8. Member States shall ensure that all exchanges of information between beneficiaries and the programme authorities are carried out by means of electronic data exchange systems in accordance with Annex XIV.

Member States shall promote the benefits of electronic data exchange and provide all necessary support to beneficiaries in this respect.

By way of derogation from the first subparagraph, the managing authority may exceptionally accept, upon the explicit request of a beneficiary, the exchanges of information in paper format, without prejudice to its obligation to record and store data in accordance with point (e) of Article 72(1).

For programmes supported by the EMFAF, the **AMIF**, the **ISF** and the **BMVI**, the first subparagraph shall apply as from 1 January 2023.

The first subparagraph shall not apply to programmes or priorities under point (m) of Article 4(1) of the ESF+ Regulation.

9. Member States shall ensure that all official exchanges of information with the Commission are carried out by means of an electronic data exchange system in accordance with Annex XV.

10. The Member State shall provide, or shall ensure that the managing authorities provide, forecasts of the amount for payment applications to be submitted for the current and subsequent calendar year by 31 January and 31 July, in accordance with Annex VIII.

11. Each Member State shall have in place, at the latest by the time of submission of the final payment application for the first accounting year and no later than 30 June 2023, a description of the management and control system in accordance with the template set out in Annex XVI. It shall keep that description updated to reflect any subsequent modifications.

12. Member States shall report on irregularities in accordance with the criteria for determining the cases of irregularity to be reported, the data to be provided and the format for reporting set out in Annex XII.

ARTICLE 70 COMMISSION POWERS AND RESPONSIBILITIES

1. The Commission shall satisfy itself that Member States have management and control systems that comply with this Regulation and that these systems function effectively and efficiently during the implementation of the programmes. The Commission shall draw up, for the purposes of its own audit work, an audit strategy and an audit plan which shall be based on a risk-assessment.

The Commission and the audit authorities shall coordinate their audit plans.

2. The Commission shall carry out audits up to three calendar years following the acceptance of the accounts in which the expenditure concerned was included. That period shall not apply to operations where there is a suspicion of fraud.

3. For the purpose of their audits, Commission officials or their authorised representatives shall have access to all necessary records, documents and metadata, irrespective of the medium in which they are stored, relating to operations supported by the Funds or to management and control systems and

shall receive copies in the specific format requested.

4. For on-the-spot audits, the following shall also apply:

(a) the Commission shall give at least 15 working days' notice for the audit to the competent programme authority, except in urgent cases; officials or authorised representatives of the Member State may take part in such audits;

(b) where the application of national provisions reserves certain acts for agents specifically designated by national legislation, Commission officials and authorised representatives shall have access to the information thus obtained without prejudice to the competences of national courts and in full respect of the fundamental rights of the legal subjects concerned;

(c) the Commission shall transmit the preliminary audit findings to the competent Member State authority no later than 3 months after the last day of the audit;

(d) the Commission shall transmit the audit report no later than 3 months from the date of receiving a complete reply from the competent Member State authority to the preliminary audit findings; the Member State's reply shall be considered complete in the absence of a request from the Commission to provide further information or a revised document within 2 months from the date of receipt of the Member State's response.

For the purpose of complying with the time limits set out in points (c) and (d) of the first subparagraph of this paragraph, the Commission shall make available the preliminary audit findings and the audit report in at least one of the official languages of the institutions of the Union.

The time limits referred to in points (c) and (d) of the first subparagraph of this paragraph may be extended where it is deemed necessary and agreed upon between the Commission and the competent Member State authority.

Where a time limit is set for a reply by the Member State to the preliminary audit findings or the audit report referred to in points (c) and (d) of the first subparagraph of this paragraph, that time limit shall start upon their receipt by the competent Member State authority in at least one of the official languages of the Member State concerned.

ARTICLE 71 **PROGRAMME AUTHORITIES**

1. For the purposes of Article 63(3) of the Financial Regulation, the Member State shall identify for each programme a managing authority and an audit authority. Where a Member State entrusts the accounting function to a body other than the managing authority in accordance with Article 72(2) of this Regulation, the body concerned shall also be identified as a programme authority. Those same authorities may be responsible for more than one programme.

2. The audit authority shall be a public authority. Audit work may be carried out by a public or private body other than the audit authority

under its responsibility. The audit authority and any such body carrying out audit work under the responsibility of the audit authority shall be functionally independent from the auditees.

3. The managing authority may identify one or more intermediate bodies to carry out certain tasks under its responsibility. Arrangements between the managing authority and intermediate bodies shall be recorded in writing.

4. Member States shall ensure that the principle of separation of functions between and within the programme authorities is respected.

5. Where a programme provides, in line with its objectives, support from the ERDF or the ESF+ to a programme co-funded by Horizon Europe, as referred to in point (b) of Article 10(1) of the Horizon Europe Regulation, the body implementing the programme co-funded by Horizon Europe shall be identified as an intermediate body by the managing authority of the relevant programme, in accordance with paragraph 3 of this Article.

6. The Member State, at its own initiative, may set up a coordination body to liaise with and provide information to the Commission and to coordinate activities of the programme authorities in that Member State.

CHAPTER II **STANDARD MANAGEMENT AND CONTROL SYSTEMS**

ARTICLE 72 **FUNCTIONS OF THE MANAGING AUTHORITY**

1. The managing authority shall be responsible for managing the programme with a view to delivering the objectives of the pro-

gramme. In particular, it shall have the following functions:

(a) select operations in accordance with Article 73, with the exception of operations referred to in point (d) of Article 33(3);

(b) carry out programme management tasks in accordance with Article 74;

(c) support the work of the monitoring committee in accordance with Article 75;

(d) supervise intermediate bodies;

(e) record and store electronically the data on each operation necessary for monitoring, evaluation, financial management, verifications and audits in accordance with Annex XVII, and ensure the security, integrity and confidentiality of data and the authentication of users.

2. The Member State may entrust the accounting function referred to in Article 76 to the managing authority or to another body.

3. For programmes supported by the **AMIF**, the **ISF** and the **BMVI**, the accounting function shall be carried out by the managing authority or under its responsibility.

ARTICLE 73 SELECTION OF OPERATIONS BY THE MANAGING AUTHORITY

1. For the selection of operations, the managing authority shall establish and apply criteria and procedures which are non-discriminatory, transparent, ensure accessibility to persons with disabilities, ensure gender equality, and take account of the Charter of Fundamental Rights of the European Union, the principle of sustainable development and of the Union policy on the environment in accordance with Article 11 and Article 191(1) TFEU.

The criteria and procedures shall ensure that the operations to be selected are prioritised with a view to maximising the contribution of Union funding towards the achievement of the objectives of the programme.

2. In selecting operations, the managing authority shall:

(a) ensure that selected operations comply with the programme, including their consistency with the relevant strategies underlying the programme, as well as provide an effective contribution to the achievement of the specific objectives of the programme;

(b) ensure that selected operations which fall within the scope of an enabling condition are consistent with the corresponding strategies and planning documents established for the fulfilment of that enabling condition;

(c) ensure that selected operations present the best relationship between the amount of support, the activities undertaken and the achievement of objectives;

(d) verify that the beneficiary has the necessary financial resources and mechanisms to cover operation and maintenance costs for operations comprising investment in infrastructure or productive investment, so as to ensure their financial sustainability;

(e) ensure that selected operations which fall under the scope of Directive 2011/92/EU of the European Parliament and of the Council⁽⁵¹⁾ are subject to an environmental impact assessment or a screening procedure and that the assessment of alternative solutions has been taken in due account, on the basis of the requirements of that Directive;

(f) verify that where the operations have started before the submission of an applica-

⁽⁵¹⁾ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

tion for funding to the managing authority, applicable law has been complied with;

(g) ensure that selected operations fall within the scope of the Fund concerned and are attributed to a type of intervention;

(h) ensure that operations do not include activities which were part of an operation subject to relocation in accordance with Article 66 or which would constitute a transfer of a productive activity in accordance with point (a) of Article 65(1);

(i) ensure that selected operations are not directly 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 operations;

(j) ensure the climate proofing of investments in infrastructure which have an expected lifespan of at least 5 years.

As regards point (b) of this paragraph, in the case of policy objective one, as set out in point (a) of Article 3(1) of the ERDF and CF Regulation, only operations corresponding to the specific objectives referred to in subpoints (i) and (iv) of that point shall be consistent with the corresponding smart specialisation strategies.

3. The managing authority shall ensure that the beneficiary is provided with a document setting out all the conditions for support for each operation including the specific requirements concerning the products or services to be delivered, the financing plan, the time limit for its execution and where applicable, the method to be applied for determining the costs of the operation and the conditions for payment of the support.

4. For operations attributed a Seal of Excellence, or operations selected under a programme co-funded by Horizon Europe, the managing authority may decide to grant support from the ERDF or the ESF+ directly, provided that such operations meet the requirements set out in points (a), (b) and (g) of paragraph 2.

In addition, managing authorities may apply to the operations referred to in the first subparagraph the categories, maximum amounts and methods of calculation of eligible costs established under the relevant Union instrument. These elements shall be set out in the document referred in paragraph 3.

5. When the managing authority selects an operation of strategic importance, it shall inform the Commission within 1 month and shall provide all relevant information to the Commission about that operation.

ARTICLE 74 PROGRAMME MANAGEMENT BY THE MANAGING AUTHORITY

1. The managing authority shall:

(a) carry out management verifications to verify that the co-financed products and services have been delivered, that the operation complies with applicable law, the programme and the conditions for support of the operation, and:

(i) where costs are to be reimbursed pursuant to point (a) of Article 53(1), that the amount of expenditure claimed by the beneficiaries in relation to these costs has been paid and that beneficiaries maintain separate accounting records or use appropriate accounting codes for all transactions relating to the operation;

(ii) where costs are to be reimbursed pursuant to points (b), (c) and (d) of Article 53(1), that

the conditions for reimbursement of expenditure to the beneficiary have been met;

(b) ensure, subject to the availability of funding, that a beneficiary receives the amount due in full and no later than 80 days from the date of submission of the payment claim by the beneficiary; the deadline may be interrupted if information submitted by the beneficiary does not allow the managing authority to establish whether the amount is due;

(c) have effective and proportionate anti-fraud measures and procedures in place, taking into account the risks identified;

(d) prevent, detect and correct irregularities;

(e) confirm that the expenditure entered into the accounts is legal and regular;

(f) draw up the management declaration in accordance with the template set out in Annex XVIII.

For point (b) of the first subparagraph, no amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce amounts due to beneficiaries.

For PPP operations, the managing authority shall make payments to an escrow account set up for that purpose in the name of the beneficiary for use in accordance with the PPP agreement.

2. Management verifications referred to in point (a) of the first subparagraph of paragraph 1 shall be risk-based and proportionate to the risks identified *ex ante* and in writing.

Management verifications shall include administrative verifications in respect of payment claims made by beneficiaries and on-the-spot verifications of operations. Those

verifications shall be carried out before submission of the accounts in accordance with Article 98.

3. Where the managing authority is also a beneficiary under the programme, arrangements for the management verifications shall ensure separation of functions.

Without prejudice to paragraph 2, the Interreg Regulation may establish specific rules on management verifications applicable to Interreg programmes. The **AMIF**, the **ISF** and the **BMVI** Regulations may establish specific rules on management verifications that are applicable where an international organisation is a beneficiary.

ARTICLE 75 SUPPORT OF THE WORK OF THE MONITORING COMMITTEE BY THE MANAGING AUTHORITY

The managing authority shall:

(a) provide the monitoring committee in a timely manner with all information necessary to carry out its tasks;

(b) ensure the follow-up of the decisions and recommendations of the monitoring committee.

ARTICLE 76 THE ACCOUNTING FUNCTION

1. The accounting function shall consist of the following tasks:

(a) drawing up and submitting payment applications to the Commission in accordance with Articles 91 and 92;

(b) drawing up and submitting the accounts confirming completeness, accuracy and veracity of the accounts in accordance with

Article 98, and keeping electronic records of all the elements of the accounts, including payment applications;

(c) converting the amounts of expenditure incurred in another currency into euro by using the monthly accounting exchange rate of the Commission in the month during which the expenditure is registered in the accounting systems of the body responsible for carrying out the tasks set out in this Article.

2. The accounting function shall not comprise verifications at the level of beneficiaries.

3. By way of derogation from point (c) of paragraph 1, the Interreg Regulation may establish a different method to convert the amounts of expenditure incurred in another currency into euro.

ARTICLE 77 FUNCTIONS OF THE AUDIT AUTHORITY

1. The audit authority shall be responsible for carrying out system audits, audits on operations and audits of accounts in order to provide independent assurance to the Commission regarding the effective functioning of the management and control systems and the legality and regularity of the expenditure included in the accounts submitted to the Commission.

2. Audit work shall be carried out in accordance with internationally accepted audit standards.

3. The audit authority shall draw up and submit to the Commission:

(a) an annual audit opinion in accordance with Article 63(7) of the Financial Regulation and with the template set out in Annex XIX to this Regulation and, based on all audit

work carried out, cover the following distinct components:

(i) the completeness, accuracy and veracity of the accounts;

(ii) the legality and regularity of the expenditure included in the accounts submitted to the Commission;

(iii) the effective functioning of the management and control system;

(b) an annual control report fulfilling the requirements of point (b) of Article 63(5) of the Financial Regulation, in accordance with the template set out in Annex XX to this Regulation, which supports the annual audit opinion referred to in point (a) of this paragraph and sets out a summary of findings, including an analysis of the nature and extent of errors and deficiencies in the systems as well as the proposed and implemented corrective actions and the resulting total error rate and residual error rate for the expenditure entered in the accounts submitted to the Commission.

4. Where programmes are grouped for the purpose of audits of operations pursuant to the second subparagraph of Article 79(2), the information required under point (b) of paragraph 3 of this Article may be grouped in a single report.

5. The audit authority shall transmit to the Commission system audit reports as soon as the contradictory procedure with the relevant auditees is concluded.

6. The Commission and the audit authorities shall meet on a regular basis and, unless otherwise agreed, at least once a year to examine the audit strategy, the annual control report and the audit opinion, to coordinate their audit plans and methods, and to

exchange views on issues relating to the improvement of management and control systems.

ARTICLE 78 AUDIT STRATEGY

1. The audit authority shall, after consulting the managing authority, prepare an audit strategy based on a risk assessment, taking account of the management and control system description provided for in Article 69(11), covering system audits and audits of operations. The audit strategy shall include system audits of newly identified managing authorities and authorities in charge of the accounting function. Such audits shall be carried out within 21 months of the decision approving the programme or the amendment of the programme identifying such an authority. The audit strategy shall be prepared in accordance with the template set out in Annex XXII and shall be updated annually following the first annual control report and audit opinion provided to the Commission. It may cover one or more programmes.

2. The audit strategy shall be submitted to the Commission upon request.

ARTICLE 79 AUDITS OF OPERATIONS

1. Audits of operations shall cover expenditure declared to the Commission in the accounting year on the basis of a sample. That sample shall be representative and based on statistical sampling methods.

2. Where the population consists of less than 300 sampling units, a non-statistical sampling method may be used on the professional judgement of the audit authority. In such cases, the size of the sample shall be sufficient to enable the audit authority to draw up a valid audit opinion. The non-statistical sampling method shall cover a mini-

mum of 10 % of the sampling units in the population of the accounting year, selected randomly.

The statistical sample may cover one or more programmes receiving support from the ERDF, the ESF+, the Cohesion Fund and the JTF and, subject to stratification where appropriate, one or more programming periods according to the professional judgement of the audit authority.

The sample of operations supported by the EMFAF, the **AMIF**, the **ISF** and the **BMVI** shall cover operations supported by each Fund separately.

3. Audits of operations shall include on-the-spot verification of the physical implementation of the operation only where it is required by the type of operation concerned.

The ESF+ Regulation may set out specific provisions for programmes or priorities under point (m) of Article 4(1) of that Regulation. The **AMIF**, the **ISF** and the **BMVI** Regulations may establish specific provisions for audit of operations where an international organisation is a beneficiary. The Interreg Regulation may establish specific rules on audits of operations applicable to Interreg programmes.

Audits shall be conducted on the basis of the rules in force at the time when the activities within the operation were carried out.

4. The Commission is empowered to adopt a delegated act in accordance with Article 114 to supplement this Article by setting out standardised off-the-shelf sampling methodologies and modalities to cover one or more programming periods.

ARTICLE 80 SINGLE AUDIT ARRANGEMENTS

1. When carrying out audits, the Commission and the audit authorities shall take due account of the principles of single audit and proportionality in relation to the level of risk to the budget of the Union. This shall be, in particular, in order to avoid duplication of audits and management verifications of the same expenditure declared to the Commission with the objective of minimising the cost of management verifications and audits and the administrative burden on beneficiaries.

The Commission and audit authorities shall first use all the information and records referred to in point (e) of Article 72(1), including results of management verifications, and only request and obtain additional documents and audit evidence from the beneficiaries concerned where, based on their professional judgement, this is required to support robust audit conclusions.

2. For programmes for which the Commission concludes that the opinion of the audit authority is reliable and the Member State concerned participates in the enhanced cooperation on the establishment of the European Public Prosecutor's Office, the Commission's own audits shall be limited to auditing the work of the audit authority.

3. Prior to the submission of the accounts for the accounting year in which the operation is completed, the Commission or audit authority shall not carry out more than one audit in respect of operations for which the total eligible expenditure does not exceed EUR 400000 for the ERDF or the Cohesion Fund, EUR 350000 for the JTF, EUR 300000 for the ESF+, or EUR 200000 for the EMFAF, the **AMIF**, the **ISF** or the **BMVI**.

Other operations shall not be subject to more than one audit per accounting year by either the audit authority or the Commission prior to the submission of the accounts for the accounting year in which the operation is completed. Operations shall not be subject to an audit by the Commission or the audit authority in any year where there has already been an audit in that year by the Court of Auditors, provided that the results of that Court of Auditors' audit for such operations can be used by the audit authority or the Commission for the purpose of fulfilling their respective tasks.

4. Notwithstanding paragraph 3, any operation may be subject to more than one audit, if the audit authority concludes, based on its professional judgement, that it is not possible to draw up a valid audit opinion.

5. Paragraphs 2 and 3 shall not apply where:

- (a) there is a specific risk of irregularity or a suspicion of fraud;
- (b) there is a need to re-perform the work of the audit authority for obtaining assurance as to its effective functioning;
- (c) there is evidence of a serious deficiency in the work of the audit authority.

ARTICLE 81 MANAGEMENT VERIFICATIONS AND AUDITS OF FINANCIAL INSTRUMENTS

1. The managing authority shall carry out on-the-spot management verifications in accordance with Article 74(1) only at the level of bodies implementing the financial instrument and, in the context of guarantee funds, at the level of bodies delivering the underlying new loans. The managing authority may rely on verifications carried out by external bodies and not carry out on-the-spot man-

agement verifications, provided that it has sufficient evidence of the competence of these external bodies.

2. The managing authority shall not carry out on-the-spot verifications at the level of the EIB or other international financial institutions in which a Member State is a shareholder.

However, the EIB or other international financial institutions in which a Member State is a shareholder shall provide control reports supporting the payment claims to the managing authority.

3. The audit authority shall carry out system audits and audits of operations in accordance with Article 77, 79 or 83, as appropriate, at the level of bodies implementing the financial instrument and, in the context of guarantee funds, at the level of bodies delivering the underlying new loans. The audit results of external auditors of bodies implementing the financial instrument may be taken into account by the audit authority for the purposes of the overall assurance and on this basis, the audit authority may decide to limit its own audit work.

4. In the context of guarantee funds, the bodies responsible for the audit of programmes may conduct audits of the bodies providing new underlying loans only when one or more of the following situations occur:

(a) supporting documents, providing evidence of the support from the financial instrument to final recipients, are not available at the level of the managing authority or at the level of the bodies implementing the financial instrument;

(b) there is evidence that the documents available at the level of the managing authority or at the level of the bodies implementing the financial instrument do not represent a true and accurate record of the support provided.

5. The audit authority shall not carry out audits at the level of the EIB or other international financial institutions in which a Member State is a shareholder, for financial instruments implemented by them.

However, the EIB or other international financial institutions in which a Member State is a shareholder shall provide to the Commission and to the audit authority an annual audit report drawn up by their external auditors by the end of each calendar year. This report shall cover the elements included in Annex XXI, and constitute the basis for the audit authority's work.

6. The EIB or other international financial institutions shall provide to the programme authorities all the necessary documents to enable them to fulfil their obligations.

ARTICLE 82 **AVAILABILITY OF DOCUMENTS**

1. Without prejudice to the rules governing State aid, the managing authority shall ensure that all supporting documents related to an operation supported by the Funds are kept at the appropriate level for a 5-year period from 31 December of the year in which the last payment by the managing authority to the beneficiary is made.

2. The time period referred to in paragraph 1 shall be interrupted either in the case of legal proceedings or by a request of the Commission.

CHAPTER III RELIANCE ON NATIONAL MANAGEMENT SYSTEMS

ARTICLE 83 ENHANCED PROPORTIONATE ARRANGEMENTS

The Member State may apply the following enhanced proportionate arrangements for the management and control system of a programme where the conditions set out in Article 84 are fulfilled:

(a) by way of derogation from point (a) of Article 74(1) and Article 74(2), the managing authority may apply only national procedures to carry out management verifications;

(b) by way of derogation from Article 77(1) regarding system audits and Article 79(1) and (3) regarding audits of operations, the audit authority may limit its audit activity to audits of operations covering a sample based on a statistical selection of 30 sampling units for the programme or group of programmes concerned;

For the purposes of management verifications referred to in point (a) of the first subparagraph, the managing authority may rely on verifications carried out by external bodies provided that it has sufficient evidence of the competence of those bodies.

For point (b) of the first subparagraph, where the population consists of less than 300 sampling units, the audit authority may apply a non-statistical sampling method in accordance with Article 79(2).

The Commission shall limit its own audits to a review of the work of the audit authority through re-performance at its level only, unless available information suggests a serious deficiency in the work of the audit authority.

ARTICLE 84 CONDITIONS FOR APPLICATION OF ENHANCED PROPORTIONATE ARRANGEMENTS

1. The Member State may apply the enhanced proportionate arrangements referred to in Article 83 at any time during the programming period, where the Commission has confirmed in its published annual activity reports, for the last 2 years preceding such a decision by the Member State, that the management and control system of the programme is functioning effectively and that the total error rate for each year is 2 % or below. When assessing the effective functioning of the management and control system of the programme, the Commission shall take into account the participation of the Member State concerned in the enhanced cooperation on the establishment of the European Public Prosecutor's Office.

Where a Member State decides to apply the enhanced proportionate arrangements referred to in Article 83, it shall notify the Commission on the application of such arrangements. In such a case the arrangements shall apply from the start of the subsequent accounting year.

2. At the start of the programming period, the Member State may apply the enhanced proportionate arrangements referred to in Article 83, provided that the conditions set out in paragraph 1 of this Article are met with respect to a similar programme implemented in 2014-2020 and where the management and control arrangements established for the 2021-2027 programme build largely on those from the previous programme. In such a case, the arrangements shall apply from the start of the programme.

3. The Member State shall establish or update accordingly the description of the management and control system and the audit strategy set out in Article 69(11) and Article 78.

ARTICLE 85 ADJUSTMENT DURING THE PROGRAMMING PERIOD

1. Where the Commission or the audit authority conclude, based on the audits carried out and the annual control report, that the conditions set out in Article 84 are no longer fulfilled, the Commission shall request the audit authority to carry out additional audit work in accordance with Article 69(3) and satisfy itself that remedial actions are taken.

2. Where the subsequent annual control report confirms that the conditions continue not to be fulfilled, thus limiting the assurance provided to the Commission on the effective functioning of the management and control systems and of the legality and regularity of expenditure, the Commission shall request the audit authority to carry out system audits.

3. The Commission may, after having given to the Member State the opportunity to present its observations, inform the Member State that the enhanced proportionate arrangements set out in Article 83 shall no longer be applied from the start of the subsequent accounting year.

TITLE VII FINANCIAL MANAGEMENT, SUBMISSION AND EXAMINATION OF ACCOUNTS AND FINANCIAL CORRECTIONS

CHAPTER I FINANCIAL MANAGEMENT

SECTION I GENERAL ACCOUNTING RULES

ARTICLE 86 BUDGETARY COMMITMENTS

1. The decision approving the programme in accordance with Article 23 shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and its notification to the Member State concerned shall constitute a legal commitment.

That decision shall specify the total Union contribution per Fund and per year. However, for programmes under the Investment for jobs and growth goal, an amount corresponding to 50 % of the contribution for the years 2026 and 2027 ('flexibility amount') per programme in each Member State shall

be retained and shall only be definitively allocated to the programme after the adoption of the Commission decision following the mid-term review in accordance with Article 18.

2. The budgetary commitments of the Union in respect of each programme shall be made by the Commission in annual instalments for each Fund during the period between 1 January 2021 and 31 December 2027.

3. By way of derogation from Article 111(2) of the Financial Regulation, the budgetary commitments for the first instalment shall follow the adoption of the programme by the Commission.

ARTICLE 87 USE OF THE EURO

Any amounts set out in programmes, reported or declared to the Commission by Member States shall be denominated in euro.

ARTICLE 88 REPAYMENT

1. Any repayment due to be made to the budget of the Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 98 of the Financial Regulation. The due date shall

be the last day of the second month following the issuing of the order.

2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

SECTION II RULES FOR PAYMENTS TO MEMBER STATES

ARTICLE 89 TYPES OF PAYMENTS

Payments shall take the form of pre-financing, interim payments and payments of the balance of the accounts for the accounting year.

ARTICLE 90 PRE-FINANCING

1. The Commission shall pay pre-financing based on the total support from the Funds set out in the decision approving the programme.

2. The pre-financing for each Fund shall be paid in yearly instalments before 1 July of each year, subject to availability of funds, as follows:

- (a) 2021: 0,5 %;
- (b) 2022: 0,5 %;
- (c) 2023: 0,5 %;
- (d) 2024: 0,5 %;
- (e) 2025: 0,5 %;
- (f) 2026: 0,5 %.

Where a programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of adoption.

3. By way of derogation from paragraph 2, specific rules on pre-financing for Interreg programmes shall be set out in the Interreg Regulation.

4. By way of derogation from paragraph 2, specific rules on pre-financing for programmes supported by the **AMIF**, the **ISF** and the **BMVI** shall be set out in the Fund-specific Regulations.

5. The amount paid as pre-financing for the years 2021 and 2022 shall be cleared from the Commission accounts each year and for the years 2023 to 2026 no later than with the final accounting year in accordance with Article 100.

For programmes supported by the **AMIF**, the **ISF** and the **BMVI**, the amount paid as pre-financing shall be cleared from the Commission accounts no later than with the final accounting year.

6. Any interest generated by the pre-financing shall be used for the programme concerned in the same way as the Funds and

shall be included in the accounts for the final accounting year.

ARTICLE 91 PAYMENT APPLICATIONS

1. The Member State shall submit a maximum of six payment applications per programme, per Fund and per accounting year. Every year, one payment application may be submitted at any time in each time period between the following dates: 28 February, 31 May, 31 July, 31 October, 30 November and 31 December.

The last payment application submitted by 31 July shall be deemed to be the final payment application for the accounting year that has ended 30 June.

The first subparagraph shall not apply to Interreg programmes.

2. Payment applications shall be admissible only where the latest assurance package due, as referred to in Article 98, has been submitted.

3. Payment applications shall be submitted to the Commission in accordance with the template set out in Annex XXIII and include, for each priority and, where applicable, by category of region:

(a) the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations linked to specific objectives for which enabling conditions are fulfilled and operations linked to specific objectives for which enabling conditions are not fulfilled but contribute to the fulfilment of enabling conditions, as entered in the system of the body carrying out the accounting function;

(b) the amount for technical assistance calculated in accordance with point (b) of Article 36(5), where applicable;

(c) the total amount of public contribution made or to be made linked to specific objectives for which enabling conditions are fulfilled and operations linked to specific objectives for which enabling conditions are not fulfilled but contribute to the fulfilment of enabling conditions, as entered in the system of the body carrying out the accounting function;

(d) the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations linked to specific objectives for which enabling conditions are not fulfilled, with the exception of operations that contribute to the fulfilment of enabling conditions, as entered in the system of the body carrying out the accounting function.

4. By way of derogation from point (a) of paragraph 3, the following shall apply:

(a) where the Union contribution is made pursuant to point (a) of Article 51, the amounts included in a payment application are the amounts justified by the progress in the fulfilment of conditions, or achievement of results, in accordance with the decision referred to in Article 95(2) or the delegated act referred to in Article 95(4);

(b) where the Union contribution is made pursuant to points (c), (d) and (e) of Article 51, the amounts included in a payment application are the amounts determined in accordance with the decision referred to in Article 94(3) or the delegated act referred to in Article 94(4);

(c) for the forms of grants listed in points (b), (c) and (d) of the first subparagraph of Article 53(1), the amounts included in a payment

application are the costs calculated on the applicable basis.

5. By way of derogation from paragraph 3, in the case of State aid, the payment application may include advances paid to the beneficiary by the body granting the aid under the following cumulative conditions:

(a) those advances are subject to a guarantee provided by a bank or other financial institution established in the Member State or be covered by a facility provided as a guarantee by a public entity or by the Member State;

(b) those advances do not exceed 40 % of the total amount of the aid to be granted to a beneficiary for a given operation;

(c) those advances are covered by expenditure paid by beneficiaries in implementing the operation and supported by receipted invoices or accounting documents of equivalent probative value at the latest within 3 years following the year of the payment of the advance or on 31 December 2029, whichever is earlier, failing which the next payment application shall be corrected accordingly.

Each payment application which includes advances of this type shall separately disclose the total amount paid from the programme as advances, the amount which has been covered by expenditure paid by beneficiaries within 3 years of the payment of the advance in accordance with point (c), and the amount which has not been covered by expenditure paid by beneficiaries and for which the 3-year period has not yet elapsed.

6. By way of derogation from point (c) of paragraph 3 of this Article, in the case of aid schemes under Article 107 TFEU, the public contribution corresponding to the expenditure included in a payment application shall

have been paid to the beneficiaries by the body granting the aid.

ARTICLE 92 SPECIFIC ELEMENTS FOR FINANCIAL INSTRUMENTS IN PAYMENT APPLICATIONS

1. Where financial instruments are implemented in accordance with Article 59(1), payment applications submitted in accordance with Annex XXIII shall include the total amounts disbursed or, in the case of guarantees, the amounts set aside for guarantee contracts, by the managing authority to final recipients as referred to in points (a), (b) and (c) of Article 68(1).

2. Where financial instruments are implemented in accordance with Article 59(2), payment applications that include expenditure for financial instruments shall be submitted in accordance with the following conditions:

(a) the amount included in the first payment application shall have been paid to the financial instruments and may be up to 30 % of the total amount of programme contributions committed to the financial instruments under the relevant funding agreement, in accordance with the relevant priority and category of region, where applicable;

(b) the amount included in subsequent payment applications submitted during the eligibility period shall include the eligible expenditure as referred to in Article 68(1).

3. The amount included in the first payment application, referred to in point (a) of paragraph 2, shall be cleared from Commission accounts no later than the final accounting year.

It shall be disclosed separately in payment applications.

ARTICLE 93 COMMON RULES FOR PAYMENTS

1. Without prejudice to Article 15(5) and (6) and subject to available funding, the Commission shall make interim payments within 60 days of the date on which a payment application is received by the Commission.

2. Each payment shall be attributed to the earliest open budget commitment of the Fund and category of region concerned. The Commission shall reimburse as interim payments 95 % of the amounts included in the payment application, which results from applying the co-financing rate for each priority to the total eligible expenditure or to the public contribution, as appropriate. The Commission shall determine the remaining amounts to be reimbursed or to be recovered when calculating the balance of the accounts in accordance with Article 100.

3. The support from the Funds to a priority in interim payments shall not be higher than the amount of the support from the Funds for the priority laid down in the decision approving the programme.

4. Where the Union contribution takes any of the forms listed in Article 51, the Commission shall not pay more than the amount requested by the Member State.

5. The support from the Funds to a priority in the payment of the balance of the final accounting year shall not exceed any of the following amounts:

(a) the public contribution declared in payment applications;

(b) support from the Funds paid or to be paid to beneficiaries;

(c) the amount requested by the Member State.

Amounts reimbursed pursuant to Article 36(5) shall not be taken into account for the purposes of calculating the ceiling set out in point (b) of the first subparagraph of this Article.

6. On the request of a Member State, interim payments may be increased by 10 % above the co-financing rate applicable to each priority for the Funds, if a Member State meets one of the following conditions after 1 July 2021:

(a) the Member State receives a loan from the Union pursuant to Council Regulation (EU) No 407/2010⁽⁵²⁾;

(b) the Member State receives medium-term financial assistance under the European Stability Mechanism as established by the Treaty establishing the European Stability Mechanism of 2 February 2012 or as referred to in Regulation (EC) No 332/2002 conditional on the implementation of a macroeconomic adjustment programme;

(c) financial assistance is made available to the Member State conditional on the implementation of a macroeconomic adjustment programme as specified in Regulation (EU) No 472/2013.

The increased rate, which may not exceed 100 %, shall apply to requests for payments until the end of the calendar year in which the related financial assistance comes to an end.

⁽⁵²⁾ Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).

7. Paragraph 6 shall not apply to Interreg programmes.

ARTICLE 94 UNION CONTRIBUTION BASED ON UNIT COSTS, LUMP SUMS AND FLAT RATES

1. The Commission may reimburse the Union contribution to a programme on the basis of unit costs, lump sums and flat rates in accordance with Article 51, either based on the amounts and rates approved by a decision in accordance with paragraph 3 of this Article or set out in the delegated act referred to in paragraph 4 of this Article.

2. In order to make use of a Union contribution to the programme based on unit costs, lump sums and flat rates, Member States shall submit a proposal to the Commission in accordance with the templates set out in Annexes V and VI, as part of the programme submission or of a request for its amendment.

The amounts and rates proposed by the Member State shall be established on the basis of the following and assessed by the audit authority:

(a) a fair, equitable and verifiable calculation method based on any of the following:

- (i) statistical data, other objective information or an expert judgement;
- (ii) verified historical data;
- (iii) the application of usual cost accounting practices;

(b) draft budgets;

(c) the rules on corresponding unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation;

(d) the rules on corresponding unit costs, lump sums and flat rates applied under

schemes for grants funded entirely by the Member State for a similar type of operation.

3. The decision approving the programme or its amendment shall set out the types of operations covered by the reimbursement based on unit costs, lump sums and flat rates, the definition and the amounts covered by those unit costs, lump sums and flat rates, and the methods for adjustment of the amounts.

Member States shall reimburse beneficiaries for the purposes of this Article. That reimbursement may take any form of support.

Commission and Member State audits and management verifications carried out by Member States shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled.

4. The Commission is empowered to adopt a delegated act in accordance with Article 114 to supplement this Article by defining at Union level unit costs, lump sums, flat rates, their amounts and adjustment methods in the ways referred to in points (a) to (d) of the second subparagraph of paragraph 2 of this Article.

5. This Article shall not apply to the Union contribution for technical assistance reimbursed pursuant to point (e) of Article 51.

ARTICLE 95 UNION CONTRIBUTION BASED ON FINANCING NOT LINKED TO COSTS

1. The Commission may reimburse the Union contribution to all or parts of a priority of programmes based on financing not linked to costs in accordance with Article 51, either based on the amounts approved by a decision referred to in paragraph 2 of this Article or set out in the delegated act referred

to in paragraph 4 of this Article. In order to make use of a Union contribution to the programme based on financing not linked to costs, Member States shall submit a proposal to the Commission in accordance with the templates set out in Annexes V and VI, as part of the programme or of a request for its amendment. The proposal shall contain the following information:

(a) identification of the priority concerned and the overall amount covered by the financing not linked to costs;

(b) a description of the part of the programme and the type of operations covered by the financing not linked to costs;

(c) a description of the conditions to be fulfilled or of the results to be achieved and a timeline;

(d) intermediate deliverables triggering reimbursement by the Commission;

(e) measurement units;

(f) the schedule for reimbursement by the Commission and related amounts linked to the progress in the fulfilment of conditions or achievement of results;

(g) the arrangements for verification of the intermediate deliverables and of the fulfilment of conditions or achievement of results;

(h) the methods for adjustment of the amounts, where applicable;

(i) the arrangements to ensure the audit trail in accordance with Annex XIII demonstrating the fulfilment of conditions or achievement of results;

(j) the envisaged type of reimbursement method used to reimburse the beneficiary or beneficiaries within the priority or parts of a priority of programmes concerned by this Article.

2. The decision approving the programme or the request for its amendment shall set out all the elements listed in paragraph 1.

3. Member States shall reimburse beneficiaries for the purposes of this Article. That reimbursement may take any form of support.

Commission and Member State audits and management verifications carried out by Member States shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled or the results have been achieved.

4. The Commission is empowered to adopt a delegated act in accordance with Article 114 to supplement this Article by establishing amounts for Union-level financing not linked to costs by type of operation, the methods for adjustment of the amounts and the conditions to be fulfilled or the results to be achieved.

SECTION III INTERRUPTIONS AND SUSPENSIONS

ARTICLE 96 INTERRUPTION OF THE PAYMENT DEADLINE

1. The Commission may interrupt the payment deadline, except for pre-financing, for a maximum period of 6 months where any of the following conditions is met:

(a) there is evidence to suggest a serious deficiency for which corrective measures have not been taken;

(b) the Commission has to carry out additional verifications following receipt of information that expenditure in a payment application may be linked to an irregularity.

2. The Member State may agree to extend the interruption period by 3 months.

3. The Commission shall limit the interruption to the part of the expenditure affected by the elements referred to in paragraph 1, unless it is not possible to identify the part of the expenditure affected. The Commission shall inform the Member State and the managing authority in writing of the reason for interruption and shall request them to remedy the situation. The Commission shall end the interruption as soon as the measures remedying the elements referred to in paragraph 1 have been taken.

4. The Fund-specific rules for the EMFAF may lay down specific bases for interruption of payments linked to non-compliance with rules applicable under the Common Fisheries Policy.

ARTICLE 97 SUSPENSION OF PAYMENTS

1. The Commission may suspend all or part of payments, except for pre-financing, after having given the Member State the opportunity to present its observations, if any of the following conditions is met:

(a) the Member State has failed to take the necessary action to remedy the situation giving rise to an interruption under Article 96;

(b) there is a serious deficiency;

(c) the expenditure in payment applications is linked to an irregularity that has not been corrected;

(d) there is a reasoned opinion by the Commission in respect of an infringement procedure under Article 258 TFEU on a matter that puts at risk the legality and regularity of expenditure.

2. The Commission shall end the suspension of all or part of payments when the Member State has taken the measures remedying the elements referred to in paragraph 1.

3. The Fund-specific rules for the EMFAF may lay down specific bases for suspension of payments linked to non-compliance with rules applicable under the Common Fisheries Policy.

CHAPTER II SUBMISSION AND EXAMINATION OF ACCOUNTS

ARTICLE 98 CONTENT AND SUBMISSION OF ACCOUNTS

1. For each accounting year for which payment applications have been submitted, the Member State shall submit to the Commission by 15 February, the following documents ('the assurance package') which shall cover the preceding accounting year:

(a) the accounts in accordance with the template set out in Annex XXIV;

(b) the management declaration referred to in point (f) of Article 74(1) in accordance with the template set out in Annex XVIII;

(c) the annual audit opinion referred to in point (a) of Article 77(3) in accordance with the template set out in Annex XIX;

(d) the annual control report referred to in point (b) of Article 77(3) in accordance with the template set out in Annex XX.

2. The deadline referred to in paragraph 1 may exceptionally be extended by the Commission to 1 March, upon communication by the Member State concerned.

3. The accounts shall include at the level of each priority and, where applicable, by fund and by category of region:

(a) the total amount of eligible expenditure entered into the accounting systems of the body carrying out the accounting function which has been included in the final payment application for the accounting year and the total amount of the corresponding public contribution made or to be made linked to specific objectives for which enabling conditions are fulfilled and operations linked to

specific objectives for which enabling conditions are not fulfilled but contribute to the fulfilment of enabling conditions;

(b) the amounts withdrawn during the accounting year;

(c) the amounts of public contribution paid to financial instruments;

(d) for each priority, an explanation on any differences between the amounts declared pursuant to point (a) and the amounts declared in payment applications for the same accounting year.

4. The assurance package shall not concern the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations or the corresponding public contribution made or to be made linked to specific objectives for which enabling conditions are not fulfilled with the exception of operations that contribute to the fulfilment of enabling conditions.

5. The accounts shall not be admissible if Member States have not undertaken the necessary corrections to reduce the residual error rate on the legality and regularity of the expenditure included in the accounts to 2 % or below.

6. Member States shall in particular deduct from the accounts:

(a) the irregular expenditure which has been subject to financial corrections in accordance with Article 103;

(b) the expenditure which is subject to an ongoing assessment of its legality and regularity;

(c) other amounts as necessary to reduce the residual error rate of the expenditure declared in the accounts to 2 % or below.

The Member State may include expenditure under point (b) of the first subparagraph in a payment application in subsequent accounting years once its legality and regularity is confirmed.

7. The Member State may correct irregular amounts which it has detected after the submission of the accounts in which the amounts were included by making the corresponding adjustments for the accounting year in which the irregularity is detected, without prejudice to Article 104.

8. As part of the assurance package, the Member State shall submit for the last accounting year the final performance report referred to in Article 43 or the last annual performance report for the **AMIF**, the **ISF** or the **BMVI**.

ARTICLE 99 EXAMINATION OF ACCOUNTS

The Commission shall satisfy itself that the accounts are complete, accurate and true by 31 May of the year following the end of the accounting year unless Article 102 applies.

ARTICLE 100 CALCULATION OF THE BALANCE

1. When the Commission determines the amount chargeable to the Funds for the accounting year and the consequent adjustments in relation to the payments to the Member State, it shall take into account:

(a) the amounts in the accounts referred to in point (a) of Article 98(3) and to which the co-financing rate for each priority is to be applied;

(b) the total amount of interim payments made by the Commission during that accounting year;

(c) for the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, for the years 2021 and 2022, the amount of pre-financing.

2. Where there is an amount recoverable from the Member State, it shall be subject to a recovery order issued by the Commission which shall be executed, where possible, by offsetting against amounts due to the Member State in subsequent payments to the same programme. Such a recovery shall not constitute a financial correction and shall not reduce support from the Funds to the programme. The amount recovered shall constitute assigned revenue in accordance with Article 21(3) of the Financial Regulation.

ARTICLE 101 PROCEDURE FOR THE EXAMINATION OF ACCOUNTS

1. The procedure set out in Article 102 shall apply in either of the following cases:

(a) the audit authority has provided a qualified or adverse audit opinion due to reasons linked to the completeness, accuracy and veracity of the accounts;

(b) the Commission has evidence putting into question the reliability of an unqualified audit opinion.

2. In all other cases, the Commission shall calculate the amounts chargeable to the Funds in accordance with Article 100 and make the respective payments or recoveries before 1 July. That payment or recovery shall constitute the acceptance of accounts.

ARTICLE 102 CONTRADICTORY PROCEDURE FOR THE EXAMINATION OF ACCOUNTS

1. If the audit authority provides an audit opinion which is qualified or adverse due to reasons linked to the completeness, accuracy and veracity of the accounts, the Commission shall request the Member State to revise these accounts and to resubmit the documents referred to in Article 98(1) within 1 month.

Where by the time limit set out in the first subparagraph:

(a) the audit opinion is unqualified, Article 100 shall apply and the Commission shall pay any additional amount due or proceed to a recovery within 2 months;

(b) the audit opinion is still qualified or documents have not been re-submitted by the Member State, paragraphs 2, 3 and 4 shall apply.

2. If the audit opinion remains qualified due to reasons linked to the completeness, accuracy and veracity of the accounts or if the audit opinion remains unreliable, the Commission shall inform the Member State on

the amount chargeable to the Funds for the accounting year.

3. Where the Member State agrees with the amount referred to in paragraph 2 of this Article within 1 month, the Commission shall pay within 2 months any additional amount due or proceed to a recovery in accordance with Article 100.

4. Where the Member State does not agree with the amount referred to in paragraph 2 of this Article, the Commission shall establish the amount chargeable to the Funds for the accounting year. Such an act shall not constitute a financial correction and shall not reduce support from the Funds to the programme. The Commission shall pay within 2 months any additional amount due or proceed to a recovery in accordance with Article 100.

5. With regard to the final accounting year, the Commission shall pay or recover the annual balance of the accounts for programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF no later than 2 months after the date of acceptance of the final performance report as referred to in Article 43.

CHAPTER III FINANCIAL CORRECTIONS

ARTICLE 103 FINANCIAL CORRECTIONS BY MEMBER STATES

1. Member States shall protect the Union budget and apply financial corrections by cancelling all or part of the support from the Funds to an operation or programme where expenditure declared to the Commission is found to be irregular.

2. Financial corrections shall be recorded in the accounts for the accounting year in which the cancellation is decided.

3. The support from the Funds cancelled may be reused by the Member State within the programme concerned except for an operation that was subject of that correction or, where a financial correction is made

for a systemic irregularity, for any operation affected by the systemic irregularity.

4. The Fund-specific rules for the EMFAF may lay down specific bases for financial corrections by the Member States linked to non-compliance with rules applicable under the Common Fisheries Policy.

5. By way of derogation from paragraphs 1, 2 and 3, in operations comprising financial instruments, a contribution cancelled in accordance with this Article, as a result of an individual irregularity, may be reused within the same operation under the following conditions:

(a) where the irregularity that gives rise to the cancellation of the contribution is detected at the level of the final recipient, only for other final recipients within the same financial instrument;

(b) where the irregularity that gives rise to the cancellation of the contribution is detected at the level of the body implementing the specific fund, where a financial instrument is implemented through a structure with a holding fund, only for other bodies implementing specific funds.

Where that irregularity that gives rise to the cancellation of the contribution is detected at the level of the body implementing the holding fund, or at the level of the body implementing the specific fund where a financial instrument is implemented through a structure without a holding fund, the contribution cancelled shall not be reused within the same operation.

Where a financial correction is made for a systemic irregularity, the contribution cancelled shall not be reused for any operation affected by the systemic irregularity.

6. The bodies implementing financial instruments shall reimburse to Member States programme contributions affected by irregularities, together with interest and any other gains generated by these contributions.

The bodies implementing financial instruments shall not reimburse to Member States the amounts referred to in the first subparagraph provided that those bodies demonstrate for a given irregularity that the following cumulative conditions are fulfilled:

(a) the irregularity occurred at the level of final recipients or, in the case of a holding fund, at the level of bodies implementing specific funds or final recipients;

(b) the bodies implementing financial instruments carried out their obligations, in relation to the programme contributions affected by the irregularity, in accordance with applicable law and acted with the degree of professional care, transparency and diligence expected from a professional body experienced in implementing financial instruments;

(c) the amounts affected by the irregularity could not be recovered notwithstanding that the bodies implementing financial instruments pursued all applicable contractual and legal measures with due diligence.

ARTICLE 104 FINANCIAL CORRECTIONS BY THE COMMISSION

1. The Commission shall make financial corrections by reducing support from the Funds to a programme where it concludes that:

(a) there is a serious deficiency which has put at risk the support from the Funds already paid to the programme;

(b) expenditure contained in accepted accounts is irregular and was not detected and reported by the Member State;

(c) the Member State has not complied with its obligations under Article 97 prior to the opening of the financial correction procedure by the Commission.

Where the Commission applies flat-rate or extrapolated financial corrections, this shall be carried out in accordance with Annex XXV.

2. Before taking a decision on a financial correction, the Commission shall inform the Member State of its conclusions and give the Member State the opportunity to present, within 2 months, its observations and to demonstrate that the actual extent of irregularity is less than the Commission's assessment. The deadline can be extended if mutually agreed.

3. Where the Member State does not accept the conclusions of the Commission, the Member State shall be invited to a hearing by the Commission, in order to ensure that all relevant information and observations are available to form the basis for Commission conclusions on the application of the financial correction.

4. The Commission shall decide on a financial correction taking into account the extent,

the frequency and financial implications of the irregularities or serious deficiencies, by means of an implementing act within 10 months of the date of the hearing or of the submission of additional information as required by the Commission.

When deciding on a financial correction, the Commission shall take account of all information and observations submitted.

Where a Member State agrees to the financial correction for cases referred to in points (a) and (c) of the first subparagraph of paragraph 1 before the adoption of the decision referred to in the first subparagraph of this paragraph, the Member State may reuse the amounts concerned. That possibility shall not apply to a case of a financial correction under point (b) of the first subparagraph of paragraph 1.

5. The Fund-specific rules for the EMFAF may lay down specific bases for financial corrections by the Commission linked to non-compliance with rules applicable under the Common Fisheries Policy.

6. The Fund-specific rules for the JTF may lay down specific bases for financial corrections by the Commission linked to the under-achievement of targets established for the JTF.

CHAPTER IV DECOMMITMENT

ARTICLE 105 DECOMMITMENT PRINCIPLES AND RULES

1. The Commission shall decommit any amount in a programme which has not been used for pre-financing, in accordance with Article 90, or for which a payment applica-

tion has not been submitted, in accordance with Articles 91 and 92, by 31 December of the third calendar year following the year of the budget commitments for the years 2021 to 2026.

2. The part of commitments still open on 31 December 2029 shall be decommitted if the assurance package and the final performance report for programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF have not been submitted to the Commission by the time limit set out in Article 43(1).

ARTICLE 106 EXCEPTIONS TO THE DECOMMITMENT RULES

1. The amount concerned by decommitment shall be reduced by the amounts equivalent to that part of the budget commitment for which:

(a) the operations are suspended by a legal proceeding or by an administrative appeal having suspensory effect; or

(b) it has not been possible to make a payment application for reasons of *force majeure* seriously affecting implementation of all or part of the programme.

The national authorities claiming *force majeure* shall demonstrate the direct consequences of the *force majeure* on the implementation of all or part of the programme.

2. By 31 January, the Member State shall send to the Commission information on the exceptions referred to in points (a) and (b) of the first subparagraph of paragraph 1 for the amount to be declared by 31 December of the preceding year.

ARTICLE 107 PROCEDURE FOR DECOMMITMENT

1. On the basis of the information it has received as of 31 January, the Commission shall inform the Member State of the amount of the decommitment resulting from that information.

2. The Member State shall have 2 months to agree to the amount to be decommitted or to submit its observations.

3. By 30 June, the Member State shall submit to the Commission an amended financing plan reflecting, for the calendar year concerned, the reduced amount of support over one or more priorities of the programme. For programmes supported by more than one Fund, the amount of support shall be reduced by Fund proportionately to the amounts concerned by the decommitment that had not been used in the calendar year concerned.

In the absence of such a submission, the Commission shall amend the financing plan by reducing the contribution from the Funds for the calendar year concerned. That reduction shall be allocated to each priority proportionately to the amounts concerned by the decommitment that had not been used in the calendar year concerned.

4. The Commission shall amend the decision approving the programme no later than 31 October.

TITLE VIII FINANCIAL FRAMEWORK

ARTICLE 108 GEOGRAPHICAL COVERAGE OF SUPPORT FOR THE INVESTMENT FOR JOBS AND GROWTH GOAL

1. The ERDF, the ESF+ and the Cohesion Fund shall support the Investment for jobs and growth goal in all regions corresponding to level 2 of the common classification of territorial units for statistics ('NUTS level 2 regions') established by Regulation (EC) No 1059/2003 as amended by Regulation (EU) 2016/2066.

2. Resources from the ERDF and ESF+ for the Investment for jobs and growth goal shall be allocated among the following three categories of NUTS level 2 regions:

(a) less developed regions, whose GDP *per capita* is less than 75 % of the average GDP *per capita* of the EU-27 ('less developed regions');

(b) transition regions, whose GDP *per capita* is between 75 % and 100 % of the average GDP *per capita* of the EU-27 ('transition regions');

(c) more developed regions, whose GDP *per capita* is above 100 % of the average GDP *per capita* of the EU-27 ('more developed regions').

The classification of regions under one of the three categories of region shall be determined on the basis of how the GDP *per capita* of each region, measured in purchasing power standards (PPS) and calculated on the basis of Union figures for the period 2015-2017, relates to the average GDP *per capita* of the EU-27 for the same reference period.

3. The Cohesion Fund shall support those Member States whose gross national income (GNI) per capita, measured in PPS and calculated on the basis of Union figures for the period 2015-2017, is less than 90 % of the average GNI per capita of the EU-27 for the same reference period.

4. The Commission shall adopt a decision, by means of implementing act, setting out the list of regions fulfilling the criteria of one of the three categories of region and of Member States fulfilling the criteria of paragraph 3. That list shall be valid from 1 January 2021 to 31 December 2027.

ARTICLE 109 RESOURCES FOR ECONOMIC, SOCIAL AND TERRITORIAL COHESION

1. The resources for economic, social and territorial cohesion available for budgetary commitment for the 2021-2027 period under the MFF shall be EUR 330234776621 in 2018 prices for the ERDF, the ESF+ and the Cohesion Fund, and EUR 7500000000 in 2018 prices for the JTF.

The resources referred to in the first subparagraph shall be completed by an amount of EUR 10000000000 in 2018 prices for measures referred to in Article 1(2) of Council Regulation (EU) 2020/2094⁽⁵³⁾ for the purposes of the JTF Regulation. This amount shall constitute external assigned revenue for the purpose of Article 21(5) of the Financial Regulation.

⁽⁵³⁾ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23).

For the purposes of programming and subsequent inclusion in the budget of the Union, amounts referred to in the first and second subparagraphs shall be indexed at 2 % per year.

2. The Commission shall adopt a decision, by means of implementing act, setting out the annual breakdown of the global resources for the ERDF, the ESF+ and the Cohesion Fund by Member State under the Investment for jobs and growth goal and, where applicable, by category of region, in accordance with the methodologies set out in Annex XXVI.

That decision shall also set out the annual breakdown of the global resources per Member State under the European territorial cooperation goal (Interreg).

3. 0,35 % of the resources referred to in the first and second subparagraphs of paragraph 1, after the deduction of the support to the CEF referred to in Article 110(3), shall be allocated to technical assistance at the initiative of the Commission.

ARTICLE 110 RESOURCES FOR THE INVESTMENT FOR JOBS AND GROWTH GOAL AND FOR THE EUROPEAN TERRITORIAL COOPERATION GOAL (INTERREG)

1. Resources for the Investment for jobs and growth goal under the MFF shall amount to 97,6 % of the global resources (i.e. a total of EUR 329684776621) and shall be allocated as follows:

(a) 61,3 % (i.e. a total of EUR 202226984629) for less developed regions;

(b) 14,5 % (i.e. a total of EUR 47771802082) for transition regions;

(c) 8,3 % (i.e. a total of EUR 27202682372) for more developed regions;

(d) 12,9 % (i.e. a total of EUR 42555570217) for Member States supported by the Cohesion Fund;

(e) 0,6 % (i.e. a total of EUR 1927737321) as additional funding for the outermost regions identified in Article 349 TFEU and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the 1994 Act of Accession;

(f) 0,2 % (i.e. a total of EUR 500000000) for interregional innovation investments;

(g) 2,3 % (i.e. a total of EUR 7500000000) for the Just Transition Fund.

2. The amount of resources available for the ESF+ under the Investment for jobs and growth goal shall be EUR 87319331844.

The amount of additional funding for the regions referred to in point (e) in paragraph 1 allocated to the ESF+ shall be EUR 472980447.

3. The amount of support from the Cohesion Fund to be transferred to the CEF shall be EUR 10000000000. It shall be spent for transport infrastructure projects, taking into account the investment infrastructure needs of Member States and regions, by launching specific calls in accordance with the CEF Regulation exclusively in Member States eligible for funding from the Cohesion Fund.

The Commission shall adopt an implementing act setting out the amount to be transferred from each Member State's Cohesion Fund allocation to the CEF and determined on a *pro rata* basis for the whole period.

The Cohesion Fund allocation of each Member State shall be reduced accordingly.

The annual appropriations corresponding to the support from the Cohesion Fund referred to in the first subparagraph shall be entered in the relevant budget lines of the CEF as of the 2021 budgetary exercise.

30 % of the resources transferred to the CEF shall be available immediately after the transfer to all Member States eligible for funding from the Cohesion Fund to finance transport infrastructure projects in accordance with the CEF Regulation.

Rules applicable for the transport sector under the CEF Regulation shall apply to the specific calls referred to in the first subparagraph. Until 31 December 2023, the selection of projects eligible for financing shall respect the national allocations under the Cohesion Fund with regard to 70 % of the resources transferred to the CEF.

As of 1 January 2024, resources transferred to the CEF which have not been committed to a transport infrastructure project shall be made available to all Member States eligible for funding from the Cohesion Fund to finance transport infrastructure projects in accordance with the CEF Regulation.

In order to support Member States which are eligible for funding from the Cohesion Fund and which might experience difficulties in designing projects that are of a sufficient maturity, quality, or both, and that have sufficient Union added value, particular attention shall be given to technical assistance which aims to strengthen the institutional capacity and the efficiency of public administrations and public services in relation to the development and implementation of projects listed in the CEF Regulation.

The Commission shall do its utmost to enable Member States eligible for funding from the Cohesion Fund to attain, by the end of the 2021-2027 period, the highest possible absorption of the amount transferred to the CEF, including through the organisation of additional calls.

Particular attention and support under the eighth and ninth subparagraph shall be given to those Member States whose GNI per capita, measured in PPS for the period 2015-2017, is less than 60 % of the average GNI per capita of the EU-27.

In respect of Member States whose GNI per capita, measured in PPS for the period 2015-2017, is less than 60 % of the average GNI per capita of the EU-27, 70 % of 70 % of the amount of money that those Member States have transferred to the CEF shall be guaranteed until 31 December 2024.

4. EUR 400000000 of the resources for the Investment for jobs and growth goal shall be allocated to the European Urban Initiative under direct or indirect management by the Commission.

5. EUR 175000000 of the ESF+ resources for the Investment for jobs and growth goal shall be allocated for transnational cooperation supporting innovative solutions under direct or indirect management.

6. The amount referred to in point (f) of paragraph 1 shall be allocated from the ERDF resources under the Investment for jobs and growth goal for interregional innovative investments under direct or indirect management.

7. Resources for the European territorial cooperation goal (Interreg) shall amount to 2,4 % of the global resources available for budgetary commitment from the Funds for

the 2021-2027 period (i.e. a total of EUR 8050000000).

8. The amount referred to in the second subparagraph of Article 109(1) shall be part of the resources for the Investments for jobs and growth goal.

ARTICLE 111 TRANSFERABILITY OF RESOURCES

1. The Commission may accept a proposal by a Member State, in its submission of the Partnership Agreement or in the context of the mid-term review, for a transfer:

(a) adding up to not more than 5 % of the initial allocations for less developed regions to transition regions or more developed regions and from transition regions to more developed regions;

(b) from the allocations for more developed regions or transition regions to less developed regions and from more developed regions to transition regions.

By way of derogation from point (a) of the first subparagraph, the Commission may accept an additional transfer of up to 10 % of the total allocations for less developed regions to transition regions or more developed regions within those Member States whose GNI per capita, measured in PPS for the period 2015- 2017, is less than 90 % of the average GNI per capita of the EU-27. Resources of any additional transfer shall be used to contribute to the policy objectives referred to in points (a) and (b) of Article 5(1).

2. The total allocations to each Member State in respect of the Investment for jobs and growth goal and the European territorial cooperation goal (Interreg) shall not be transferable between these goals.

3. In order to uphold the effective contribution of the Funds to the actions referred to in Article 5(2), and by way of derogation from paragraph 2 of this Article, the Commission may, in duly justified circumstances, and subject to the condition laid down in paragraph 4 of this Article, accept by means of an implementing act a proposal by a Member State in its first submission of the Partnership Agreement to transfer a part of its appropriations for the European territorial cooperation goal (Interreg) to the Investment for jobs and growth goal.

4. The share of the European territorial cooperation goal (Interreg) in the Member State making the proposal referred to in paragraph 3 shall be not less than 35 % of the total allocated to that Member State in respect of the Investment for jobs and growth goal and the European territorial cooperation goal (Interreg), and after transfer shall be not less than 25 % of that total.

ARTICLE 112 DETERMINATION OF CO-FINANCING RATES

1. The decision approving a programme shall fix the co-financing rate and the maximum amount of support from the Funds for each priority.

2. For each priority, the Commission decision shall set out whether the co-financing rate for the priority is to be applied to either of the following:

(a) total contribution, including public and private contribution;

(b) public contribution.

3. The co-financing rate for the Investment for jobs and growth goal at the level of each priority shall not be higher than:

- (a) 85 % for the less developed regions;
- (b) 70 % for transition regions that were classified as less developed regions for the 2014-2020 period;
- (c) 60 % for the transition regions;
- (d) 50 % for more developed regions that were classified as transition regions or had a GDP per capita below 100 % for the 2014-2020 period;
- (e) 40 % for the more developed regions.

The co-financing rates set out under point (a) of the first subparagraph shall also apply to the outermost regions, including the additional allocation for the outermost regions.

The co-financing rate for the Cohesion Fund at the level of each priority shall not be higher than 85 %.

The ESF+ Regulation may establish higher co-financing rates in accordance with Articles 10 and 14 of that Regulation.

The co-financing rate, applicable to the region where the territory or territories identified in the territorial just transition plans are located, for the priority supported by the JTF shall not be higher than:

- (a) 85 % for less developed regions;
- (b) 70 % for transition regions;
- (c) 50 % for more developed regions.

4. The co-financing rate for Interreg programmes shall be no higher than 80 % except in cases where the Interreg Regulation establishes higher co-financing rates for Interreg strand D and for external cross-border cooperation programmes.

5. The maximum co-financing rates listed under paragraphs 3 and 4 shall be increased by ten percentage points for priorities entirely delivered through community-led local development.

6. Technical assistance measures implemented at the initiative of, or on behalf of, the Commission may be financed at the rate of 100 %.

TITLE IX DELEGATION OF POWER, IMPLEMENTING, TRANSITIONAL AND FINAL PROVISIONS

CHAPTER I DELEGATION OF POWER AND IMPLEMENTING PROVISIONS

ARTICLE 113 DELEGATION OF POWERS AS REGARDS CERTAIN ANNEXES

The Commission is empowered to adopt delegated acts in accordance with Article 114 to

amend the Annexes to this Regulation, except Annexes III, IV, XI, XIII, XIV, XVII and XXVI, in order to adapt them to changes occurring during the programming period.

ARTICLE 114 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 79(4), 94(4) and 95(4) and Article 113 shall be conferred on the Commission for an indeterminate period of time from 1 July 2021.

3. The delegation of power referred to in Articles 79(4), 94(4) and 95(4), Article 113 and Article 117(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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 of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 79(4), 94(4) and 95(4), Article 113 and Article 117(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

ARTICLE 115 COMMITTEE PROCEDURE

1. The Commission shall be assisted by a committee. 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.

CHAPTER II TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 116 REVIEW

The European Parliament and the Council shall review this Regulation by 31 December 2027 in accordance with Article 177 TFEU.

ARTICLE 117 TRANSITIONAL PROVISIONS

1. Regulation (EU) No 1303/2013 or any other act applicable to the 2014–2020 programming period shall continue to apply only to operational programmes and operations supported by the ERDF, the European Social Fund, the Cohesion Fund and the European

Maritime and Fisheries Fund under that period.

2. The empowerment conferred in paragraph 3 of Article 5 of Regulation (EU) No 1303/2013 on the Commission to adopt a delegated act to provide for a European code of conduct on partnership shall remain in force for the 2021-2027 programming period. The delegation of power shall be exercised in accordance with Article 114 of this Regulation.

ARTICLE 118 CONDITIONS FOR OPERATIONS SUBJECT TO PHASED IMPLEMENTATION

1. The managing authority may proceed with the selection of an operation consisting of the second phase of an operation selected for support and started under Regulation (EU) No 1303/2013, provided that the following cumulative conditions are met:

(a) the operation, as selected for support under Regulation (EU) No 1303/2013, has two phases identifiable from a financial point of view with separate audit trails;

(b) the total cost of the operation referred to in point (a) exceeds EUR 5000000;

(c) expenditure included in a payment application in relation to the first phase is not included under any payment applications in relation to the second phase;

(d) the second phase of the operation complies with applicable law and is eligible for support from the ERDF, the ESF+, the Cohesion Fund or the EMFAF under the provisions of this Regulation or the Fund-specific Regulations;

(e) the Member State commits to complete during the programming period and render operational the second and final phase in the final implementation report, or in the context of the European Maritime and Fisheries Fund in the last annual implementation report, submitted in accordance with Article 141 of Regulation (EU) No 1303/2013.

2. The provisions of this Regulation shall apply to the second phase of the operation.

ARTICLE 119 ENTRY INTO FORCE

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

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

Done at Brussels, 24 June 2021

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

A. P. ZACARIAS

NOTE: Only those CPR annexes or the parts of the annexes that are relevant to AMIF, ISF and BMVI are included
NOTE footnote numbering in the annexes of the CPR is not the same as in the Official Journal

ANNEX I Dimensions and codes for the types of intervention for the ERDF, the ESF+, the Cohesion Fund and the JTF – Article 22(5)

Annex I not included here

ANNEX II Template for Partnership Agreement – Article 10(6)⁽¹⁾

Annex II not included here

ANNEX III Horizontal enabling conditions – Article 15(1)

Applicable to all specific objectives	
Name of enabling conditions	Fulfilment criteria
Effective monitoring mechanisms of the public procurement market	<p>Monitoring mechanisms are in place that cover all public contracts and their procurement under the Funds in line with Union procurement legislation. That requirement includes:</p> <ol style="list-style-type: none"> 1. Arrangements to ensure compilation of effective and reliable data on public procurement procedures above the Union thresholds in accordance with reporting obligations under Articles 83 and 84 of Directive 2014/24/EU and Articles 99 and 100 of Directive 2014/25/EU. 2. Arrangements to ensure the data cover at least the following elements: <ol style="list-style-type: none"> (a) quality and intensity of competition: names of winning bidder, number of initial bidders and contractual value; (b) information on final price after completion and on participation of SMEs as direct bidders, where national systems provide such information. 3. Arrangements to ensure monitoring and analysis of the data by the competent national authorities in accordance with Article 83(2) of Directive 2014/24/EU and Article 99(2) of Directive 2014/25/EU.

⁽¹⁾ As regards the ERDF, only table 2 in section 8 is relevant for European territorial cooperation goal (Interreg), while all the information in the remaining sections and tables concern only the Investment for jobs and growth goal.

	<p>4. Arrangements to make the results of the analysis available to the public in accordance with Article 83(3) of Directive 2014/24/EU and Article 99(3) Directive 2014/25/EU.</p> <p>5. Arrangements to ensure that all information pointing to suspected bid-rigging situations is communicated to the competent national bodies in accordance with Article 83(2) of Directive 2014/24/EU and Article 99(2) of Directive 2014/25/EU.</p>
Tools and capacity for effective application of State aid rules	<p>Managing authorities have the tools and capacity to verify compliance with State aid rules:</p> <ol style="list-style-type: none"> 1. For undertakings in difficulty and undertakings under a recovery requirement. 2. Through access to expert advice and guidance on State aid matters, provided by State aid experts of local or national bodies.
Effective application and implementation of the Charter of Fundamental Rights	<p>Effective mechanisms are in place to ensure compliance with the Charter of Fundamental Rights of the European Union ('the Charter') which include:</p> <ol style="list-style-type: none"> 1. Arrangements to ensure compliance of the programmes supported by the Funds and their implementation with the relevant provisions of the Charter. 2. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the Charter and complaints regarding the Charter submitted in accordance with the arrangements made pursuant to Article 69(7).
Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC ^(?)	<p>A national framework to ensure implementation of the UNCRPD is in place that includes:</p> <ol style="list-style-type: none"> 1. Objectives with measurable goals, data collection and monitoring mechanisms. 2. Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes. 3. Reporting arrangements to the monitoring committee regarding cases of non-compliance of operations supported by the Funds with the UNCRPD and complaints regarding the UNCRPD submitted in accordance with the arrangements made pursuant to Article 69(7).

ANNEX IV Thematic enabling conditions applicable to ERDF, ESF+ and the Cohesion Fund – Article 15(1)

Annex IV not included here

ANNEX V Template for programmes supported from the ERDF (Investment for jobs and growth goal), ESF+, the Cohesion Fund, the JTF and the EMFAF – Article 21(3)

Annex V not included here

^(?) Council Decision of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (OJ L 23, 27.1.2010, p. 35).

ANNEX VI Template of a programme for the AMIF, the ISF and the BMVI – Article 21(3)

CCI number	
Title in English	[255] ⁽¹⁾
Title in the national language	[255]
Version	
First year	[4]
Last year	[4]
Eligible from	
Eligible until	
Commission decision number	
Commission decision date	
Member State amending decision number	
Member State amending decision entry into force date	
Non substantial transfer (Article 24(5) CPR)	Yes/No

1. Programme strategy: main challenges and policy responses Reference: points (a) (iii), (iv), (v) and (ix) Article 22(3) of Regulation (EU) 2021/1060

This section explains how the programme will address the main challenges identified at the national level based on local, regional and national needs assessments and/or strategies. It provides an overview of the state of implementation of relevant Union acquis and the progress achieved on Union action plans, and describes how the Fund will support their development through the programming period.

Text field [15 000]

2. Specific objectives (repeated for each specific objective other than technical assistance)

Reference: Article 22(2) and (4) CPR

⁽¹⁾ Number in square brackets refer to number of characters without spaces.

2.1. Title of the specific objective [300]

2.1.1. Description of a specific objective

This section describes, for each specific objective, the initial situation, main challenges and proposes responses supported by the Fund. It describes which implementation measures are addressed with the support of the Fund; it provides an indicative list of actions within the scope of Articles 3 and 5 of the **AMIF**, **ISF** or **BMVI** Regulations.

In particular: For operating support, it provides an explanation in line with Article 21 of the **AMIF** Regulation, Article 16 of the **ISF** Regulation or Articles 16 and 17 of the **BMVI** Regulation. It includes an indicative list of beneficiaries with their statutory responsibilities, main tasks to be supported.

Planned use of financial instruments, if applicable.

Text field (16 000 characters)

2.1.2. Indicators

Reference: point (e) of Article 22(4) CPR

Table 1: Output indicators

Specific objective	ID [5]	Indicator [255]	Measurement unit	Milestone (2024)	Target (2029)

Table 2: Result indicators

Specific objective	ID [5]	Indicator [255]	Measurement unit	Baseline	Measurement unit for baseline	Reference year(s)	Target (2029)	Measurement unit for target	Source of data [200]	Comments [200]

2.1.3. Indicative breakdown of the programme resources (EU) by type of intervention

Reference: Article 22(5) CPR; and Article 16(12) **AMIF** Regulation, Article 13(12) **ISF** Regulation or Article 13(18) **BMVI** Regulation

Table 3: Indicative breakdown

Specific objective	Type of intervention	Code	Indicative amount (Euro)

2.2. Technical assistance

2.2.1. Description - Reference: point (f) of Article 22(3), Article 36(5), Article 37, and Article 95 CPR

Text field [5 000] (Technical assistance pursuant to Article 36(5) CPR)
Text field [3 000] (Technical assistance pursuant to Article 37 CPR)

2.2.2. Indicative breakdown of technical assistance pursuant to Article 36(5) and Article 37 CPR

Table 4: Indicative breakdown

Type of intervention	Code	Indicative amount (Euro)

3. Financing plan Reference: point (g) Article 22(3) CPR

3.1. Financial appropriations by year

Table 5: Financial appropriations by year

Fund	2021	2022	2023	2024	2025	2026	2027	Total

3.2. Total financial allocations

Table 6: Total financial allocations by fund and national contribution

Specific objective (SO)	Type of action	Basis for calculation Union support (total or public)	Union contribution (a)	National contribution (b)=(c)+(d)	Indicative breakdown of national contribution		Total e=(a)+(b)	Co-financing rate (f)=(a)/(e)
					public (c)	private (d)		
SO 1	Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation							
Total for SO 1								
SO 2	Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation							
Total for SO 2								
SO 3	Actions co-financed in line with Article 12(n) of ISF Regulation or Article 15(n) of AMIF Regulation							

Specific objective (SO)	Type of action	Basis for calculation Union support (total or public)	Union contribution (a)	National contribution (b)=(c)+(d)	Indicative breakdown of national contribution		Total e=(a)+(b)	Co-financing rate (f)=(a)/(e)
					public (c)	private (d)		
Total for SO 3								
SO 4	Actions co-financed in line with Article 15(n) of AMIF Regulation							
	Actions co-financed in line with Article 19 of AMIF Regulation							
	Actions co-financed in line with Article 20 of AMIF Regulation ('transfer in')							
	Actions co-financed in line with Article 20 of AMIF Regulation ('transfer out')							
Total for SO 4								
Technical assistance pursuant to Article 36(5) CPR								
Technical assistance pursuant to Article 37 CPR								
Grand total								

Table 6A: Pledging plan

Category	Number of persons per year						
	2021	2022	2023	2024	2025	2026	2027
Resettlement							
Humanitarian admission in line with Article 19(2) AMIF Regulation							
Humanitarian admission of vulnerable persons in line with Article 19(3) AMIF Regulation							
Transfer of applicants for or beneficiaries of international protection ('transfer in')							
Transfer of applicants for or beneficiaries of international protection ('transfer out')							
[other categories]							

3.3. Transfers

Table 7: Transfers between shared management funds⁽²⁾

Receiving fund / instrument \ Transferring fund / instrument	AMIF	ISF	BMVI	ERDF	ESF+	Cohesion Fund	EMFAF	Total
AMIF								
ISF								
BMVI								
Total								

Table 8: Transfers to instruments under direct or indirect management⁽³⁾

	Transfer amount
Instrument 1[name]	
Instrument 2[name]	
Total	

4. Enabling conditions Reference: point (i) of Article 22(3) CPR

Table 9: Horizontal enabling conditions

Enabling condition	Fulfilment of enabling condition	Criteria	Fulfilment of criteria	Reference to relevant documents	Justification
		Criterion 1	Y/N	[500]	[1 000]
		Criterion 2			

5. Programme authorities Reference: point (k) of Article 22(3) and Articles 71 and 84 CPR

Table 10: Programme authorities

	Name of the institution [500]	Contact name and position [200]	e-mail [200]
Managing authority			
Audit authority			
Body which receives payments from the Commission			

⁽²⁾ Cumulative amounts for all transfers during programming period.

⁽³⁾ Cumulative amounts for all transfers during programming period.

6. Partnership Reference: point (h) of Article 22(3) CPR

Text field [10 000]

7. Communication and visibility - Reference: point (j) of Article 22(3) CPR

Text field [4 500]

8. Use of unit costs, lump sums, flat rates and financing not linked to costs Reference: Articles 94 and 95 CPR

Intended use of Articles 94 and 95 CPR	YES	NO
From the adoption programme will make use of reimbursement of the Union contribution based on unit costs, lump sums and flat rates under the priority according to Article 94 CPR (if yes, fill in Appendix 1)	<input type="checkbox"/>	<input type="checkbox"/>
From the adoption programme will make use of reimbursement of the Union contribution based on financing not linked to costs according to Article 95 CPR (if yes, fill in Appendix 2)	<input type="checkbox"/>	<input type="checkbox"/>

Appendix 1

Union contribution based on unit costs, lump sums and flat rates

Template for submitting data for the consideration of the Commission (Article 94 CPR)

Date of submitting the proposal	

This Appendix is not required when Union-level simplified cost options (SCO) established by the delegated act referred to in Article 94(4) CPR are used.

A. Summary of the main elements

Specific objective	Estimated proportion of the total financial allocation within the specific objective to which the SCO will be applied in %	Type(s) of operation covered		Indicator triggering reimbursement		Unit of measurement for the indicator triggering reimbursement	Type of SCO (standard scale of unit costs, lump sums or flat rates)	Amount (in EUR) or percentage (in case of flat rates) of the SCO
		Code ⁽⁴⁾	Description	Code ⁽⁵⁾	Description			

⁽⁴⁾ This refers to the code in Annex VI of the **AMIF**, **BMVI** and **ISF** Regulations.

⁽⁵⁾ This refers to the code of a common indicator, if applicable.

B. Details by type of operation (to be completed for every type of operation)

Did the managing authority receive support from an external company to set out the simplified costs below?

If so, please specify which external company: Yes/No – Name of external company

1. Description of the operation type including the timeline for implementation ⁽⁶⁾	
2. Specific objective(s)	
3. Indicator triggering reimbursement ⁽⁷⁾	
4. Unit of measurement for the indicator triggering reimbursement	
5. Standard scale of unit cost, lump sum or flat rate	
6. Amount per unit of measurement or percentage (for flat rates) of the SCO	
7. Categories of costs covered by the unit cost, lump sum or flat rate	
8. Do these categories of costs cover all eligible expenditure for the operation? (Y/N)	
9. Adjustment(s) method ⁽⁸⁾	
10. Verification of the achievement of the units [delivered] - describe what document(s)/system will be used to verify the achievement of the units delivered? - describe what will be checked and by whom during management verifications. - describe what arrangements will be made to collect and store relevant data/ documents	
11. Possible perverse incentives, mitigating measures ⁽⁹⁾ and the estimated level of risk (high/medium/low)	
12. Total amount (national and Union) expected to be reimbursed by the Commission on this basis	

C. Calculation of the standard scale of unit costs, lump sums or flat rates

1. Source of data used to calculate the standard scale of unit costs, lump sums or flat rates (who produced, collected and recorded the data; where the data are stored; cut-off dates; validation, etc.).

2. Please specify why the proposed method and calculation based on Article 94(2) CPR is relevant to the type of operation.

⁽⁶⁾ Envisaged starting date of the selection of operations and envisaged final date of their completion (ref. Article 63(5) CPR).

⁽⁷⁾ For operations encompassing several simplified cost options covering different categories of costs, different projects or successive phases of an operation, the fields 3 to 11 need to be filled in for each indicator triggering reimbursement.

⁽⁸⁾ If applicable, indicate the frequency and timing of the adjustment and a clear reference to a specific indicator (including a link to the website where this indicator is published, if applicable).

⁽⁹⁾ Are there any potential negative implications on the quality of the supported operations and, if so, what measures (e.g. quality assurance) will be taken to offset this risk?

3. Please specify how the calculations were made, in particular including any assumptions made in terms of quality or quantities. Where relevant, statistical evidence and benchmarks should be used and, if requested, provided in a format that is usable by the Commission.

--

4. Please explain how you have ensured that only eligible expenditure was included in the calculation of the standard scale of unit cost, lump sum or flat rate.

--

5. Assessment of the audit authority(ies) of the calculation methodology and amounts and the arrangements to ensure the verification, quality, collection and storage of data.

--

Appendix 2

Union contribution based on financing not linked to costs

Template for submitting data for the consideration of the Commission (Article 95 CPR)

Date of submitting the proposal	

This Appendix is not required when amounts for Union-level financing not linked to costs established by the delegated act referred to in Article 95(4) CPR are used.

A. Summary of the main elements

Specific objective	The amount covered by the financing not linked to costs	Type(s) of operation covered		Conditions to be fulfilled/results to be achieved triggering reimbursement by the Commission	indicator		Unit of measurement for the conditions to be fulfilled/ results to be achieved triggering reimbursement by the Commission	Envisaged type of reimbursement method used to reimburse the beneficiary or beneficiaries
		Code ⁽¹⁰⁾	Description		Code ⁽¹¹⁾	Description		

⁽¹⁰⁾ Refers to the code in Annex VI of the **AMIF**, **BMVI** and **ISF** Regulations.

⁽¹¹⁾ Refers to the code of a common indicator, if applicable.

B. Details by type of operation (to be completed for every type of operation)

1. Description of the operation type			
2. Specific objective			
3. Conditions to be fulfilled or results to be achieved			
4. Deadline for fulfilment of conditions or results to be achieved			
5. Indicator definition			
6. Unit of measurement for conditions to be fulfilled/ results to be achieved triggering reimbursement by the Commission			
7. Intermediate deliverables (if applicable) triggering reimbursement by the Commission with schedule for reimbursements	Intermediate deliverables	Envisaged date	Amounts (in EUR)
8. Total amount (including Union and national funding)			
9. Adjustment(s) method			
10. Verification of the achievement of the result or condition (and where relevant, the intermediate deliverables): <ul style="list-style-type: none"> – describe what document(s)/system will be used to verify the achievement of the result or condition (and where relevant, each of the intermediate deliverables); – describe what will be checked, by whom and how during management verifications (including on-the-spot); – describe what arrangements will be made to collect and store relevant data/documents. 			
11. Use of grants in the form of financing not linked to costs. Does the grant provided by Member State to beneficiaries take the form of financing not linked to costs? [Y/N]			
12. Arrangements to ensure the audit trail Please list the body(ies) responsible for these arrangements.			

Appendix 3

Thematic Facility

Procedure reference	Specific objective	Modality: Specific action/ emergency assistance/ resettlement and humanitarian admission/ transfer of applicants for or beneficiaries of international protection	Type of intervention	Union contribution (EUR)	Pre-financing rate
<type='N' input='M'>	<type='N' input='M'>	<type='S' input='S'>	<type='S' input='S'>	<type='N' input='M'>	<type='N' input='M'>
Description of the action		[text]			
Member State submits a thematic facility amendment /declines			Date: <type='N' input='M'> Submit/Decline: <type='S' input='S'>		
Comment (if Member State declines or if indicators targets and milestones are not updated a justification should be encoded; tables 1 of point 2.1.3, 1 of point 3.1 and 1 of point 3.2 of this Annex should be revised)			[text]		

ANNEX VII Template for the transmission of data – Article 42⁽¹⁾

Tables 1-2, 4-6, 8-10 not included here

Table 3: Financial information and its breakdown by type of intervention for the AMIF, the ISF and the BMVI (point (a) of Article 42(2))

Specific objective (repeated for each specific objective)	Co-financing rate (Annex VI)	Categorisation dimension				
		1	2	3	4	5
		Type of intervention (Table 1 of Annex VI, Fund specific regulation)	Type of intervention (Table 2 of Annex VI Fund specific regulation)	Type of intervention (Table 3 of Annex VI Fund specific regulation)	Type of intervention (Table 4 of Annex VI Fund specific regulation)	
<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>
Subtotal by Specific Objective	SO _n					

(¹) Legend for the characteristics of fields: type: N=Number, D=Date, S=String, C=Checkbox, P=Percentage, B=Boolean, Cu=Currency; input: M=Manual, S=Selection, G=Generated by system.

Specific objective (repeated for each specific objective)	Co-financing rate (Annex VI)	Financial data						
		7	8	9	10	11	12	13
		Total financial allocation (EUR) from the Fund and national contribution	Total eligible cost of selected operations (EUR)	Contribution from the funds to selected operations (EUR)	Proportion of the total financial allocation covered with selected operations (%) [column 8 / column 7 x 100]	Total eligible expenditure declared by beneficiaries (EUR)	Proportion of the total financial allocation covered by eligible expenditure declared by beneficiaries (%) [column 11 / column 7 x 100]	Number of selected operations
<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>	<type='S' input='S'>
Subtotal by Specific Objective	50n							

Table 7: Common output indicators for the AMIF, the ISF and the BMVI (point (b) of Article 42(2))

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Data on all common output indicators listed in annex VIII of AMIF/ISF/BMVI Regulations for each specific objective [extracted from Table 1 of point 2.1.2 of Annex VI]							Progress in output indicators to date		
Specific objective	ID	Indicator name	Indicator breakdown (of which)	Measurement unit	Milestone (2024)	Target (2029)	Planned values in selected operations ⁽²⁾	Values achieved ⁽³⁾	Comments
							[dd/mm/yy]	[dd/mm/yy]	
<type='S' input='G'>	<type='S' input='G'>	<type='S' input='G'>	<type='S' input='G'>	<type='S' input='G'>	<type='S' input='G'>	<type='N' input='G'>	<type='N' input='M'>	<type='N' input='M'>	<type='S' input='M'>

Table 11: Common result indicators for the AMIF, the ISF and the BMVI (point (a) of Article 42(2))

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
Data on all common result indicators listed in Annex VIII of AMIF/ISF/BMVI Regulations for each specific objective [extracted from Table 2 of point 2.1.2 of Annex VI]								Progress in result indicators to date		
Specific objective	ID	Indicator name	Indicator breakdown (of which)	Measurement unit (for indicators and baseline)	Baseline	Target 2029	Measurement unit (for target)	Planned values in selected operations ⁽⁴⁾	Values achieved ⁽⁵⁾	Comments
								[dd/mm/yy]	[dd/mm/yy]	
<type='S' input='G'>	<type='S' input='G'>	<type='S' input='G'>	<type='S' input='G'>	<type='S' input='G'>	<type='N' input='G'>	<type='N' input='G'>	<type='N' input='G'>	<type='N' input='G'>	<type='S' input='G'>	<type='S' input='M'>

⁽²⁾ Including gender and age breakdown, where required.

⁽³⁾ Including gender and age breakdown, where required.

⁽⁴⁾ Including gender and age breakdown, where required.

⁽⁵⁾ Including gender and age breakdown, where required.

Table 12: Financial instruments data for the Funds (Article 42(3))

Priority ⁽⁶⁾	Characteristics of expenditure			Eligible expenditure by product			
	Fund	Specific objective	Category of region ⁽⁷⁾	Loans (form of support code for FI)	Guarantee (form of support code for FI)	Equity or quasi-equity (form of support code for FI)	Grants within a financial instrument operation (form of support code for FI)
Input = selection	Input = selection	Input = selection	Input = selection	Input = manual	Input = manual	Input = manual	Input = manual

Amount of private and public resources mobilised in addition to the contribution from the Funds			
Loans (form of support code for FI)	Guarantee (form of support code for FI)	Equity or quasi-equity (form of support code for FI)	Grants within a financial instrument operation (form of support code for FI)
Input = manual	Input = manual	Input = manual	Input = manual

Amount of management costs and fees declared as eligible expenditure, including (MCF are to be reported separately in case of direct award and in case of competitive tender) ⁽⁸⁾ :					
Management costs and fees for holding funds depending on the financial product operating within the holding fund structure			Management costs and fees for specific funds (set-up either with or without the holding fund structure) by financial product		
Loans	Guarantees	Equity	Loans	Guarantees	Equity
Input = manual	Input = manual	Input = manual	Input = manual	Input = manual	Input = manual

Interest and other gains generated by support from the Funds to financial instruments referred to in Article 60	Resources returned attributable to support from the Funds as referred to in Article 62	For guarantees, total value of loans, equity or quasi-equity investments in final recipients guaranteed with programme resources and actually disbursed to final recipients
Input = manual	Input = manual	Input = manual

⁽⁶⁾ Not applicable to the AMIF, ISF or BMVI.

⁽⁷⁾ Not applicable to the Cohesion Fund, JTF, AMIF, BMVI, ISF or EMFAF.

⁽⁸⁾ In the data exchange system SFC2021 the column should separate possibility to report MCF paid in case of direct of award of contract and in case of competitive tender.

ANNEX VIII A forecast of the amount for which the Member State expects to submit payment applications for the current and the subsequent calendar year (Article 69(10))

For each programme, to be filled in by Fund and category of region, where appropriate.

Fund	Category of region	Expected Union contribution		
		[current calendar year]		[subsequent calendar year]
		January - October	November - December	January- December
ERDF	<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
Interreg		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
ESF+	<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
Cohesion Fund		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
JTF*		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
EMFAF		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
AMIF		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
ISF		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
BMVI		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">

* Amounts including the complementary funding transferred from the ERDF and the ESF+ as appropriate.

ANNEX IX Communication and visibility – Articles 47, 49 and 50

1. The use and technical characteristics of the emblem of the Union ('the emblem')

1.1. The emblem shall be prominently featured on all communication materials such as printed or digital products, websites and their mobile views relating to the implementation of an operation, used for the public or for participants.

1.2. The statement 'Funded by the European Union' or 'Co-funded by the European Union' shall be written in full and placed next to the emblem.

1.3. The typeface to be used in conjunction with the emblem may be any of the fol-

lowing fonts: Arial, Auto, Calibri, Garamond, Trebuchet, Tahoma, Verdana or Ubuntu. Italic, underlined variations or font effects shall not be used.

1.4. The positioning of the text in relation to the emblem shall not interfere with the emblem in any way.

1.5. The font size used shall be proportionate to the size of the emblem.

1.6. The colour of the font shall be reflex blue, black or white depending on the background.

1.7. The emblem shall not be modified or merged with any other graphic elements or

texts. If other logos are displayed in addition to the emblem, the emblem shall have at least the same size, measured in height or width, as the biggest of the other logos. Apart from the emblem, no other visual identity or logo must be used to highlight the support from the Union.

1.8. Where several operations are taking place at the same location, supported by the same or different funding instruments, or where further funding is provided for the same operation at a later date, at least one plaque or billboard shall be displayed.

1.9. Graphic standards for the emblem and the definition of standard colours:

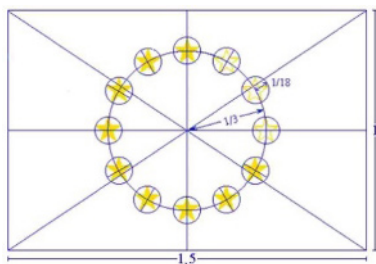
(A) SYMBOLIC DESCRIPTION

Against a background of blue sky, twelve golden stars form a circle representing the union of the peoples of Europe. The number of stars is fixed, twelve being the symbol of perfection and unity.

(B) HERALDIC DESCRIPTION

On an azure field a circle of twelve golden mullets, their points not touching.

(C) GEOMETRIC DESCRIPTION



The emblem has the form of a blue rectangular flag of which the fly is one and a half times the length of the hoist. Twelve gold

stars situated at equal intervals form an invisible circle whose centre is the point of intersection of the diagonals of the rectangle. The radius of the circle is equal to one third of the height of the hoist. Each of the stars has five points which are situated on the circumference of an invisible circle whose radius is equal to one eighteenth of the height of the hoist. All the stars are upright, i.e. with one point vertical and two points in a straight line at right angles to the mast. The circle is arranged so that the stars appear in the position of the hours on the face of a clock. Their number is invariable.

(D) REGULATION COLOURS

The emblem is in the following colours: PANTONE REFLEX BLUE for the surface of the rectangle; PANTONE YELLOW for the stars

(E) FOUR-COLOUR PROCESS

If the four-colour process is used, recreate the two standard colours by using the four colours of the four-colour process.

PANTONE YELLOW is obtained by using 100 % 'Process Yellow'.

PANTONE REFLEX BLUE is obtained by mixing 100 % 'Process Cyan' and 80 % 'Process Magenta'.

INTERNET

PANTONE REFLEX BLUE corresponds in the web-palette colour RGB:0/51/153 (hexadecimal: 003399) and PANTONE YELLOW corresponds in the web-palette colour RGB: 255/204/0 (hexadecimal: FFCC00).

MONOCHROME REPRODUCTION PROCESS

Using black, outline the rectangle in black and print the stars in black on white.



Using blue (Reflex Blue), use 100 % with the stars reproduced in negative white.



REPRODUCTION ON A COLOURED BACKGROUND

If there is no alternative to a coloured background, put a white border around the rectangle, the width of the border being 1/25th of the height of the rectangle.



The principles of the use of the Union emblem by third parties are set out in the Administra-

tive agreement with the Council of Europe regarding the use of the European emblem by third parties⁽¹⁾.

2. The licence on intellectual property rights referred to in Article 49(6) shall grant to the Union at least the following rights:

2.1. internal use i.e. right to reproduce, copy and make available the communication and visibility materials to Union's institutions and agencies, Member States' authorities, and their employees;

2.2. reproduction of the communication and visibility materials by any means and in any form, in whole or in part;

2.3. communication to the public of the communication and visibility materials by using any and all means of communication;

2.4. distribution to the public of the communication and visibility materials (or copies thereof) in any and all forms;

2.5. storage and archiving of the communication and visibility materials;

2.6. sub-licensing of the rights on the communication and visibility materials to third parties.

⁽¹⁾ OJ C 271, 8.9.2012, p. 5.

ANNEX X Elements for funding agreements and strategy documents – Article 59(1) and (5)

1. Required elements of the funding agreement for financial instruments implemented under Article 59(5):

(a) the investment strategy or policy including implementation arrangements, financial products to be offered, final recipients targeted, and envisaged combination with grant support (as appropriate);

(b) a business plan or equivalent documents for the financial instrument to be implemented, including the estimated leverage effect referred to in point (a) of Article 58(3);

(c) the target results that the financial instrument concerned is expected to achieve to contribute to the specific objectives and results of the relevant priority;

(d) provisions for monitoring of the implementation of investments and of deal flows including reporting by the financial instrument to the holding fund and to the managing authority to ensure compliance with Article 42;

(e) audit requirements, such as minimum requirements for documentation to be kept at the level of the financial instrument (and at the level of the holding fund where appropriate) in accordance with Article 82, and requirements in relation to the maintenance of separate records for the different forms of support in compliance with Article 58(6), where applicable, including provisions and requirements regarding access to documents by audit authorities of Member States, Commission auditors and the Court of Auditors in order to ensure a clear audit trail;

(f) requirements and procedures for managing the contribution provided by the pro-

gramme in accordance with Article 92 and for the forecast of deal flows, including requirements for fiduciary or separate accounting as set out in Article 59;

(g) requirements and procedures for managing interest and other gains generated as referred to in Article 60, including acceptable treasury operations or investments, and the responsibilities and liabilities of the parties concerned;

(h) provisions regarding the calculation and payment of management costs incurred or of the management fees of the financial instrument in compliance with point (d) of Article 68(1);

(i) provisions regarding the re-use of resources attributable to the support from the Funds in compliance with Article 62 and an exit policy for the contribution from the Funds out of the financial instrument;

(j) conditions for a possible total or partial withdrawal of programme contributions from programmes to financial instruments, including the holding fund where applicable;

(k) provisions to ensure that bodies implementing financial instruments manage financial instruments with independence and in accordance with the relevant professional standards, and act in the exclusive interest of the parties providing contributions to the financial instrument;

(l) provisions for the winding-up of the financial instrument;

(m) other terms and conditions for making contributions from the programme to the financial instrument;

(n) terms and conditions to ensure that through contractual arrangements final recipients comply with the requirements of displaying of durable plaques or billboards in accordance with point (c) of Article 50(1), and other arrangements to ensure compliance with Article 50 and Annex IX for the acknowledgement of support from the Funds;

(o) appraisal and selection of bodies implementing the financial instruments, including calls for expression of interest or public procurement procedures (only where financial instruments are organised through a holding fund).

2. Required elements of the strategy document(s) referred to in Article 59(1):

(a) the investment strategy or policy of the financial instrument, general terms and conditions of envisaged debt products, target recipients and actions to be supported;

(b) a business plan or equivalent documents for the financial instrument to be implemented, including the estimated leverage effect referred to in Article 58;

(c) the use and re-use of resources attributable to the support of the Funds in accordance with Articles 60 and 62;

(d) monitoring and reporting of the implementation of the financial instrument to ensure compliance with Articles 42 and 50.

ANNEX XI Key requirements of management and control systems and their classification – Article 69(1)

Table 1 Key requirements of management and control systems

		Bodies/authorities concerned
1	Appropriate separation of functions and written arrangements for reporting, supervising and monitoring of delegated tasks to an intermediate body	Managing authority
2	Appropriate criteria and procedures for the selection of operations	Managing authority ⁽¹⁾
3	Appropriate information to beneficiaries on applicable conditions for support for the selected operations	Managing authority
4	Appropriate management verifications, including appropriate procedures for checking fulfilment of conditions for financing not linked to costs and for simplified cost options	Managing authority
5	Effective system to ensure that all documents necessary for the audit trail are held	Managing authority
6	Reliable electronic system (including links with electronic data exchange systems with beneficiaries) for recording and storing data for monitoring, evaluation, financial management, verifications and audits, including appropriate processes to ensure the security, integrity and confidentiality of the data and the authentication of users	Managing authority

⁽¹⁾ Territorial authorities or bodies pursuant to Article 29(3) of this Regulation and steering committee pursuant to Article 22(2) of Interreg Regulation, where applicable.

7	Effective implementation of proportionate anti-fraud measures	Managing authority
8	Appropriate procedures for drawing up the management declaration	Managing authority
9	Appropriate procedures for confirming that the expenditure entered into the accounts is legal and regular	Managing authority
10	Appropriate procedures for drawing up and submission of payment applications and of accounts and confirming completeness, accuracy and veracity of the accounts	Managing authority/ Body carrying out the accounting function
11	Appropriate separation of functions and functional independence between the audit authority (and any body carrying out audit work under the responsibility of the audit authority on which the audit authority relies and supervises, if applicable) and the other programme authorities and audit work carried out in accordance with internationally accepted audit standards	Audit authority
12	Appropriate system audits	Audit authority
13	Appropriate audits of operations	Audit authority
14	Appropriate audits of accounts	Audit authority
15	Appropriate procedures for providing a reliable audit opinion and for preparing the annual control report	Audit authority

Table 2 Classification of management and control systems with regard to their effective functioning

Category 1	Works well. No or only minor improvement needed.
Category 2	Works. Some improvement needed.
Category 3	Works partially. Substantial improvement needed.
Category 4	Essentially does not work.

ANNEX XII Detailed rules and template for the reporting of irregularities – Article 69(2) and (12)

SECTION 1. DETAILED RULES FOR THE REPORTING OF IRREGULARITIES

1.1. IRREGULARITIES TO BE REPORTED

The following irregularities shall be reported to the Commission in accordance with Article 69(2):

(a) irregularities that have been the subject of a first written assessment by a competent authority, either administrative or judicial, which has concluded on the basis of specific facts that an irregularity has been committed, regardless of the possibility that this conclusion may subsequently have to be

revised or withdrawn as a result of developments in the course of the administrative or judicial procedure;

(b) irregularities that give rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of fraud or other criminal offences, as referred to in points (a) and (b) of Article 3(2) and Article 4(1), (2) and (3) of Directive (EU) 2017/1371 and point (a) of Article 1(1) of the Convention drawn up on the basis of Arti-

cle K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests⁽¹⁾ for the Member States not bound by that Directive;

(c) irregularities preceding a bankruptcy;

(d) specific irregularity or group of irregularities for which the Commission submits a written request for information to the Member State following the initial reporting from a Member State.

1.2. IRREGULARITIES EXEMPTED FROM REPORTING

The following irregularities shall not be reported:

(a) irregularities for an amount lower than EUR 10 000 in contribution from the Funds; this does not apply in the case of irregularities which are interlinked and the total amount of which exceeds EUR 10 000 in contribution from the Funds, even when none of them exceeds that ceiling on its own;

(b) cases where the irregularity consists solely of the failure to execute, in whole or in part, an operation included in the co-financed programme owing to the non-fraudulent bankruptcy of the beneficiary;

(c) cases brought to the attention of the managing authority or the authority in charge of the accounting function by the beneficiary voluntarily and before detection by either authority, whether before or after the payment of the public contribution;

(d) cases which are detected and corrected by the managing authority before inclusion in a payment application submitted to the Commission.

The exemptions in points (c) and (d) of the first subparagraph of this point shall not apply to irregularities referred to under point 1.1(b).

1.3. DETERMINATION OF THE REPORTING MEMBER STATE

The Member State in which the irregular expenditure is incurred by the beneficiary and paid in implementing the operation shall be responsible for reporting the irregularity in accordance with Article 69(2). For programmes under the European territorial cooperation goal (Interreg), the reporting Member State shall inform the managing authority and the audit authority of the programme.

1.4. TIMING OF THE REPORTING

Member States shall report irregularities within two months following the end of each quarter from their detection or as soon as additional information on the reported irregularities becomes available. However, a Member State shall immediately report to the Commission irregularities discovered or supposed to have occurred, indicating any other Member States concerned, in case the irregularities may have repercussions outside its territory.

1.5. SUBMISSION, USE AND PROCESSING OF INFORMATION REPORTED

Where national provisions provide for the confidentiality of investigations, only information subject to the authorisation of the competent tribunal, court or other body in accordance with national rules may be reported.

The information reported in accordance with this Annex may be used for the purposes of protecting the financial interests of the Union, in particular to perform risk analyses and develop systems serving to identify risks more effectively.

⁽¹⁾ OJ C 316, 27.11.1995, p. 49.

This information shall not be used for any purposes other than the protection of the Union's financial interests unless the authorities that have provided it have given their express consent.

This information shall be covered by professional secrecy and may not be disclosed to persons other than those in the Member States or within the Union's institutions, agencies, offices and bodies whose duties require that they have access to it.

SECTION 2. TEMPLATE FOR ELECTRONIC REPORTING VIA THE IRREGULARITY MANAGEMENT SYSTEM (IMS)

	Identification	Fund
		Member State
		Reporting authority
		Year
		Sequence number
		Programming period
		Reference number – national
	Drafting information	Initiating authority - complete name
		Request language
		Drafting date
		Quarter
	Special request	Necessity to inform other countries
		Person found in other case(s)
	Status	Proceedings
	Case closure	Case closure date
Personal data	Identification of persons involved	Legal person / natural person
		Legal status
		National ID number
		Company name /Family name
		Trade name / First name
		Parent name / Independent prefix
		Street
		Postcode
		City
	Territorial unit where the person is registered	Member State
		Relevant NUTS level
		Flagged on basis of the Financial Regulation ⁽²⁾ (Articles 135 to145)
		Justification for non-disclosure of personal data

⁽²⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

	Description of operation	CCI number
		Objective – CCI
		Category of region where applicable
		Goal (IJG/Interreg)
		Programme
		Programme closure date
		Commission decision - number
		Commission decision - date
		Policy objective
		Priority
	Specific objective	
	Territorial unit where the operation takes place	Member State
		Relevant NUTS level
Competent authority		
Operation - specific - project	Project	Project
		Project – name
		Project – number
		Co-financing rate
		Total amount of expenditure
		Total amount of irregular expenditure
Irregularity	Information leading to a suspicion of an irregularity	Date
		Source
	Provisions breached	Provisions – Union: Type, title, reference, Article and paragraph as relevant
		Provisions – national – Type, title, reference, Article and paragraph as relevant
	Other States involved	Member State(s)
		Non-Member State(s)
	Specific information on the irregularity	Start date Irregularity
		End date irregularity
		Type of irregularity - typology
		Type of irregularity - category
		Modus operandi
		Additional information
		Findings of the administration
	Classification of the irregularity	
	Offences pursuant to Directive (EU) 2017/1371	

Detection		Date of discovery (Primary administrative or judicial finding)
		Reason for performing a control (why)
		Type and/or method of control (how)
		Control carried out after payment(s) of public contribution
		Competent authority
	OLAF-Case	OLAF number – Reference
		OLAF number – Year
		OLAF number – Sequence
		Status
Total Amounts	Financial impact	Expenditure – EU contribution
		Expenditure – National contribution
		Expenditure – Public contribution
		Expenditure – Private contribution
		Expenditure – Total
		Irregular amount – EU contribution
		Irregular amount – National contribution
		Irregular amount – Public contribution
		whereof not paid – EU contribution
		whereof not paid – National contribution-
		whereof not paid – Public contribution
		Where of paid – EU contribution
		Where of paid – National contribution
		Where of paid – Public contribution
Comments		
Penalties	Procedures	Procedures initiated to impose penalties
		Type of procedure
		Start date of procedure
		(Expected) end date of procedure
		Status of procedure
	Sanctions	Penalties
		Penalties – Category
		Penalties – Type
		Penalties applied
		Amounts related to financial penalties
End date of procedure		
Comments	Comments	Comments - Reporting authority
	Attachments	Attachments
		Attachments description
	Request for cancellation	Cancellation reasons
		Rejection reasons

ANNEX XIII Elements for the audit trail – Article 69(6)

As regards Union contribution based on unit costs, lump sums and flat rates reimbursed by the Commission under Article 94 and on financing not linked to costs reimbursed by

the Commission under Article 95, only the elements set out under Sections III and IV respectively shall be required.

I. Obligatory elements of audit trail for grants taking the forms set out in points (a) to (e) of Article 53(1):

1. documentation that allows verification of the application of the selection criteria by the managing authority, as well as documentation relating to the overall selection procedure and the approval of operations;
2. document (grant agreement or equivalent) setting out the conditions for support signed between the beneficiary and the managing authority/intermediate body;
3. accounting records of payment claims submitted by the beneficiary, as recorded in the managing authority/intermediate body's electronic system;
4. documentation on verifications addressing the non-relocation and durability requirements as set out in Article 65, Article 66(2) and point (h) of Article 73(2);
5. proof of payment of the public contribution to the beneficiary and of the date the payment was made;
6. documentation evidencing the administrative and, where applicable, on-the-spot checks carried out by the managing authority/intermediate body;
7. information on audits carried out;
8. documentation relating to the follow-up by the managing authority/intermediate body for purposes of management verifications and audit findings;
9. documentation demonstrating verification of compliance with applicable law;
10. data in relation to output and result indicators enabling reconciliation with corresponding targets and reported milestones;
11. documentation related to financial corrections to and deductions from the expenditure declared to the Commission to ensure compliance with Article 98(6) made by the managing authority/intermediate body/the body to which the accounting function has been entrusted to;
12. for grants taking the form set out in point (a) of Article 53(1), the invoices (or documents of equivalent probative value) and proof of their payment by the beneficiary, as well as accounting records of the beneficiary relating to the expenditure declared to the Commission;
13. for grants taking the forms set out in points (b), (c) and (d) of Article 53(1), and as applicable, documents justifying the method of establishing unit costs, lump sums and flat rates; the categories of costs forming the basis for the calculation; documents evidencing costs declared under other categories of costs to which a flat rate applies; the explicit agreement by the managing authority on the draft budget on the document setting out the conditions for support; documentation on the gross employment costs and on calculation of the hourly rate; where simplified cost options are used based on existing methods, documentation confirming compliance with similar type of operations and with documentation required by the existing method, if any.

II. Obligatory elements for audit trail for financial instruments:

1. documents on the establishment of the financial instrument, such as funding agreements, etc.;
2. documents identifying the amounts contributed by each programme and under each priority to the financial instrument, the expenditure that is eligible under each programme and the interest and other gains generated by support from the Funds and re-use of resources attributable to the Funds in accordance with Articles 60 and 62;
3. documents on the functioning of the financial instrument, including those related to monitoring, reporting and verifications;
4. documents concerning exits of programme contributions and the winding-up of the financial instrument;
5. documents on the management costs and fees;
6. application forms, or equivalent, submitted by final recipients with supporting documents, including business plans and, when relevant, previous annual accounts;
7. checklists and reports from the bodies implementing the financial instrument;
8. declarations made in connection with *de minimis* aid;
9. agreements signed in connection with the support provided by the financial instrument, including for equity, loans, guarantees or other forms of investment provided to final recipients;

10. evidence that the support provided through the financial instrument is to be used for its intended purpose;

11. records of the financial flows between the managing authority and the financial instrument, and within the financial instrument at all levels, down to the final recipients, and, for guarantees, proof that underlying loans were disbursed;

12. separate records or accounting codes for a programme contribution paid or a guarantee committed by the financial instrument for the benefit of the final recipient.

III. Obligatory elements of audit trail for reimbursement of the Union contribution by the Commission under Article 94 to be kept at the level of the managing authority/ intermediate body:

1. documents evidencing the ex-ante agreement of the Commission on the types of operations covered by unit costs, lump sums and flat rates and the definition of related amounts and rates, as well as the methods for adjustment of the amounts (programme approval or amendment);

2. documents evidencing the categories of costs and the amounts forming the basis for the calculation to which the flat rate applies;

3. documents evidencing the fulfilment of the conditions for reimbursement by the Commission;

4. documents evidencing the adjustment of the amounts, where relevant;

5. documents evidencing the calculation method if point (a) of the second subparagraph of Article 94(2) is applied;

6. documentation relating to the selection and approval of operations covered by the reimbursement of the Union contribution by the Commission on the basis of simplified cost options;

7. document setting out the conditions of support signed by the beneficiary and the managing authority/intermediate body stating the form of support provided to beneficiaries;

8. documentation evidencing management verifications and audits carried out in accordance with the third subparagraph of Article 94(3);

9. proof of payment of the public contribution to the beneficiary and of the date the payment was made.

IV. Obligatory elements of audit trail for reimbursement of the Union contribution by the Commission under Article 95 to be kept at the level of the managing authority/ intermediate body:

1. documents evidencing the ex-ante agreement of the Commission on the conditions to be fulfilled or the results to be achieved

and corresponding amounts (programme approval or amendment);

2. documentation relating to the selection and approval of operations covered by the reimbursement of the Union contribution by the Commission based on Article 95 (financing not linked to costs);

3. document setting out the conditions of support signed by the beneficiary and the managing authority/intermediate body stating the form of support provided to beneficiaries;

4. documentation evidencing management verifications and audits carried out in accordance with the second subparagraph of Article 95(3);

5. proof of payment of the public contribution to the beneficiary and of the date the payment was made;

6. documents evidencing the fulfilment of conditions or the achievement of results at each stage if done in steps, as well as before final expenditure is declared to the Commission.

ANNEX XIV Electronic data exchange systems between programme authorities and beneficiaries – Article 69(8)

1. Responsibilities of programme authorities regarding the characteristics of electronic data exchange systems

1.1. Ensuring the data security, data integrity, data confidentiality, authentication of the sender in accordance with Articles 69(6), 69(8), point (e) of Article 72(1) and Article 82.

1.2. Ensuring availability and functioning during and outside standard office hours (except during technical maintenance).

1.3. Ensuring that the system aims to make use of logical, simple and intuitive functions and interface.

1.4. Use of functionalities in the system providing for:

(a) interactive forms and/or forms prefilled by the system on the basis of the data which are stored at consecutive steps of the procedures;

(b) automatic calculations, where applicable;

(c) automatic embedded controls which reduce repeated exchanges of documents or information;

(d) system-generated alerts to inform the beneficiary that certain actions can be performed;

(e) online status tracking allowing the beneficiary to monitor the current status of the project;

(f) all previously available data and documents processed by the electronic data exchange system.

1.5. Ensuring record-keeping and data storage in the system enabling both administrative verifications of payment claims submitted by beneficiaries in accordance with Article 74(2) and audits.

2. Responsibilities of programme authorities regarding the modalities for transmission of documents and data for all exchanges

2.1. Ensuring the use of electronic signature compatible with one of the three types of electronic signature defined by Regulation (EU) No 910/2014 of the European Parliament and of the Council⁽¹⁾.

2.2. Providing for storing the date of transmission of documents and data by the beneficiary to the programme authorities and vice versa.

2.3. Ensuring accessibility directly through an interactive user interface (a web application) or via a technical interface that allows for automatic synchronisation and transmission of data between beneficiaries' and Member States' systems.

2.4. Ensuring the protection of privacy of personal data for individuals and commercial confidentiality for legal entities according to Directive 2002/58/EC of the European Parliament and of the Council⁽²⁾ and Regulation (EU) 2016/679.

⁽¹⁾ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

⁽²⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

ANNEX XV SFC2021: electronic data exchange system between the Member States and the Commission – Article 69(9)

1. Responsibilities of the Commission

1.1. Ensuring the operation of an electronic data exchange system ('SFC2021') for all

official exchanges of information between the Member State and the Commission. SFC2021 shall contain at least the informa-

tion specified in the templates established in accordance with this Regulation.

1.2. Ensuring the following characteristics of SFC2021:

(a) interactive forms or forms pre-filled by the system on the basis of the data already recorded in the system previously;

(b) automatic calculations, where they reduce the encoding effort of users;

(c) automatic embedded controls to verify internal consistency of transmitted data and consistency of this data with applicable rules;

(d) system generated alerts warning SFC2021 users that certain actions can or cannot be performed;

(e) online status tracking of the treatment of information entered into the system;

(f) availability of historical data in respect of all information entered for a programme;

(g) availability of a compulsory electronic signature within the meaning of Regulation (EU) No 910/2014 which will be recognised as evidence in legal proceedings.

1.3. Ensuring an information technology security policy for SFC2021 applicable to the personnel using the system in accordance with relevant Union rules, in particular Commission Decision C(2006)3602⁽¹⁾ and its implementing rules.

1.4. Designating a person or persons responsible for defining, maintaining and ensuring

the correct application of the security policy to SFC2021.

2. Responsibilities of Member States

2.1. Ensuring that the programme authorities of the Member State identified in accordance with Article 71(1) as well as the bodies identified to carry out certain tasks under the responsibility of the managing authority or the audit authority in accordance with Article 71(2) and (3) enter into SFC2021 the information for the transmission of which they are responsible and any updates thereto.

2.2. Ensuring the verification of information submitted by a person other than the person who entered the data for that transmission.

2.3. Providing arrangements for the separation of the above tasks through the Member State's management and control information systems connected automatically with SFC2021.

2.4. Appointing a person or persons responsible for managing access rights to fulfil the following tasks:

(a) identifying users requesting access, making sure those users are employed by the organisation;

(b) informing users about their obligations to preserve the security of the system;

(c) verifying the entitlement of users to the required privilege level in relation to their tasks and their hierarchical position;

(d) requesting the termination of access rights when those access rights are no longer needed or justified;

⁽¹⁾ Commission Decision C(2006)3602 of 16 August 2006 concerning the security of information systems used by the European Commission.

(e) promptly reporting suspicious events that may bring prejudice to the security of the system;

(f) ensuring the continued accuracy of user identification data by reporting any changes;

(g) taking the necessary data protection and commercial confidentiality precautions in accordance with Union and national rules;

(h) informing the Commission of any changes affecting the capacity of the Member State authorities or users of SFC2021 to carry out the responsibilities referred to in point 2.1 or their personal capacity to carry out responsibilities referred to in points (a) to (g).

2.5. Providing arrangements for the respect of the protection of privacy and of personal data for individuals, and of commercial confidentiality for legal entities in accordance with Directive 2002/58/EC, Regulation (EU) 2016/679 and Regulation (EU) 2018/1725.

2.6. Adopting national, regional or local information security policies on access to SFC2021 based on a risk assessment applicable to all authorities using SFC2021 and addressing the following aspects:

(a) the IT security aspects of the work performed by the person or persons responsible for managing the access rights referred to in point 2.4 of section II in case of application of direct use;

(b) for national, regional or local computer systems connected to SFC2021, through a technical interface referred to in point 2.3 the security measures for those systems allowing to be aligned with SFC2021 security requirements and covering:

(i) physical security;

(ii) data media and access control;

(iii) storage control;

(iv) access and password control;

(v) monitoring;

(vi) interconnection with SFC2021;

(vii) communication infrastructure;

(viii) human resources management prior to employment, during employment and after employment;

(ix) incident management.

2.7. Making the document referred to in point 2.6 available to the Commission upon request.

2.8. Appointing a person or persons responsible for maintaining and ensuring the application of the national, regional or local IT security policies and acting as a contact point with the person or persons designated by the Commission and referred to in point 1.4.

3. Joint responsibilities of the Commission and the Member States

3.1. Ensuring accessibility either directly through an interactive user-interface (i.e. a web-application) or via a technical interface using pre-defined protocols (i.e. web-services) that allows for automatic synchronisation and transmission of data between Member States information systems and SFC2021.

3.2. Providing for the date of electronic transmission of the information by the Member State to the Commission and vice-versa in electronic data exchange, which constitutes

the date of submission of the document concerned.

3.3. Ensuring that official data is exchanged exclusively through SFC2021, except where force majeure occurs, and that information provided in the electronic forms embedded in SFC2021 (hereinafter referred to as 'structured data') is not replaced by non-structured data and, in the event of inconsistency, that structured data prevails over non-structured data.

In the event of *force majeure*, a malfunctioning of SFC2021 or a lack of a connection with SFC2021 exceeding one working day in the last week before a regulatory deadline for the submission of information or in the period from 18 to 26 December, or five working days at other times, the information exchange between the Member State and the Commission may take place in paper form using the templates set out in this Regulation in which case the date of submission of the document is the date stamped by the post. When the

cause of the force majeure ceases, the party concerned enters in SFC2021 without delay the information already provided in paper form.

3.4. Ensuring compliance with the IT security terms and conditions published in the SFC2021 portal and the measures that are implemented in SFC2021 by the Commission to secure the transmission of data, in particular in relation to the use of the technical interface referred to in point 2.3.

3.5. Implementing and ensuring the effectiveness of the security measures adopted to protect the data stored and transmitted through SFC2021.

3.6. Updating and reviewing annually the SFC2021 IT security policy and the relevant national, regional and local IT security policies in the event of technological changes, the identification of new threats or other relevant developments.

ANNEX XVI Template for the description of the management and control system – Article 69(11)

1. GENERAL

1.1. Information submitted by:

- Member State:
- Title of the programme(s) and CCI number(s): (all programmes covered by the managing authority where there is a common management and control system):
- Name and email of main contact point: (body responsible for the description):

1.2. The information provided describes the situation on: (dd/mm/yy).

1.3. System structure (general information and flowchart showing the organisational relationship between the authorities/bodies involved in the management and control system).

1.3.1 Managing authority (name, address and contact point in the managing authority).

1.3.2. Intermediate bodies (name, address and contact points in the intermediate bodies).

1.3.3. The body carrying out the accounting function (name, address and contact points in the managing authority or the programme authority carrying out the accounting function).

1.3.4. Indicate how the principle of separation of functions between and within the programme authorities is respected.

2. MANAGING AUTHORITY

2.1. Managing authority – description of the organisation and the procedures related to its functions and tasks as provided for in Articles 72 to 75.

2.1.1. The status of the managing authority (national, regional or local public body or private body) and the body of which it is part.

2.1.2. Specification of the functions and tasks carried out directly by the managing authority.

2.1.3. Where applicable, specification per intermediate body of each of the functions and tasks delegated by the managing authority, identification of the intermediate bodies and the form of the delegation. Reference should be made to relevant documents (written agreements).

2.1.4. Procedures for the supervision of the functions and tasks delegated by the managing authority, if any.

2.1.5. Framework to ensure that an appropriate risk management exercise is conducted when necessary, and in particular in the event of major modifications to the management and control system.

2.1.6 Organisation chart of the managing authority and information on its relationship with any other bodies or divisions (internal or

external) that carry out functions and tasks as provided for in Articles 72 to 75.

2.1.7. Indication of planned resources to be allocated in relation to the different functions of the managing authority (including information on any planned outsourcing and its scope, where appropriate).

3. BODY CARRYING OUT THE ACCOUNTING FUNCTION

3.1. Status and description of the organisation and the procedures related to the functions of the body carrying out the accounting function.

3.1.1. The status of the body carrying out the accounting function (national, regional or local public or private body) and the body of which it is part, where relevant.

3.1.2. Description of the functions and tasks carried out by the body carrying out the accounting function as set out in Article 76.

3.1.3. Description of how the work is organised (workflows, processes, internal divisions), what procedures apply and when, how these are supervised, etc.

3.1.4. Indication of planned resources to be allocated in relation to the different accounting tasks.

4. ELECTRONIC SYSTEM

4.1. Description of the electronic system or systems including a flowchart (central or common network system or decentralised system with links between the systems) for:

4.1.1. Recording and storing, in a computerised form data on each operation, including where appropriate data on individual partici-

pants and a breakdown of data on indicators when provided for in this Regulation;

4.1.2. Ensuring that accounting records or codes for each operation are recorded and stored, and that these records or codes support the data required for drawing up payment applications and the accounts;

4.1.3. Maintaining accounting records or keeping separate accounting codes of expenditure declared to the Commission and the corresponding public contribution paid to beneficiaries;

4.1.4. Recording all amounts withdrawn during the accounting year as set out in point (b) of Article 98(3) and deducted from the accounts as set out in Article 98(6) and the reasons for these withdrawals and deductions;

4.1.5. Indicating whether the systems are functioning effectively and can reliably record the data mentioned on the date where this description is compiled as set out in point 1.2;

4.1.6. Describing the procedures to ensure the electronic systems' security, integrity and confidentiality.

ANNEX XVII Data to be recorded and stored electronically on each operation – point (e) of Article 72(1)

This Annex establishes the data to be recorded without prescribing a specific structure for the electronic system (e.g. information included in a line for the purposes of this Annex may be broken down into multiple data fields in the electronic system concerned).

The data indicated in the first column of the table is required for operations supported by any of the Funds covered by this Regulation unless otherwise specified in the second column. Only data fields that are relevant to the operation in question should be completed. For financial instruments operations, information in sections that explicitly refer to financial instruments shall be also recorded and stored.

Where an operation is supported by more than one programme, priority, Fund, or under more than one category of region, the information referred to in fields 28-123 of this Annex shall be recorded in a manner that allows data to be retrieved broken down by programme, priority, Fund and category of region.

In addition, the information referred to in fields 46-152 of this Annex (data related to reporting requirements under Article 42 and Annex VII) shall be recorded in a manner that allows data to be retrieved broken down by specific objective.

Data fields	Indication of Funds for which data is not required
Data on the beneficiary⁽¹⁾ (2)	
1. Name and unique identifier, where relevant, of each beneficiary	
2. Information whether the beneficiary is a public or private law body, or an entity with or without legal personality, or a natural person. If a natural person, date of birth and national ID number. If public or private law body, or an entity with or without legal personality, VAT or tax identification number	
3. Information on all beneficial owners of the beneficiary, if any, as defined in Article 3(6) of Directive (EU) 2015/849, namely first name(s) and last names(s), dates(s) of birth and VAT registration number(s) or tax identification number(s) Member States may comply with this requirement by using the data stored in the registers as referred to in Article 30 of Directive (EU) 2015/849, provided a unique identification number is included.	
4. Information on whether the beneficiary is the body receiving the aid (in the context of State aid) or granting the aid (in the context of <i>de minimis</i> aid)	
5. Only for PPP operations, information whether the beneficiary is the public body initiating the PPP or the private partner selected for its implementation	
6. Only for small projects funds (Interreg), information whether the beneficiary of a small project fund is a cross-border legal body, a European grouping of territorial cooperation or a body which has legal personality	Not applicable to ERDF under the Investment for jobs and growth goal, ESF+, the Cohesion Fund, JTF, EMFAF, AMIF , ISF or BMVI
7. Contact details of the beneficiary	
Data on the beneficiary in the context of financial instruments	
8. Information whether the beneficiary is: (a) the body that implements a holding fund or, (b) where there is no holding fund structure, the body that implements a specific fund, or (c) where the managing authority implements financial instrument directly, information on the managing authority	
Data on the operation	
9. Name and unique identifier of the operation	
10. Short description of the operation. Information on what is being financed and key objectives	
11. Information whether the operation falls under the provisions of Article 94 or 95	

(1) In case of the European territorial cooperation goal (Interreg), beneficiaries shall include the lead beneficiary and other beneficiaries.

(2) Beneficiary includes, where applicable, other bodies incurring expenditure under the operation which is treated as expenditure incurred by the beneficiary.

Data fields	Indication of Funds for which data is not required
12. Information whether the operation is an operation of strategic importance	
13. Information whether the operation is pursuant to Article 12(1) of the BMVI Regulation, Article 12(1) of the ISF Regulation, and Article 15(1) of the AMIF Regulation, or a specific action, or an action listed in Annex IV to those Regulations, or operating support or emergency assistance	Not applicable to ERDF, ESF+, Cohesion Fund, JTF or EMFAF
14. Date of submission of the application for the operation	
15. Starting date as indicated in the document setting out the conditions for support	
16. End date as indicated in the document setting out the conditions for support	
17. Actual date when the operation is physically completed or fully implemented	
18. Body issuing the document setting out the conditions for support	
19. Date of the document setting out the conditions for support and date of its amendments, if any	
20. Information whether the public support for the operation will constitute State aid	
21. Information whether the public support for the operation will constitute <i>de minimis</i> aid	
22. Information whether the operation is a PPP operation	
23. Information whether the beneficiary or other entities implementing the operation in accordance with Union procurement rules use contractors and if so, once the corresponding contracts are signed, information on: (a) all contractors, including name and VAT registration or tax identification number of the contractor(s), (b) and beneficial owners of the contractor, as defined in Article 3(6) of Directive (EU) 2015/849, namely first name(s) and last names(s), dates(s) of birth and VAT registration number(s) or tax identification number(s) of these beneficial owners and (c) contracts (date of the contract, name, reference and contract amount) Member States may comply with the requirement under point (b) by using the data stored in the registers as referred to in Article 30 of Directive (EU) 2015/849, provided a unique identification number is included. Information under this field is only required where public procurement procedures above the Union thresholds are concerned.	
24. Information ⁽³⁾ on whether the contractor, as referred to in the field 23, uses sub-contractors and if so, once the corresponding sub-contracts are signed, information on all sub-contractors listed in the procurement documents (of the contractor), namely name and VAT registration or tax identification number and information on sub-contracts (date of the contract, name, reference and contract amount) The requirement to record the information under this field shall apply from one year after the entry into force of this regulation.	

⁽³⁾ Information under this field is only required at the first level of sub-contracting, only where information is recorded on a contractor under field 23, and only for sub-contracts above EUR 50 000 total value.

Data fields	Indication of Funds for which data is not required
25. Information on whether for the implementation of the operation, the beneficiary further cascades the grant to other entities. If so, information on their name, VAT registration or tax identification number and information on agreements between them and the beneficiary (date of agreement, reference and agreement amount)	
26. Only where the total cost of the operation (including VAT) exceeds 5 million EUR, information whether VAT on expenditure incurred by the beneficiary is non-recoverable under national VAT legislation (point (c) of Article 64(1)),	
27. Currency of the operation (as set out in the document setting out the condition for support)	
28. CCI of the programme(s) under which the operation is supported	
29. Priority or priorities of the programme(s) under which the operation is supported	
30. Fund(s) from which the operation is supported. If there are several funds or other Union instruments from which the operation is supported, information on the split, on the pro-rata amounts, etc.	
31. Information on whether the operation is with the participation of a third country, or takes place in a third country. If so, identification of that third country	Not applicable to the ERDF, ESF+, Cohesion Fund or JTF
32. Only for ESF+ support provided under the specific objective set out in point (m) of Article 4(1), quantity of food: (a) purchased by the beneficiary; (b) obtained in accordance with Article 17(2) of the ESF+ Regulation; (c) delivered to the bodies distributing the food to end recipients; and (d) distributed to end recipients	Not applicable to the ERDF, Cohesion Fund, JTF, EMFAF, AMIF , ISF or BMVI
33. Only for ESF+ support provided under the specific objective set out in point (m) of Article 4(1), quantity of basic material assistance: (a) purchased by the beneficiary; (b) delivered to bodies distributing the assistance to end recipients; and (c) distributed to end recipients	Not applicable to the ERDF, Cohesion Fund, JTF, EMFAF, AMIF , ISF or BMVI
34. Only for ESF+ support provided under specific objective set out in point (m) of Article 4(1), number of vouchers or cards (or other instruments of indirect delivery) issued, and delivered to end recipients, and used by end recipients, as well as information on the total amount of expenditure loaded in vouchers or cards (or other instruments of indirect delivery) delivered to end recipients, and used by end recipients	Not applicable to the ERDF, Cohesion Fund, JTF, EMFAF, AMIF , ISF or BMVI
35. Category(ies) of region concerned by the operation	Not applicable to the Cohesion Fund, EMFAF, AMIF , ISF or BMVI

Data fields	Indication of Funds for which data is not required
Data specific to financial instruments operations	
36. Information on whether the financial instrument is combined with programme support in the form of grants within the meaning of Article 58(5)	
37. Information on whether the financial instrument operation is implemented directly by the managing authority, or is implemented under the responsibility of the managing authority, within the meaning of Article 59(1) and (2)	
38. Information on whether the financial instrument operation is implemented across consecutive periods, and if so, identification of the periods concerned below: (a) 2014-2020 and 2021-2027 (b) 2021-2027 and post-2027	
39. Where the financial instrument is organised through a holding fund, information about the body implementing a specific fund under the holding fund	
40. Procedure for selecting the body implementing the financial instrument	
41. Legal status of the financial instrument, either: (a) an investment of programme resources into the capital of a legal entity; or (b) separate blocks of finance or fiduciary accounts	
42. Contact details of the beneficiary, and, where the financial instrument is set up with a holding fund, contact details of the body implementing a specific fund under the holding fund	
43. Date of signature of the funding agreement between the managing authority and the body implementing a holding fund, or a specific fund without a holding fund	
44. Date of signature of the funding agreement between the body implementing a holding fund and the body implementing a specific fund	
45. Date of completion of the ex-ante assessment referred to in Article 58(3)	
Data on types of intervention	
46. Codes for intervention field dimension, for form of support dimension, for territorial delivery mechanism and territorial focus dimension, for economic activity dimension, for location dimension, for gender tracking and for macro-regional and sea basin strategies, where applicable, pursuant to Annex I to this Regulation and Annex VII to the ERDF and CF Regulation, as well as Annex VI to the AMIF , ISF and BMVI Regulations	Not applicable to EMFAF
47. Code(s) for ESF+ secondary theme dimension, pursuant to Annex I to this Regulation	Not applicable to the ERDF, the Cohesion Fund, JTF, EMFAF, AMIF , ISF or BMVI
48. Codes for the type of action, implementation and particular themes dimensions, pursuant to Annex VI to the AMIF , ISF and BMVI Regulations	Not applicable to the ERDF, ESF+ , Cohesion Fund, JTF or EMFAF

Data fields	Indication of Funds for which data is not required
Data on indicators for all operations (including financial instruments operations)	
49. Unique identifier and indicator name for each of the common and/or programme specific output indicators relevant for the operation	
50. For each output indicator: (a) measurement unit, (b) target value for the operation, where applicable, broken down by gender where applicable, (c) cumulative values achieved to date, where applicable, broken down by gender, where applicable, (d) achievement ratio (achieved value/target value), where applicable	Not applicable to EMFAF
51. Milestone value for each output indicator, where applicable and broken down by gender, where applicable	Not applicable to the ESF+ support provided under specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation, or to EMFAF, AMIF , ISF or BMVI
52. Unique identifier and indicator name for each of the common and/or programme specific result indicators relevant for the operation	
53. Indicator breakdown, where specifically required in the Fund specific Regulations	Not applicable to ERDF, ESF+, Cohesion Fund, JTF or EMFAF
54. Measurement unit for each result indicator, where relevant	Not applicable to ERDF, Cohesion Fund, JTF or EMFAF
55. Baseline and target value for each result indicator for the operation, where applicable and broken down by gender, where applicable, as well as values achieved to date and result indicator achievement ratio (achieved value/target value)	Not applicable to EMFAF Baseline value not applicable to ESF+, AMIF , ISF or BMVI
Financial data specific to operations (in the currency applicable to the operation)	
56. Amount of the total eligible cost of the operation approved in the latest version of the document setting out the conditions for support	
57. Amount of the total eligible costs for which public contribution is provided	
58. Amount of support from the Funds paid or to be paid	
Financial data specific to financial instruments operations (in the currency applicable to the operation)	
59. Amount of programme contribution, committed to a financial instrument and approved in a document setting out the conditions for support (funding agreement), out of which: (a) amount of public contribution; (b) amount of Funds contribution, broken down by Fund	
60. Amount of private and public resources mobilised in addition to the Funds, by product: loans; guarantees; equity or quasi-equity; grants within a financial instrument operation	
61. Interest and other gains generated by support from the Funds to financial instruments	

Data fields	Indication of Funds for which data is not required
62. Amount of interests and other gains attributable to the Funds used until the end of eligibility period used for capital investments, as well as payments of management fees and reimbursement management costs	
63. Amounts of interests and other gains attributable to the Funds not used until the end of eligibility period	
64. Support from the Funds used for differentiated treatment of investors operating under the market economy principle through an appropriate sharing of risks and profits	
65. Resources returned attributable to support from the Funds, out of which capital repayments, or gains, or other earnings and yields	
66. Information on re-use of resources returned attributable to the support from the Funds within the eligibility period, providing separate records for the amounts: (a) re-used in the same or other financial instruments for further investments in final recipients, (b) to cover the losses in the nominal amount of the Funds contribution to the financial instrument resulting from negative interest, and/or (c) for any management costs and fees associated to such further investments	
67. Re-use of resources returned which are attributable to the support from the Funds within a period of 8 years after the end of the eligibility period	
68. Total value of loans, equity or quasi-equity investments in final recipients guaranteed with programme resources and actually disbursed to final recipients	
69. Information on: (a) the final recipient of support from the Funds, name(s) and ID number, (b) beneficial owners of the final recipient, if any, as defined in Article 3(6) of Directive (EU) 2015/849, namely first name(s) and last names(s), dates(s) of birth and VAT registration number(s) or tax identification number(s), (c) amount of support received (grant, loan, guaranteed loan, equity) Member States may comply with the requirement under point (b) by using the data stored in the registers as referred to in Article 30 of Directive (EU) 2015/849, provided a unique identification number is included therein.	
Data on payment claims by the beneficiary	
70. Date of receipt of each payment claim by the beneficiary	
71. Date of the last payment to the beneficiary (for the purposes of the start date for the document retention period)	
72. Amount of eligible expenditure in each payment claim as paid out to the beneficiary, as well as the date of payment to the beneficiary	
73. Total amount of eligible expenditure entered into the accounting system(s) that has been included in the final payment application for the accounting year and total amount of the corresponding public contribution made or to be made	

Data fields	Indication of Funds for which data is not required
74. Only for operations with expenditure related to operations covering more than one category of region, pro-rata allocation of expenditure to the categories of region	Not applicable to the ESF+, EMFAF, AMIF , ISF or BMVI
75. Only for operations with expenditure related to operations receiving support from one or more Funds or one or more programmes and from other Union instruments, pro-rata allocation of expenditure to each Fund and for the programme or programmes	
76. Dates and short description of the results of management verifications of the operation	
77. Dates and short description of the results of on-the-spot audits of the operation	
78. Body carrying out audit work or verifications	
Data on expenditure in payment claim from beneficiary – only for expenditure based on real costs	
79. Eligible expenditure declared to the Commission established on the basis of costs actually incurred and paid, together with in-kind contributions and depreciation, where applicable	
80. Public contribution corresponding to the eligible expenditure declared to the Commission established on the basis of costs actually reimbursed and paid, together with in-kind contributions and depreciation, where applicable	
81. Contract type and contract amount if the contract award is subject to the provisions of Directive 2014/23/EU ⁽⁴⁾ , 2014/24/EU ⁽⁵⁾ or 2014/25/EU ⁽⁶⁾ of the European Parliament and of the Council	
82. Eligible expenditure incurred and paid based on a contract if the contract award is subject to the provisions of Directive 2014/23/EU, 2014/24/EU or 2014/25/EU	
83. The procurement procedure used if the contract award is subject to the provisions of Directive 2014/23/EU, 2014/24/EU or 2014/25/EU	
84. Name and VAT registration or tax identification number of the contractor(s) and sub-contractor(s) if the contract award is subject to the provisions of Directive 2014/23/EU, 2014/24/EU or 2014/25/EU or national provisions on public procurement ⁽⁷⁾	

⁽⁴⁾ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1.).

⁽⁵⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽⁶⁾ Directive 2014/25/EU of the European Parliament and the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁽⁷⁾ Information under this field is only required where information is recorded under fields 23 or 24.

Data fields	Indication of Funds for which data is not required
85 The procurement procedure used, contract amount and eligible expenditure incurred and paid based on a contract if the contract award is subject to the provisions of Directive 2009/81/EC of the European Parliament and of the Council ⁽⁸⁾	Not applicable to ERDF, ESF+, Cohesion Fund, JTF or EMFAF
Data on expenditure in each payment claim from beneficiary – only for expenditure based on unit costs	
86. Amount of eligible expenditure declared to the Commission on the basis of unit costs	
87. Public contribution corresponding to the eligible expenditure declared to the Commission established on the basis of unit costs	
88. Definition of a unit to be used for each unit cost	
89. Number of units delivered as indicated in the payment claim for each unit item for each unit cost	
90. Unit cost for a single unit	
Data on expenditure in each payment claim from beneficiary – only for expenditure based on lump sums	
91. Amount of eligible expenditure declared to the Commission on the basis of lump sums	
92. Public contribution corresponding to eligible expenditure declared to the Commission established on the basis of lump sums	
93. For each lump sum, deliverables (outputs or results) in accordance with the document setting out the conditions for support as the basis for disbursement of lump sum payments	
94. For each lump sum, the corresponding amount in accordance with the document setting out the conditions for support	
Data on expenditure in payment claim from beneficiary – only for expenditure based on flat rates	
95. Amount of eligible expenditure declared to the Commission, as well as the flat rate in the document setting out the conditions for support	
96. Public contribution corresponding to eligible expenditure declared to the Commission established on the basis of flat rates	
Data on expenditure of financial instruments in payment claims by beneficiaries	
97. Total amount of programme contribution paid to final recipients in the case of loans, equity and quasi-equity, by product: (a) out of which total amount of Funds contribution, broken down by Fund (b) out of which total amount of national public co-financing (c) out of which total amount of national private co-financing	

⁽⁸⁾ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

Data fields	Indication of Funds for which data is not required
98. Total amount of programme contributions set aside for guarantee contracts, in accordance with point (b) of Article 68(1): (a) out of which total amount of Funds contribution, broken down by Fund (b) out of which total amount of national public co-financing	
99. Total amount of programme contribution corresponding to payments to, or for the benefit of, final recipients where financial instruments are combined with other Union contribution in a single financial instrument operation: (a) out of which total amount of Funds contribution, broken down by Fund (b) out of which total amount of national public co-financing (c) out of which total amount of national private co-financing	
100. Information on amount of management costs and fees where bodies implementing a holding fund and/or specific funds are selected through a direct award, distinguishing between: (a) in relation to a holding fund: by financial product operating within the holding fund structure (b) in relation to specific funds (set up either with or without the holding fund structure): by financial product	
101. Amount of management costs and fees where bodies implementing a holding fund and/or specific funds are selected through a competitive tender	
Data on deductions from the accounts	
102. Date and reason for each deduction made in accordance with Article 98(6), as well as information on the type of deduction	
103. Amounts of total eligible expenditure affected by each deduction (out of which, amount corrected as a result of audit)	
104. Amounts of public contribution affected by each deduction (out of which, amount corrected as a result of audit)	
Data on payment applications to the Commission (in EUR)	
105. Date of submission of each payment application including eligible expenditure from the operation	
106. Total amount of eligible expenditure incurred by the beneficiary and paid in implementing the operation included in each payment application	
107. Total amount of public contribution of the operation included in each payment application	
108. Only for cases of State aid where advances are paid in accordance with Article 91(5), the amount paid to the beneficiary under the operation as an advance and included in a payment application (date and amount)	
109. Only for cases of State aid where advances are paid in accordance with Article 91(5), the amount of the advance included in a payment application which has been covered by expenditure paid by the beneficiary within three years of the payment of the advance	

Data fields	Indication of Funds for which data is not required
110. Only for cases of State aid where advances are paid in accordance with Article 91(5), the amount paid to the beneficiary under the operation as an advance included in a payment application which has not been covered by expenditure paid by the beneficiary and for which the three-year period has not yet elapsed	
111. Only for aid schemes under Article 107 TFEU, amount of public contribution paid to the beneficiary in case of aid schemes, pursuant to Article 91(6) of this Regulation	
Data on expenditure in each payment application from the Member State – only for expenditure for which Union contribution under Article 94 is provided	
112. For each type of expenditure in a payment application date on which it was paid and type of reimbursement by the Member State to the beneficiary	
113. Date and short description of the audits and management verifications carried out by the Member State aiming at verifying that the conditions for reimbursement by the Commission have been fulfilled	
114. Only for reimbursement of eligible expenditure under Article 94, amount of eligible expenditure in accordance with the decision referred to in Article 94(2) or the delegated act referred to in Article 94(4), included in each payment application	
Data on expenditure in each payment application from the Member State - only for expenditure for which Union contribution under Article 95 is provided	
115. Information on the type of reimbursement by the Member State to the beneficiary and what kind of support it takes, as well as the date of reimbursement	
116. Date and short description of the audits and management verifications carried out by the Member State aiming at exclusively verifying that the conditions for reimbursement by the Commission have been fulfilled	
117. Only for reimbursement of eligible expenditure under Article 95, amount of eligible expenditure in accordance with the decision referred to in Article 95(2) or the delegated act referred to in Article 95(4), included in each payment application	
Specific data on payment applications to the Commission (in EUR) for financial instruments	
118. Total amount of programme contributions effectively paid, or, in case of guarantees, set aside for guarantee contracts, as eligible expenditure in accordance with Article 92(1)	
119. Amount of public contribution effectively paid or, in case of guarantees, set aside for guarantee contracts, as eligible expenditure in accordance with Article 92(1)	
120. Total amount of programme contributions paid to financial instrument included in the first payment application	

Data fields	Indication of Funds for which data is not required
121. Amount of public contribution paid to the financial instrument included in the first payment application	
122. Total amount of programme contributions effectively paid or, in the case of guarantees, set aside for guarantee contracts as eligible expenditure, and included in payment applications in accordance with point (b) of Article 92(2)	
123. The amount of corresponding public contribution, effectively paid or, in the case of guarantees, set aside for guarantee contracts as eligible expenditure, and included in payment applications in accordance with point (b) of Article 92(2)	
Data on accounts submitted to the Commission under point (a) of Article 98(1) (in EUR)	
124. The date of submission of each set of accounts, including expenditure linked to an operation	
125. Total amount of eligible expenditure of the operation entered into the accounting systems of the body carrying out the accounting function, which has been included in the accounts	
126. Total amount of public contribution made or to be made in implementing the operation corresponding to the total amount of eligible expenditure entered into the accounting systems of the body carrying out the accounting function, which has been included in the accounts	
127. Total amount of payments paid to the beneficiary corresponding to the total amount of eligible expenditure entered into the accounting systems of the body carrying out the accounting function which has been included in the accounts	
128. Total eligible expenditure of the operation withdrawn during the accounting year included in the accounts	
129. Total amount of public contribution made or to be made in implementing the operation corresponding to total eligible expenditure of the operation withdrawn during the accounting year included in the accounts	
130. Total expenditure of the operation deducted from the accounts under points (a), (b) and (c) of Article 98(6) during the accounting year reflected in the accounts (out of which amounts corrected as a results of audits)	
Specific data for financial instruments on accounts submitted to the Commission under point (a) of Article 98(1) (in EUR)	
131. Total amount of programme contributions paid to financial instruments included in the first payment application	
132. The amount of public contribution paid to financial instrument included in the first payment application	
133. Total amount of programme contributions effectively paid or, in the case of guarantees, set aside for guarantee contracts, as eligible expenditure included in the accounts	
134. The amount of corresponding public contribution effectively paid or, in the case of guarantees, set aside for guarantee contracts as eligible expenditure included in the accounts	

Data fields	Indication of Funds for which data is not required
Data on specific types of expenditure	
135. Amount of ERDF-type expenditure co-financed by the ESF+ under Article 20(2) paid or to be paid	Not applicable to the ERDF, the Cohesion Fund, JTF, EMFAF, AMIF , ISF or BMVI
136. Amount of ESF+-type expenditure co-financed by the ERDF under Article 20(2) paid or to be paid	Not applicable to the ESF+, the Cohesion Fund, JTF, EMFAF, AMIF , ISF or BMVI
137. Amount of incurred and paid expenditure for land purchase under point (b) of Article 64(1) and the amount linked to land purchase pursuant to 64(1) and, where applicable, the reasons for exceeding the ceilings	
138. Amount of in-kind contributions to the operation	
139. Amount of depreciation costs for which no payment supported by invoices has been made to the operation	
140. Amount of the contribution from the ERDF or, where applicable, an external financing instrument of the Union to a small project Fund within an Interreg programme	Not applicable to the ESF+, the Cohesion Fund, JTF, EMFAF, AMIF , ISF or BMVI
141. Amount of incurred and paid expenditure for operating support under Article 16(1) of the BMVI Regulation (and Article 17(3) of the BMVI Regulation for LT only), Article 16(1) of the ISF Regulation, or Article 21(1) of the AMIF Regulation.	Not applicable to the ERDF, ESF+, the Cohesion Fund, JTF or EMFAF
142. Amount of incurred and paid expenditure for equipment, means of transport or the construction of security-relevant facilities pursuant to Article 13(7) of the ISF Regulation	Not applicable to the ERDF, ESF+, the Cohesion Fund, JTF, EMFAF, AMIF or BMVI

ANNEX XVIII Template for the management declaration – point (f) of Article 74(1)

I/We, the undersigned (name(s), first name(s), title(s) or function(s)), Head of the managing authority for the programme (name of the programme, CCI)

based on the implementation of the (name of programme) during the accounting year ended 30 June (year), based on my/our own judgment and on all information available to me/us at the date of the accounts submitted to the Commission, including the results from management verifications carried out in accordance with Article 74 of Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽¹⁾ and from audits in relation to the expenditure included in the payment applications submitted to the Commission in respect of the accounting year ended 30 June ... (year),

and taking into account my/our obligations under Regulation (EU) 2021/1060

hereby declare that:

(a) the information in the accounts is properly presented, complete and accurate in accordance with Article 98 of Regulation (EU) 2021/1060,

(b) the expenditure entered in the accounts complies with applicable law and was used for its intended purpose,

I/We confirm that irregularities identified in the final audit and control reports in relation to the accounting year have been appropriately treated in the accounts, in particular to comply with Article 98 for submitting accounts. I/We also confirm that expenditure which is subject to an ongoing assessment of its legality and regularity has been excluded from the accounts pending conclusion of the assessment, for possible inclusion in a payment application in a subsequent accounting year.

Furthermore, I/we confirm the reliability of data relating to indicators, milestones and the progress of the programme.

I/we also confirm that effective and proportionate anti-fraud measures are in place and that these take account of the risks identified in that respect.

Finally, I/we confirm that I/we am/are not aware of any undisclosed reputational matter related to the implementation of the programme.

⁽¹⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159)

ANNEX XIX Template for the annual audit opinion – point (a) of Article 77(3)

To the European Commission, Directorate-General [name of the concerned Directorate(s)-General]

in order to issue an audit opinion in accordance with point (a) of Article 77(3).

1. INTRODUCTION

I, the undersigned, representing the [name of the audit authority], independent in the sense of Article 71(2) of Regulation (EU) 2021/1060 of the European Parliament and of the Council⁽¹⁾, have audited

2. RESPONSIBILITIES OF THE MANAGING AUTHORITY

[name of the managing authority], identified as the managing authority of the programme, is responsible to ensure proper functioning of the management and control system in regard to the functions and tasks provided for in Articles 72 to 75.

(i) the accounts for the accounting year started on 1 July ... [year] and ended 30 June ... [year+1] and dated ... [date of the accounts submitted to the Commission] (hereafter 'the accounts'),

In addition, the [name of the managing authority or of the body carrying out the accounting function where relevant], is responsible to confirm the completeness, accuracy and veracity of the accounts, as required in Article 76 of Regulation (EU) 2021/1060 (and Article 46 of Regulation (EU) 2021/1059 of the European Parliament and of the Council⁽²⁾⁽³⁾).

(ii) the legality and regularity of the expenditure for which reimbursement has been requested from the Commission in reference to the accounting year (and included in the accounts), and

Moreover, in accordance with Article 74 of Regulation (EU) 2021/1060 it is the responsibility of the managing authority to confirm that the expenditure entered in the accounts is legal and regular and complies with applicable law.

(iii) the functioning of the management and control system, and verified the management declaration in relation to the programme [name of programme, CCI number] (hereafter 'the programme'),

3. RESPONSIBILITIES OF THE AUDIT AUTHORITY

As established by Article 77 of Regulation (EU) 2021/1060, my responsibility is

⁽¹⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

⁽²⁾ Regulation (EU) 2021/1059 of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ L 231, 30.6.2021, p. 94)

⁽³⁾ To be included in case of Interreg programmes.

to independently express an opinion on the completeness, accuracy and veracity of the accounts, whether expenditure for which reimbursement has been requested from the Commission and which is included in the accounts is legal and regular, and whether the management and control system put in place functions properly.

My responsibility is also to include in the opinion a statement as to whether the audit work puts in doubt the assertions made in the management declaration.

The audits in respect of the programme were carried out in accordance with the audit strategy and complied with internationally accepted audit standards. Those standards require that the audit authority complies with ethical requirements, plans and performs the audit work in order to obtain reasonable assurance for the purpose of the audit opinion.

An audit involves performing procedures to obtain sufficient and appropriate evidence to support the opinion set out below. The procedures performed depend on the auditor's professional judgement, including assessing the risk of material non-compliance, whether due to fraud or error. The audit procedures performed are those that I believe to be appropriate in the circumstances and comply with the requirements of Regulation (EU) 2021/1060.

I believe that the audit evidence gathered is sufficient and appropriate to provide the basis for my opinion, [in case there is any scope limitation:] except those which are mentioned in point 4 'Scope limitation'.

The summary of the main findings drawn from the audits in respect of the programme are reported in the attached annual control

report in accordance with point (b) of Article 77(3) of Regulation (EU) 2021/1060.

4. SCOPE LIMITATION

Either

There were no limitations on the audit scope.

Or

The audit scope was limited by the following factors:

(a)	...
(b)	...
(c)	...

[N.B. Indicate any limitation on the audit scope, for example any lack of supporting documentation, cases under legal proceedings, and estimate under 'Qualified opinion' below, the amounts of expenditure and contribution the support from the Funds affected and the impact of the scope limitation on the audit opinion. Further explanations in this regard shall be provided in the annual control report, as appropriate.]

5. OPINION

Either

(Unqualified opinion)

In my opinion, and based on the audit work performed:

(1) Accounts

the accounts give a true and fair view;

(2) Legality and regularity of the expenditure included in the accounts

expenditure included in the accounts is legal and regular⁽⁴⁾,

(3) The management and control system in place as at the date of this audit opinion

the management and control system functions properly

The audit work carried out does not put in doubt the assertions made in the management declaration.

Or

(Qualified opinion)

In my opinion, and based on the audit work performed,

(1) Accounts

the accounts give a true and fair view [where the qualification applies to the accounts, the following text is added:] except in the following material aspects:

(2) Legality and regularity of the expenditure included in the accounts

the expenditure included in the accounts is legal and regular [where the qualification applies to the accounts, the following text is added:] except for the following aspects:

The impact of the qualification is limited [or significant] and corresponds to (amount in EUR of the total amount of expenditure included in the accounts)

⁽⁴⁾ Except for the Interreg programmes that fall under the annual sample for audits of operation to be drawn by the Commission as envisaged in Article 48 of the Interreg Regulation.

(3) The management and control system in place as at the date of this audit opinion

the management and control system put in place functions properly [where the qualification applies to the management and control system, the following text is added:] except for the following aspects⁽⁵⁾:

The impact of the qualification is limited [or significant] and corresponds to (amount in EUR of the total amount of expenditure included in the accounts).

The audit work carried out does not put/ puts [delete as appropriate] in doubt the assertions made in the management declaration.

[Where the audit work carried out puts in doubt the assertions made in the management declaration, the audit authority shall disclose in this paragraph the aspects leading to this conclusion.]

Or

(Adverse opinion)

In my opinion, and based on the audit work performed:

(i) the accounts give/do not give [delete as appropriate] a true and fair view; and/or

⁽⁵⁾ In case the management and control system is affected, the body or bodies and the aspect(s) of their systems that did not comply with requirements and/or did not function properly shall be identified in the opinion, except where this information is already clearly disclosed in the annual control report and the opinion paragraph refers to the specific section(s) of this report where such information is disclosed.

(ii) the expenditure included in the accounts for which reimbursement has been requested from the Commission is/is not [delete as appropriate] legal and regular; and/or

(iii) the management and control system put in place functions/does not function [delete as appropriate] properly.

This adverse opinion is based on the following aspects:

in relation to material matters related to the accounts:

and/or [delete as appropriate]

in relation to material matters related to the legality and regularity of the expenditure included in the accounts for which reimbursement has been requested from the Commission:

and/or [delete as appropriate]

in relation to material matters related to the functioning of the management and control system⁽⁶⁾:

The audit work carried out puts in doubt the assertions made in the management declaration for the following aspects:

[The audit authority may also include emphasis of matter, not affecting its opinion, as established by internationally accepted auditing standards. A disclaimer of opinion can be envisaged in exceptional cases⁽⁷⁾.]

Date:

Signature:

⁽⁶⁾ In case the management and control system is affected, the body or bodies and the aspect(s) of their systems that did not comply with requirements and/or did not function properly shall be identified in the opinion, except where this information is already clearly disclosed in the annual control report and the opinion paragraph refers to the specific section(s) of this report where such information is disclosed.

⁽⁷⁾ These exceptional cases should be related to unforeseeable, external factors outside the remit of the audit authority.

ANNEX XX Template for the annual control report – point (b) of Article 77(3)

1. Introduction

1.1. Identification of the audit authority and other bodies that have been involved in the preparation of the report.

1.2. Reference period (i.e. the accounting year).

1.3. Audit period (during which the audit work took place).

1.4. Identification of the programme(s) covered by the report and of its/their managing authority/ies. Where the report covers more than one programme or Fund, the information shall be broken down by programme and by Fund, identifying in each Section the information that is specific for the programme and/or the Fund.

1.5. A description of the steps taken to prepare the report and to draw up the corresponding audit opinion.

Section 1.5 is to be adapted for Interreg programmes in order to describe the steps taken to prepare the report based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 49 of Regulation (EU) 2021/1059 of the European Parliament and of the Council⁽¹⁾ (the 'Interreg Regulation').

2. Significant changes in management and control system(s)

2.1. Details of any major changes in the management and control systems related to the managing authority's responsibilities, in particular with respect to the delegation of functions to intermediate bodies, to the body to which the accounting function has been entrusted and confirmation of their compliance with Articles 72 to 76 and 81 based on the audit work carried out by the audit authority.

2.2. Information on the application of enhanced proportionate arrangements pursuant to Articles 83, 84 and 85.

3. Changes to the audit strategy

3.1. Details of any changes made to the audit strategy and related explanations. In particular, indicate any change to the sampling method used for the audit of operations (see Section 5) and whether the strategy was subject to changes due to the application of enhanced proportionate arrangements pursuant to Articles 83, 84 and 85.

3.2. Section 1 is to be adapted for Interreg programmes in order to describe changes to

the audit strategy based on the specific rules on audits of operations applicable to Interreg programmes as set out in Article 49 of the Interreg Regulation .

4 .System audits (where applicable⁽²⁾)

4.1. Details of the bodies (including the audit authority) that have carried out audits on the proper functioning of the management and control system of the programme ('system audits').

4.2. A description of the basis for the audits carried out, including a reference to the audit strategy applicable and more particularly to the risk assessment methodology and the results that led to establishing the audit plan for system audits. If the risk assessment has been updated, this should be described in Section 3 covering the changes in the audit strategy.

4.3. In relation to the table in Section 9.1, a description of the main findings and conclusions drawn from system audits, including the audits targeted at specific thematic areas.

4.4. Indications as to whether any irregularities identified were considered to be of a systemic character, details of the measures taken, including a quantification of the irregular expenditure and any related financial corrections made, in accordance with point (b) of Article 77(3) and Article 103.

4.5. Information on the follow up of audit recommendations from system audits from previous accounting years.

⁽¹⁾ Regulation (EU) 2021/1059 of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ L 231, 30.6.2021, p. 94

⁽²⁾ This section is voluntary for programmes that fall under the 'enhanced proportionate arrangements' for the accounting year in question.

4.6. A description of irregularities or deficiencies specific to financial instruments or other types of expenditure or costs covered by particular rules (e.g. State aid, public procurement, simplified cost options, financing not linked to costs), detected during system audits and of the follow up given by the managing authority to remedy these irregularities or deficiencies.

4.7. Level of assurance obtained following the system audits (low/average/high) and a justification.

5. Audits of operations

Sections 5.1 to 5.10 are to be adapted for Interreg programmes in order to describe the steps taken to prepare the report based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 49 of the Interreg Regulation.

5.1. Identification of the bodies (including the audit authority) that carried out the audits of operations (as envisaged in Article 79).

5.2. A description of the sampling methodology applied and information as to whether the methodology is in accordance with the audit strategy.

5.3. An indication of the sampling parameters and other information for statistical or non-statistical sampling procedures, as well as an explanation of the underlying calculations and professional judgement applied. The information should include: materiality level, confidence level, sampling unit, expected error rate, sampling interval, standard deviation, population value, population size, sample size and information on stratification. The underlying calculations for sample selection, total error rate and residual error rate in Section 9.3, in a format permitting an understanding of the basic steps

taken, in accordance with the specific sampling method used.

5.4. A reconciliation between the amounts included in the accounts, as well as the amounts declared in payment applications during the accounting year and the population from which the random sample was drawn (column 'A' of table in Section 9.2). Reconciling items include negative sampling units where financial corrections have been made.

5.5. Where there are negative sampling units, confirmation that they have been treated as a separate population. Analysis of the principal results of the audits of these units, namely focusing on verifying whether the decisions to apply financial corrections (taken by the Member State or by the Commission) have been registered in the accounts as withdrawals.

5.6. Where a non-statistical sampling method is used, specify the reasons for using the method, the percentage of sampling units covered by audits, the steps taken to ensure randomness of the sample bearing in mind that the sample has to be representative.

In addition, define the steps taken to ensure a sufficient size of the sample, enabling the audit authority to draw up a valid audit opinion. A total (projected) error rate is also calculated where non-statistical sampling method has been used.

5.7. Analysis of the main findings of the audits of operations, describing:

(a) the number of sampling units audited, the respective amount;

- (b) the type of error by sampling unit⁽³⁾;
- (c) the nature of errors found⁽⁴⁾;
- (d) the stratum⁽⁵⁾ error rate and corresponding serious deficiencies or irregularities the upper limit of the error rate, root causes, corrective measures proposed (including those intending to improve the management and control systems) and the impact on the audit opinion.

Further explanations on the data presented in Sections 9.2 and 9.3 shall be provided, in particular concerning the total error rate.

5.8. Details of any financial corrections relating to the accounting year and implemented by the managing authority before submitting the accounts to the Commission, and as a consequence of the audits of operations, including flat rate or extrapolated corrections leading to a reduction to 2 % of the residual error rate of the expenditure included in the accounts pursuant to Article 98.

5.9. Comparison of the total error rate and the residual error rate (as shown in Section 9.2) with the materiality level of 2 %, in order to ascertain if the population is materially misstated and the impact on the audit opinion.

5.10. Details of whether any irregularities identified were considered to be systemic in nature, and the measures taken, including a

quantification of the irregular expenditure and any related financial corrections.

5.11. Information on the follow-up of audits of operations carried out in respect of the common sample for Interreg programmes based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 49 of the Interreg Regulation.

5.12. Information on the follow-up of audits of operations carried out for previous accounting years, in particular on serious deficiencies of systemic nature.

5.13. A table categorising errors identified by type.

5.14. Conclusions drawn from the main findings of the audits of operations with regard to the proper functioning of the management and control system.

Section 5.14 is to be adapted for Interreg programmes in order to describe the steps taken to draw the conclusions based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 49 of the Interreg Regulation.

6. Audits of accounts

6.1. Identification of the authorities/bodies that have carried out audits of accounts.

6.2. Description of audit approach used to verify that the accounts are complete, accurate and true. This shall include a reference to the audit work carried out in the context of system audits, audits of operations with relevance for the assurance on the accounts and additional verifications to be carried out on the draft accounts before these are sent to the Commission.

⁽³⁾ Random, systemic, anomalous.

⁽⁴⁾ For instance: eligibility, public procurement, State aid.

⁽⁵⁾ The stratum error rate is to be disclosed where stratification was applied, covering sub-populations with similar characteristics such as operations consisting of financial contributions from a programme to financial instruments, high-value items, Funds (in the case of multi-Fund programmes).

6.3. Conclusions drawn from the audits in relation to the completeness, accuracy and veracity of the accounts, including an indication on the corresponding financial corrections made and reflected in the accounts as a follow-up to these conclusions.

6.4. Indication of whether any irregularities identified were considered to be systemic in nature, and of the measures taken.

7. Other information

7.1. Audit authority's assessment of the cases of suspicions of fraud detected in the context of their audits (and of the cases reported by other national or Union bodies and related to operations audited by the audit authority), together with the measures taken. Information on number of cases, gravity, and the amounts affected, if known.

7.2. Subsequent events occurred after the end of the accounting year and before the transmission of the annual control report to

the Commission and considered when establishing the level of assurance and opinion by the audit authority.

8. Overall level of assurance

8.1. Indication of the overall level of assurance on the proper functioning of the management and control system, and an explanation of how the level was obtained from the combination of the results of the system audits and audits of operations. Where relevant, the audit authority shall take also account of the results of other national or Union audit work carried out.

8.2. Assessment of any mitigating actions not linked to financial corrections that were implemented, financial corrections implemented and an assessment of the need for any additional corrective measures, both from the perspective of improvements of the management and control systems and of the impact on the Union budget.

9. ANNEXES TO THE ANNUAL CONTROL REPORT

9.1. Results of system audits.

Audited Entity	Fund (Multi-funds programme)	Title of the audit	Date of the final audit report	Programme: [CCI and name of Programme]										Overall assessment (category 1, 2, 3, 4) (as defined in Table 2 of Annex XI to the Regulation)	Comments
				Key requirements (as applicable) (as defined in Table 1. of Annex XI)											
				KR 1	KR 2	KR 3	KR 4	KR 5	KR 6	KR 7	KR 8	KR 9	KR 10		
MA															
IB(s)															
Accounting function (if not performed by the MA)															

Note: The blank parts in the table above refer to key requirements that are not applicable to the audited entity.

9.2. Results of audits of operations

Fund	Programme CCI number	Programme title	A		B		C	D	E	F	G	H
			Amount in Euros corresponding to the population from which the sample was drawn ¹	Amount to the accounting year audited for the random sample	Expenditure in reference to the accounting year audited for the random sample	%****	Amount of irregular expenditure in random sample	Total error rate**	Corrections implemented as a result of the total error rate	Residual total error rate	Other expenditure audited***	Amount of irregular expenditure in other expenditure audited
				Amount****	%*****							

* Column 'A' shall refer to the positive population from which the random sample was drawn, i.e. total amount of eligible expenditure entered into the accounting system of the managing authority/body carrying out the accounting function which has been included in payment applications submitted to the Commission less negative sampling units if any. Where applicable, explanations shall be provided in Section 5.4.

** The total error rate is calculated before any financial corrections are applied in relation to the audited sample or the population from which the random sample was drawn. Where the random sample covers more than one Fund or programme, the total error rate (calculated) presented in column 'D' concerns the whole population. Where stratification is used, further information by stratum shall be provided in Section 5.7.

*** Column 'G' shall refer to expenditure audited in the context of a complementary sample.

**** Amount of expenditure audited (in case sub-sampling is applied) only the amount of the expenditure items effectively audited, shall be included in this column).

***** Percentage of expenditure audited in relation to the population.

9.3. Calculations underlying the random sample selection, total error rate and total residual error rate.

ANNEX XXI Template for the annual audit report – Article 81(5)

1. Introduction

1.1. Identification of the external audit firm that has been involved in preparing the report.

1.2. Reference period (e.g. 01 July N-1 to 30 June N).

1.3. Identification of the financial instrument(s)/mandate(s) and programme(s) covered by the audit report. Identification of the funding agreement to which the report relates to (the 'Funding agreement').

2. Audit of internal control systems applied by the EIB/EIF or other international financial institutions

Results of the external audit of the internal control system of the EIB or other international financial institutions (IFIs), in which a Member State is a shareholder, assessing the set-up and effectiveness of this internal control system and covering the following elements:

2.1. Mandate acceptance process.

2.2. Process for the appraisal and selection of financial intermediaries: formal and quality assessment.

2.3. Process for the approval of transactions with financial intermediaries and signature of relevant funding agreements.

2.4. Processes for the monitoring of financial intermediaries relating to:

2.4.1. reporting by financial intermediaries;

2.4.2. maintenance of records;

2.4.3. disbursements to final recipients;

2.4.4. eligibility of support to final recipients;

2.4.5. management fees and costs charged by the financial intermediaries;

2.4.6. visibility, transparency and communication requirements;

2.4.7. implementation of State aid requirements by the financial intermediaries;

2.4.8. differentiated treatment of investors, where relevant;

2.4.9. compliance with applicable Union law related to money laundering, terrorism financing, tax avoidance, tax fraud or tax evasion.

2.5. Systems for the processing of payments received from the managing authority.

2.6. Systems for the calculation and payment of amounts related to management costs and fees.

2.7. Systems for the processing of payments to financial intermediaries.

2.8. Systems for the processing of interest and other gains generated by support from the Funds to financial instruments.

For points 2.1, 2.2 and 2.3, following the submission of the first annual audit report information only on the updates or changes to the procedures or arrangements in place need to be provided.

2.9. For the annual audit report concerning the final accounting year information on the

following elements shall be covered in addition to those of points 2.1 to 2.8:

2.9.1. Use of differentiated treatment of investors;

2.9.2. Achieved multiplier ratio compared to the agreed multiplier ratio in the guarantee agreements for financial instruments delivering guarantees;

2.9.3. Use of interest and other gains attributable to the support from the Funds paid to financial instruments in line with Article 60;

2.9.4. Use of resources paid back to financial instruments, which are attributable to the support from the Funds, until the end of the eligibility period and arrangements put in place for the use of those resources after the end of the eligibility period in line with Article 62.

3. Audit conclusions

3.1. Conclusion as to whether the external audit firm can provide reasonable assurance on the set-up and effectiveness of the internal control system put in place by the EIB or other IFIs, in which a Member State is a shareholder, in accordance with the applicable rules, as per the elements referred to in Section 2.

3.2. Findings and recommendations resulting from the audit work carried out.

Points 3.1 and 3.2 shall be based on the results of the audit work referred to in Section 2 and, where relevant, take account of the results of other national or Union audit work carried out in relation to the same body implementing financial instruments or to the same mandate for financial instruments.

ANNEX XXII Template for the audit strategy – Article 78

1. INTRODUCTION

(a) Identification of the programme(s) (title(s) and CCI(s) numbers⁽¹⁾), Funds and period covered by the audit strategy.

(b) Identification of the audit authority responsible for drawing up, monitoring and updating the audit strategy and of any other bodies that have contributed to this document.

(c) Reference to the status of the audit authority (national, regional or local public body) and the body in which it is located.

(d) Reference to the mission statement, audit charter or national legislation (where applicable) setting out the functions and responsibilities of the audit authority and other bodies carrying out audits under its responsibility.

(e) Confirmation by the audit authority that the bodies carrying out audits have the requisite functional and organisational independence.

2. RISK ASSESSMENT

(a) explanation of the risk assessment method followed; and

(b) internal procedures for updating the risk assessment.

⁽¹⁾ Indicate the programmes covered by a common management and control system, in case a single audit strategy is prepared for several programmes.

3. METHODOLOGY

3.1. Overview

(a) Reference to the internationally accepted audit standards that the audit authority will apply for its audit work.

(b) Information on how the audit authority will obtain its assurance with regard to programmes in the standard management and control system and for programmes with enhanced proportionated arrangements (description of main building blocks - types of audits and their scope).

(c) Reference to the procedures in place for drawing up the annual control report and audit opinion to be submitted to the Commission in accordance with Article 77(3) of this Regulation, with the necessary exceptions for Interreg programmes based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 49 of the Interreg Regulation.

(d) Reference to audit manuals or procedures containing the description of the main steps of the audit work, including the classification treatment of the errors detected in the preparation of the annual control report to be submitted to the Commission in accordance with point (b) of Article 77(3).

(e) For Interreg programmes, reference to specific audit arrangements and explanation on how the audit authority intends to ensure cooperation with the Commission regarding the audits of operations under the common Interreg sample to be drawn by the Commission set out in Article 49 of the Interreg Regulation.

(f) For Interreg programmes, when additional audit work may be required as set out in Article 49 of Regulation the Interreg Regulation

(reference to specific audit arrangements in that respect and to the follow up of that additional audit work).

3.2. Audits on the proper functioning of management and control systems (system audits)

Identification of the bodies/structures to be audited, as well as the relevant key requirements in the context of system audits. The list shall include any bodies that have been appointed in the last twelve months.

Where applicable, reference to the audit body on which the audit authority relies to perform these audits.

Indication of any system audits targeted at specific thematic areas or bodies, such as:

(a) quality and quantity of the administrative and on-the-spot management verifications in respect of applicable law such as public procurement rules, State aid rules or environmental requirements;

(b) quality of project selection and of management verifications at the level of the managing authority or intermediate body;

(c) set-up and implementation of financial instruments at the level of the bodies implementing financial instruments;

(d) functioning and security of electronic systems, and their connection with the electronic data exchange system of the Commission;

(e) reliability of data related to targets and milestones and on the progress of the programme in achieving its objectives provided by the managing authority;

(f) financial corrections (and deductions from the accounts);

(g) implementation of effective and proportionate anti-fraud measures underpinned by a fraud risk assessment.

3.3. Audits of operations

3.3.1. For all programmes except Interreg programmes

(a) Description of (or reference to internal document specifying) the sampling methodology to be used in line with Article 79 (and other specific procedures in place for audits of operations, namely related to the classification and treatment of the errors detected, including suspected fraud).

(b) A separate description shall be proposed for years when the Member States chooses to apply the enhanced proportionate system for one or more programmes as set out in Article 83.

3.3.2. For Interreg programmes

(a) Description of (or reference to internal document specifying) the treatment of findings and errors to be used in line with Article 49(1) of the Interreg Regulation and other specific procedures in place for audits of operations, namely related to the common Interreg sample to be drawn up by the Commission each year.

(b) A separate description shall be proposed for years when the common sample for audits of operations for Interreg programmes does not include operations or sampling units from of the programme in question and when the audit authority carries out a sampling exer-

cise in line with Article 49(10) of the Interreg Regulation.

In case of sampling exercise referred to in point (b), there shall be a description of the sampling methodology to be used by the audit authority and other specific procedures in place for audits of operations, namely related to the classification and treatment of the errors detected, etc.

3.4. Audits of the accounts

Description of the audit approach for audits of accounts.

3.5. Verification of the management declaration

Reference to the internal procedures setting out the work involved in the verification of the assertions in the management declaration as drawn up by the managing authority, for purposes of the audit opinion.

4. AUDIT WORK PLANNED

(a) Description and justification of the audit priorities and objectives in relation to the current accounting year and the two subsequent accounting years, together with an explanation of the linkage of the risk assessment results to the audit work planned.

(b) An indicative schedule of system audits, including audits targeted to specific thematic areas, in relation to the current accounting year and the two subsequent accounting years, as follows:

Authorities/ Bodies or specific thematic areas to be audited	CCI	Programme Title	Body responsible for auditing	Result of risk assessment	20xx Audit objective and scope	20xx Audit objective and scope	20xx Audit objective and scope

5. RESOURCES

(a) Organisation chart of the audit authority.

(b) Indication of planned resources to be allocated in relation to the current account-

ing year and the two subsequent accounting years (including information on any foreseen outsourcing and its scope, where appropriate).

ANNEX XXIII Template for payment applications – Article 91(3)

PAYMENT APPLICATION EUROPEAN COMMISSION

Fund concerned ⁽¹⁾ :	<type="S" input="S" > ⁽²⁾
Commission reference (CCI):	<type=»S» input=»S»>
Name of programme:	<type=»S» input=»G»>
Commission decision:	<type=»S» input=»G»>
Date of Commission decision:	<type=»D» input=»G»>
Payment application number:	<type=»N» input=»G»>
Date of submission of the payment application:	<type=»D» input=»G»>
National reference (optional):	<type=»S» maxlength=»250» input=»M»>

According to Article 91, this payment application refers to the accounting year:

From⁽³⁾

<type=»D» input=»G»>

until:

<type=»D» input=»G»>

Expenditure broken down by priority and, where relevant, by category of region as entered into the accounts of the body carrying out the accounting function

(Including programme contributions paid to financial instruments (Article 92 and advances paid in the context of State Aid (Article 91(5)))

This table shall not include expenditure linked to specific objectives for which enabling con-

ditions are not fulfilled, with the exception of operations that contribute to the fulfilment of enabling conditions

OR

Expenditure broken down by specific objective as entered into the accounts of the managing authority

Applicable for **AMIF**, **ISF** and **BMVI**

⁽¹⁾ If a programme concerns more than one fund, a payment application should be sent separately for each fund.

⁽²⁾ Legends: type: N=Number, D=Date, S=String, C=Checkbox, P=Percentage, B=Boolean, Cu=Currency input: M=Manual, S=Selection, G=Generated by system

⁽³⁾ First day of the accounting year, automatically encoded by the electronic system.

This table shall not include expenditure linked to specific objectives for which enabling conditions are not fulfilled, with the exception of

operations that contribute to the fulfilment of enabling conditions

Specific objective	Calculation basis (public or total)	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in accordance with point (a) of Article 91(3) and point (c) of Article 91(4)	Total amount of Union contribution pursuant to points (a) and (b) of Article 91(4)	Total amount of public contribution made or to be made in accordance with point (c) of Article 91(3)
	(A)	(B)	(C)	(D)
Specific objective 1				
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Specific objective 2				
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Specific objective 3				
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Specific objective 4 (AMIF)				
Actions co-financed in line with Article 15(n) of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Actions co-financed in line with Article 19 of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer in')	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer out')	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Technical assistance specific objective				
Technical assistance in accordance with Article 36(5)	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Technical assistance in accordance with Article 37	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Grand total		<type=Cu> input=G>	<type=Cu> input=G>	<type=Cu> input=G>

Or

Applicable for **AMIF**, **ISF** and **BMVI**

Fund		Amounts
<type=»S» input=»G»>	Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»G»>
<type=»S» input=»G»>	Actions co-financed in line with Article 12(5) of BMVI Regulation	<type=»Cu» input=»G»>
<type=»S» input=»G»>	Actions co-financed in line with Article 19 of AMIF Regulation	<type=»Cu» input=»G»>
<type=»S» input=»G»>	Actions co-financed in line with Article 20 of AMIF Regulation	<type=»Cu» input=»G»>
<type=»S» input=»G»>	Technical assistance in accordance with Article 36(5)	<type=»Cu» input=»G»>
<type=»S» input=»G»>	Technical assistance in accordance with Article 37	<type=»Cu» input=»G»>

COMMENTS

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The payment will be made on the following bank account:

Body identified	<type=»S» maxlength=»150» input=»G»>
Bank	<type=»S» maxlength=»150» input=»G»>
BIC	<type=»S» maxlength=»11» input=»G»>
Bank account IBAN	<type=»S» maxlength=»34» input=»G»>
Holder of account (where not the same as the body identified)	<type=»S» maxlength=»150» input=»G»>

Appendix 1

Information on programme contributions paid to financial instruments as referred to in Article 92 and included in the payment applications (cumulative from the start of the programme)

Or

Applicable for **AMIF**, **ISF** and **BMVI**

Specific objective	Amount included in the first payment application and paid to the financial instrument in accordance with Article 92 (maximum 30 % of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 92(3)(⁴)	
	(A)	(B)	(C)	(D)
	Total amount of programme contributions paid to financial instruments	Total amount of corresponding public contribution	Total amount of programme contributions pursuant to Article 92(2)(b)	Total amount of corresponding public contribution
Specific objective 1				
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 12(1) of BMVI Regulation or Article 15(1) of AMIF Regulation	<type=Cu> input=M»	<type=Cu> input=M»	<type=Cu> input=M»	<type=Cu> input=M»
Specific objective 2				
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 12(1) of BMVI Regulation or Article 15(1) of AMIF Regulation	<type=Cu> input=M»	<type=Cu> input=M»	<type=Cu> input=M»	<type=Cu> input=M»
Specific objective 3				
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 15(1) of AMIF Regulation	<type=Cu> input=M»	<type=Cu> input=M»	<type=Cu> input=M»	<type=Cu> input=M»
Specific objective 4 (AMIF)				
Actions co-financed in line with Article 15(1) of AMIF Regulation	<type=Cu> input=M»	<type=Cu> input=M»	<type=Cu> input=M»	<type=Cu> input=M»
Grand total	<type=Cu> input=G»	<type=Cu> input=G»	<type=Cu> input=G»	<type=Cu> input=G»

Appendix 2

Information on expenditure linked to specific objectives for which enabling conditions are not fulfilled, with the exception of operations that contribute to the fulfilment of enabling conditions (cumulative from the beginning of the programming period)

Appendix 3

Information on expenditure linked to specific objectives for which enabling conditions are not fulfilled, with the exception of operations that contribute to the fulfilment of enabling conditions (cumulative from the beginning of the programming period) for AMIF, ISF and BMVI

(⁴) This amount shall not be included in the payment application.

Specific objective	Calculation basis (public or total)	Amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of Article 91(3), points (a) or (c) or Union contribution pursuant to Article 91(4) linked to non-fulfilled enabling conditions within the meaning of Article 15(5) or (6), with the exception of operations that contribute to the fulfilment of enabling conditions			Amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of Article 91(3), points (a) or (c) or Union contribution pursuant to Article 91(4) linked to fulfilled enabling conditions within the meaning of Article 15(5) or (6), or contributing to the fulfilment of enabling conditions ⁽⁵⁾	
	(A)	Total (B)	Public (C)	Total (D)	Public (E)	
Specific objective 1						
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Specific objective 2						
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Specific objective 3						
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Specific objective 4 (AMIF)						
Actions co-financed in line with Article 15(n) of AMIF Regulation	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Actions co-financed in line with Article 19 of AMIF Regulation	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer in')	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer out')	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Technical assistance in accordance with Article 36(5)	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Technical assistance in accordance with Article 37	<type=S> input=G>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	
Grand total		<type=Cu> input=G>>	<type=Cu> input=G>>	<type=Cu> input=G>>	<type=Cu> input=M>>	

⁽⁵⁾ Amounts in this column should be identical to the amounts in the first table of Annex XXIII.

Appendix 4

Advances paid in the context of State aid (Article 91(5)) and included in the payment applications (cumulative from the start of the programme)

The template is automatically adjusted on basis of the CCI. For example, in the case of programmes not including categories of region (Cohesion Fund, JTF, European territorial cooperation goal (Interreg), EMFAF) the table shall look as follows:

Or

Applicable for **AMIF**, **ISF** and **BMVI** Funds

Specific objective	Total amount paid as advances ⁽⁶⁾	Amount which has been covered by expenditure paid by beneficiaries within three years of the payment of the advance	Amount which has not been covered by expenditure paid by beneficiaries and for which the three year period has not yet elapsed
	(A)	(B)	(C)
Specific objective 1			
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 12(1) of BMVI Regulation or Article 15(1) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 2	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 12(1) of BMVI Regulation or Article 15(1) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 3	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 15(1) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 4 (AMIF)			
Actions co-financed in line with Article 15(1) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Grand Total	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>

⁽⁶⁾ This amount is included in the Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations as mentioned in the payment application. As state aid is by nature public expenditure, this total amount is equal to public expenditure.

ANNEX XXIV Template for the accounts – point (a) of Article 98(1)

<type=»D» – type=»D» input=»S»>

ACCOUNTS FOR ACCOUNTING YEAR EUROPEAN COMMISSION

Fund concerned¹:

Commission reference (CCI):

Name of programme:

Commission decision:

Date of Commission decision:

Version of the accounts:

Date of submission of the accounts:

National reference (optional):

<type=»S» input=»S» >²

<type=»S» input=»S»>

<type=»S» input=»G»>

<type=»S» input=»G»>

<type=»D» input=»G»>

<type=»S» input=»G»>

<type=»D» input=»G»>

<type=»S» maxlength=»250» input=»M»>

DECLARATIONS

The managing authority / the body carrying out the accounting function responsible for the programme hereby confirms that:

(1) the accounts are complete, accurate and true;

(2) the provisions in points (b) and (c) of Article 76(1) are respected.

Representing the managing authority / the body carrying out the accounting function:

<type=»S» input=»G»>

The managing authority responsible for the programme hereby confirms that:

(1) the expenditure entered into the accounts complies with applicable law and is legal and regular;

(2) the provisions in the Fund-specific Regulations, Article 63(5) of the Financial Regulation and in points (a) to (e) of Article 74(1) of this Regulation are respected;

(3) the provisions in Article 82 with regard to the availability of documents are respected.

Representing the managing authority

<type=»S» input=»G»>

Amounts entered into the accounting system of the accounting function – point (a) of Article 98(3)

This table shall not include expenditure linked to specific objectives for which enabling conditions are not fulfilled, with the exception of operations that contribute to the fulfilment of enabling conditions

Or

Applicable for **AMIF**, **ISF** and **BMVI**

This table shall not include expenditure linked to specific objectives for which enabling conditions are not fulfilled, with the exception of operations that contribute to the fulfilment of enabling conditions

⁽¹⁾ If a programme concerns more than one fund, accounts should be sent separately for each fund.

⁽²⁾ Legends: type: N=Number, D=Date, S=String, C=Checkbox, P=Percentage, B=Boolean, Cu=Currency input: M=Manual, S=Selection, G=Generated by system

Specific objective	Total amount of eligible expenditure entered into the accounting systems of the managing authority and which has been included in the payment for the accounting year in accordance with point (a) of Article 98(3)	Total amount of the corresponding public contribution made or to be made in accordance with point (a) of Article 98(3)
	(A)	(B)
Specific objective 1		
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 2		
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 3		
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 4 (AMIF)		
Actions co-financed in line with Article 15(n) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 19 of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer in')	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer out')	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Technical assistance in accordance with Article 36(5)	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Technical assistance in accordance with Article 37	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Totals		
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Actions co-financed in line with Article 19 of AMIF Regulation	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Actions co-financed in line with Article 20 of AMIF Regulation	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Technical assistance in accordance with Article 36(5)	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Technical assistance in accordance with Article 37	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Grand total	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>

The template is automatically adjusted on the basis of the CCI. For example, in the case of programmes not including categories of region (Cohesion Fund, JTF, European territorial cooperation goal (Interreg), EMFAF, if applicable) or programmes not modulating co-financing rates within a priority (specific objective), the table shall look as follows:

This table shall not include expenditure linked to specific objectives for which enabling conditions are not fulfilled, with the exception of operations that contribute to the fulfilment of enabling conditions

Appendix 2

Amounts withdrawn during the accounting year – point (b) of Article 98(3) and Article 98(7)

...

Or

Applicable for **AMIF**, **ISF** and **BMVI**

Specific objective	Withdrawals	
	Total amount of expenditure included in payment applications	Corresponding public expenditure
	(A)	(B)
Specific objective 1		
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 2		
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 3		
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 4		
Actions co-financed in line with Article 15(n) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 19 of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer in')	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer out')	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Technical assistance in accordance with Article 36(5)	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Technical assistance in accordance with Article 37	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>

Specific objective	Withdrawals	
	Total amount of expenditure included in payment applications	Corresponding public expenditure
	(A)	(B)
Totals		
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Actions co-financed in line with Article 19 of AMIF Regulation	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Actions co-financed in line with Article 20 of AMIF Regulation	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Technical assistance in accordance with Article 36(5)	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Technical assistance in accordance with Article 37	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Grand total	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>
Split of amounts withdrawn during the accounting year by accounting year of declaration of the corresponding expenditure		
In relation to accounting year ending 30 June XX ... (total)	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
In particular, out of which amounts corrected as a result of audits	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
In relation to accounting year ending 30 June XX ... (total)	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
In particular, out of which amounts corrected as a result of audits	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>

Appendix 3

Or

Amounts of programme contributions paid to financial instruments (cumulative from the start of the programme) - point (c) of Article 98(3)

Applicable for **AMIF**, **ISF** and **BMVI**

Specific objective	Amount included in the first payment application and paid to the financial instrument in accordance with Article 92 (maximum 30 % of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 92(3) ⁽³⁾	
	(A)	(B)	(C)	(D)
	Total amount of programme contributions paid to financial instruments	Total amount of corresponding public contribution	Total amount of programme contributions pursuant to point (b) of Article 86(2)	Total amount of corresponding public contribution
Specific objective 1				
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 12(1) of BMVI Regulation or Article 15(1) of AMIF Regulation	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>
Specific objective 2				
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 12(1) of BMVI Regulation or Article 15(1) of AMIF Regulation	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>
Specific objective 3				
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 15(1) of AMIF Regulation	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>
Specific objective 4				
Actions co-financed in line with Article 15(1) of AMIF Regulation	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>	<type=Cu> input=M>>
Grand total	<type=Cu> input=G>>	<type=Cu> input=G>>	<type=Cu> input=G>>	<type=Cu> input=G>>

Appendix 4

Or

Reconciliation of expenditure - point (d) of Article 98(3) and Article 98(7) Applicable for **AMIF**, **ISF** and **BMVI**

⁽³⁾ This amount shall not be included in the payment application.

Specific objective	Total eligible expenditure included in payment applications submitted to the Commission		Expenditure declared in accordance with Article 98 of the Regulation		Difference		Comments (obligatory in case of difference for each type of deduction in accordance with Article 98(6))
	(A)	(B)	(C)	(D)	(E)	(F)	
Specific objective	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations linked to specific objectives for which enabling conditions are fulfilled or operations that contribute to the fulfilment of enabling conditions, as entered in the system of the body carrying out the accounting function	Total amount of public contribution made or to be made in implementing operations linked to specific objectives for which enabling conditions are fulfilled or operations that contribute to the fulfilment of enabling conditions, as entered in the system of the body carrying out the accounting function	Total amount of eligible expenditure entered into the accounting systems and which has been included in payment applications submitted to the Commission linked to specific objectives for which enabling conditions are fulfilled or to operations that contribute to the fulfilment of enabling conditions	Total amount of the corresponding public contribution made or to be made in implementing operations linked to specific objectives for which enabling conditions are fulfilled or to operations that contribute to the fulfilment of enabling conditions	(E-A-C)	(F-B-D)	
	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>S> maxlength=>500> input=>M>
	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>S> maxlength=>500> input=>M>
Actions co-financed in line with Article 20 of AMIF Regulation ('transfer out')	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>S> maxlength=>500> input=>M>
Technical assistance in accordance with Article 36(5)	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>S> maxlength=>500> input=>M>
Technical assistance in accordance with Article 37	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>S> maxlength=>500> input=>M>
Totals							
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>
Actions co-financed in line with Article 19 of AMIF Regulation	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>
Actions co-financed in line with Article 20 of AMIF Regulation	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>
Technical assistance in accordance with Article 36(5)	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>
Technical assistance in accordance with Article 37	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>
Grand total	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>G>	<type=>Cu> input=>M>
Out of which amounts corrected in the current accounts as a result of audits					<type=>Cu> input=>M>	<type=>Cu> input=>M>	

Appendix 5

Information on expenditure linked to specific objectives for which enabling conditions are not fulfilled (cumulative from the beginning of the programming period)

Appendix 6

Information on expenditure linked to specific objectives for which enabling conditions are not fulfilled (cumulative from the beginning of the programming period) for **AMIF**, **ISF** and **BMVI**

Specific objective	Calculation basis (public or total)	Amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of points (a) or (c) of Article 91(3) or Union contribution pursuant to Article 91(4) linked to non-fulfilled enabling conditions within the meaning of Article 15(5) or (6), with the exception of operations that contribute to the fulfilment of enabling conditions			Amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of points (a) or (c) of Article 91(3) or Union contribution pursuant to Article 91(4) linked to fulfilled enabling conditions within the meaning of Article 15(5) or (6), or contributing to the fulfilment of enabling conditions ⁽⁴⁾	
		(A)	Total (B)	Public (C)	Total (D)	Public (E)
Specific objective 1						
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Specific objective 2						
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 12(n) of BMVI Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Specific objective 3						
Actions co-financed in line with Article 12(n) of ISF Regulation or Article 15(n) of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Specific objective 4 (AMIF)						
Actions co-financed in line with Article 15(n) of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Actions financed in line with Article 19 of AMIF Regulation	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>
Actions financed in line with Article 20 of AMIF Regulation ('transfer in')	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>

⁽⁴⁾ Amounts in this column should be identical to the amounts in the first table of Annex XXIV.

Specific objective	Calculation basis (public or total)	Amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of points (a) or (c) of Article 91(3) or Union contribution pursuant to Article 91(4) linked to non-fulfilled enabling conditions within the meaning of Article 15(5) or (6), with the exception of operations that contribute to the fulfilment of enabling conditions			Amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of points (a) or (c) of Article 91(3) or Union contribution pursuant to Article 91(4) linked to fulfilled enabling conditions within the meaning of Article 15(5) or (6), or contributing to the fulfilment of enabling conditions(*)	
		(A)	Total (B)	Public (C)	Total (D)	Public (E)
Actions financed in line with Article 20 of AMIF Regulation ('transfer out')	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	
Technical assistance in accordance with Article 36(5)	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	
Technical assistance in accordance with Article 37	<type=S> input=G>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	<type=Cu> input=M>	
Grand total		<type=Cu> input=G>	<type=Cu> input=G>	<type=Cu> input=G>		

Appendix 7

Advances paid in the context of State aid under Article 91(5) (cumulative from the start of the programme)

The template is automatically adjusted on basis of the CCI. For example, in the case of programmes not including categories of region (Cohesion Fund, JTF, European territorial cooperation goal (Interreg), EMFAF) the table shall look as follows:

....

Or

Applicable for **AMIF**, **ISF** and **BMVI**

Specific objective	Total amount paid from the programme as advances ⁽⁵⁾	Amount which has been covered by expenditure paid by beneficiaries within three years following the year of the payment of the advance	Amount which has not been covered by expenditure paid by beneficiaries and for which the three year period has not yet elapsed
	(A)	(B)	(C)
Specific objective 1			
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 12(1) of BMVI Regulation or Article 15(1) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 2	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 12(1) of BMVI Regulation or Article 15(1) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 3	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 12(1) of ISF Regulation or Article 15(1) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Specific objective 4	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Actions co-financed in line with Article 15(1) of AMIF Regulation	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>	<type=»Cu» input=»M»>
Grand total	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>	<type=»Cu» input=»G»>

⁽⁵⁾ This amount is included in the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations as mentioned in the payment application. As State aid is by nature public expenditure, this total amount is equal to public expenditure.

ANNEX XXV Determination of the level of financial corrections: flat-rate and extrapolated financial corrections – Article 104(1)

1. Elements for applying an extrapolated correction

Where extrapolated financial corrections are to be applied, the results of the examination of the representative sample are extrapolated to the rest of the population from which the sample was drawn for the purposes of determining the financial correction.

2. Elements for consideration when applying a flat rate correction

(a) gravity of the serious deficiency(-ies) in the context of the management and control system as a whole;

(b) the frequency and extent of the serious deficiency(-ies);

(c) the degree of financial prejudice to the Union budget.

3. The level of flat rate financial correction is determined as follows:

(a) where the serious deficiency(-ies) is so fundamental, frequent or widespread that it represents a complete failure of the system that puts at risk the legality and regularity of all expenditure concerned, a flat rate of 100 % is applied;

(b) where the serious deficiency(-ies) is so frequent and widespread that it represents an extremely serious failure of the system that puts at risk the legality and regularity of a very high proportion of the expenditure concerned, a flat rate of 25 % is applied;

(c) where the serious deficiency(-ies) is due to the system not fully functioning or functioning so poorly or so infrequently that it puts at risk the legality and regularity of a high proportion of the expenditure concerned, a flat rate of 10 % is applied;

(d) where the serious deficiency(-ies) is due to the system not functioning consistently so that it puts at risk the legality and regularity of a significant proportion of the expenditure concerned, a flat rate of 5 % is applied.

Where, due to a failure of the responsible authorities to take corrective measures following the application of a financial correction in an accounting year, the same serious deficiency (-ies) is identified in a subsequent accounting year, the rate of correction may, due to the persistence of the serious deficiency(-ies) be increased to a level not exceeding that of the next higher category.

Where the level of the flat rate is disproportionate following consideration of the elements listed in section 2, the rate of correction may be reduced.

ANNEX XXVI Methodology on the allocation of global resources per Member State – Article 109(2)

Allocation method for the less developed regions eligible under the Investment for jobs and growth goal - point (a) of Article 108(2)

1. Each Member State's allocation shall be the sum of the allocations for its individual eligible regions, calculated in accordance with the following steps:

(a) determination of an absolute amount per year (in EUR) obtained by multiplying the population of the region concerned by the difference between that region's GDP per capita, measured in PPS, and the EU-27 average GDP per capita (in PPS);

(b) application of a percentage to the above absolute amount in order to determine that region's financial envelope; this percentage shall be graduated to reflect the relative prosperity, measured in PPS, as compared to the EU-27 average, of the Member State in which the eligible region is situated, i.e.:

(i) for regions in Member States whose level of GNI per capita is below 82 % of the EU-27 average: 2,85 %;

(ii) for regions in Member States whose level of GNI per capita is between 82 % and 99 % of the EU-27 average: 1,25 %;

(iii) for regions in Member States whose level of GNI per capita is over 99 % of the EU-27 average: 0,75 %;

(c) to the amount obtained in accordance with point (b) is added, if applicable, an amount resulting from the allocation of a premium of EUR 570 per unemployed person per year, applied to the number of persons unemployed in that region exceeding the number

that would be unemployed if the average unemployment rate of all the less developed regions applied;

(d) to the amount obtained in accordance with point (c) is added, if applicable, an amount resulting from the allocation of a premium of EUR 570 per young unemployed person (age group 15-24) per year, applied to the number of young persons unemployed in that region exceeding the number that would be unemployed if the average youth unemployment rate of all less developed regions applied;

(e) to the amount obtained in accordance with point (d) is added, if applicable, an amount resulting from the allocation of a premium of EUR 270 per person (age group 25-64) per year, applied to the number of persons in that region that would need to be subtracted in order to reach the average level of low education rate (less than primary, primary and lower secondary education) of all less developed regions;

(f) to the amount obtained in accordance with point (e) is added, if applicable, an amount of EUR 1 per tonne of CO₂ equivalent per year applied to the population share of the region of the number of tonnes of CO₂ equivalent by which the Member State exceeds the target of greenhouse gas emissions outside the emissions trading scheme set for 2030 as proposed by the Commission in 2016;

(g) to the amount obtained in accordance with point (f) is added, an amount resulting from the allocation of a premium of EUR 405 per person per year, applied to the population share of the regions of net migration from outside the Union to the Member State since 1 January 2014.

Allocation method for transition regions eligible under the Investment for jobs and growth goal - point (b) of Article 108(2)

2. Each Member State's allocation shall be the sum of the allocations for its individual eligible regions, calculated in accordance with the following steps:

(a) determination of the minimum and maximum theoretical aid intensity for each eligible transition region. The minimum level of support is determined by the initial average per capita aid intensity of all more developed regions, i.e. EUR 15,2 per head and per year. The maximum level of support refers to a theoretical region with a GDP per head of 75 % of the EU-27 average and is calculated using the method defined in points (a) and (b) of paragraph 1. Of the amount obtained by this method, 60 % is taken into account;

(b) calculation of initial regional allocations, taking into account regional GDP per capita (in PPS) through a linear interpolation of the region's relative GDP per capita compared to EU-27;

(c) to the amount obtained in accordance with point (b) is added, if applicable, an amount resulting from the allocation of a premium of EUR 560 per unemployed person per year, applied to the number of persons unemployed in that region exceeding the number that would be unemployed if the average unemployment rate of all the less developed regions applied;

(d) to the amount obtained in accordance with point (c) is added, if applicable, an amount resulting from the allocation of a premium of EUR 560 per young unemployed person (aged 15 to 24) per year, applied to the number of young persons unemployed in that region exceeding the number that would be unem-

ployed if the average youth unemployment rate of all less developed regions applied;

(e) to the amount obtained in accordance with point (d) is added, if applicable, an amount resulting from the allocation of a premium of EUR 250 per person (aged 25 to 64) per year, applied to the number of persons in that region that would need to be subtracted in order to reach the average level of low education rate (less than primary, primary and lower secondary education) of all less developed regions;

(f) to the amount obtained in accordance with point (e) is added, if applicable, an amount of EUR 1 per tonne of CO₂ equivalent per year applied to the population share of the region of the number of tonnes of CO₂ equivalent by which the Member State exceeds the target of greenhouse gas emissions outside the emissions trading scheme set for 2030 as proposed by the Commission in 2016;

(g) to the amount obtained in accordance with point (f) is added, an amount resulting from the allocation of a premium of EUR 405 per person per year, applied to the population share of the region of net migration from outside the Union to the Member State since 1 January 2014.

Allocation method for the more developed regions eligible under the Investment for jobs and growth goal - point (c) of Article 108(2)

3. The total initial theoretical financial envelope shall be obtained by multiplying an aid intensity per head and per year of EUR 15,2 by the eligible population.

4. The share of each Member State concerned shall be the sum of the shares of its eligible regions, which are determined on the basis of the following criteria, weighted as indicated:

(a) total regional population (weighting 20 %);

(b) number of unemployed people in NUTS level 2 regions with an unemployment rate above the average of all more developed regions (weighting 12,5 %);

(c) employment to be added to reach the average employment rate (aged 20 to 64) of all more developed regions (weighting 20 %);

(d) number of persons aged 30 to 34 with tertiary educational attainment to be added to reach the average tertiary educational attainment rate (aged 30 to 34) of all more developed regions (weighting 22,5 %);

(e) number of early leavers from education and training (aged 18 to 24) to be subtracted to reach the average rate of early leavers from education and training (aged 18 to 24) of all more developed regions (weighting 15 %);

(f) difference between the observed GDP of the region (measured in PPS), and the theoretical regional GDP if the region were to have the same GDP per head as the most prosperous NUTS level 2 region (weighting 7,5 %);

(g) population of NUTS level 3 regions with a population density below 12,5 inhabitants/km² (weighting 2,5 %).

5. To the amounts by NUTS level 2 region obtained in accordance with point (4) is added, if applicable, an amount of EUR 1 per tonne of CO₂ equivalent per year applied to the population share of the region of the number of tonnes of CO₂ equivalent by which the Member State exceeds the target of greenhouse gas emissions outside the emissions trading scheme set for 2030 as proposed by the Commission in 2016.

6. To the amounts by NUTS level 2 region obtained in accordance with point (5) is added, an amount resulting from the allocation of a premium of EUR 405 per person per year, applied to the population share of the region of net migration from outside the Union to the Member State since 1 January 2014.

Allocation method for the Member States eligible for the Cohesion Fund - Article 108(3)

7. The financial envelope shall be obtained by multiplying the average aid intensity per head and per year of EUR 62,9 by the eligible population. Each eligible Member State's allocation of this theoretical financial envelope corresponds to a percentage based on its population, surface area and national prosperity, and shall be obtained by applying the following steps:

(a) calculation of the arithmetical average of that Member State's population and surface area shares of the total population and surface area of all the eligible Member States. If, however, a Member State's share of total population exceeds its share of total surface area by a factor of five or more, reflecting an extremely high population density, only the share of total population shall be used for this step;

(b) adjustment of the percentage figures so obtained by a coefficient representing one third of the percentage by which that Member State's GNI per capita (in PPS) for the 2015-2017 period exceeds or falls below the average GNI per capita of all the eligible Member States (average expressed as 100 %).

For each eligible Member State, the share of the Cohesion Fund shall not be higher than one third of the total allocation minus the allocation for the European territorial cooperation goal (Interreg) after the application of

paragraphs 10 to 16. This adjustment shall proportionally increase all other transfers resulting from paragraphs 1 to 6.

Allocation method for the European territorial cooperation goal (Interreg) – Article 12

8. The allocation of resources by Member State, covering cross-border, transnational and outermost regions' cooperation is determined as the weighted sum of the shares determined on the basis of the following criteria, weighted as indicated:

(a) total population of all NUTS level 3 border regions and of other NUTS level 3 regions of which at least half of the regional population lives within 25 kilometres of the border (weighting 45,8 %);

(b) population living within 25 kilometres of the borders (weighting 30,5 %);

(c) total population of the Member States (weighting 20 %);

(d) total population of outermost regions (weighting 3,7 %).

The share of the cross-border strand corresponds to the sum of the weights of criteria (a) and (b). The share of the transnational strand corresponds to the weight of criterion (c). The share of the outermost regions' cooperation corresponds to the weight of criterion (d).

Allocation method for the additional funding for the outermost regions identified in Article 349 TFEU and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the 1994 Act of Accession – point (e) of Article 110(1)

9. An additional special allocation corresponding to an aid intensity of EUR 40 per

inhabitant per year shall be allocated to the outermost NUTS level 2 regions and the northern sparsely populated NUTS level 2 regions. That allocation will be distributed per region and Member State in a manner proportional to the total population of those regions.

Minimum and maximum levels of transfers from the funds supporting economic, social and territorial cohesion

10. In order to contribute to achieving adequate concentration of cohesion funding on the least developed regions and Member States and to the reduction of disparities in average *per capita* aid intensities, the maximum level of transfer (capping) from the Funds to each individual Member State shall be determined as a percentage of the GDP of the Member State, whereby these percentages will be as follows:

(a) for Member States whose average GNI *per capita* (in PPS) for the 2015-2017 period is under 55 % of the EU-27 average *per capita*: 2,3 % of their GDP;

(b) for Member States whose average GNI *per capita* (in PPS) for the 2015-2017 period is equal to or above 68 % of the EU-27 average *per capita*: 1,5 % of their GDP;

(c) for Member States whose average GNI *per capita* (in PPS) for the 2015-2017 period is equal to or above 55 % and below 68 % of the EU-27 average *per capita*: the percentage is obtained through a linear interpolation between 2,3 % and 1,5 % of their GDP leading to a proportional reduction of the capping percentage in line with the increase in prosperity.

The capping shall be applied on an annual basis to the GDP projections of the Commission, and shall - if applicable - proportion-

ally reduce all transfers (except for the more developed regions and European territorial cooperation goal (Interreg)) to the Member State concerned in order to obtain the maximum level of transfer.

11. The rules described in paragraph 10 shall not result in allocations per Member State higher than 107 % of their level in real terms for the 2014-2020 programming period. That adjustment shall be applied proportionately to all transfers (except for the European territorial cooperation goal (Interreg)) to the Member State concerned in order to obtain the maximum level of transfer.

12. The minimum total allocation from the Funds for a Member State shall correspond to 76 % of its individual 2014-2020 total allocation. The minimum total allocation from the Funds for a Member State where at least one third of the population lives in NUTS level 2 regions with a GDP per capita (in PPS) of less than 50 % of the EU-27 average, shall correspond to 85 % of its individual 2014-2020 total allocation. The adjustments needed to fulfil this requirement shall be applied proportionally to the allocations from the Funds, excluding the allocations under the European territorial cooperation goal (Interreg).

13. The maximum total allocation from the Funds for a Member State having a GNI per capita (in PPS) of at least 120 % of the EU-27 average shall correspond to 80 % of its individual 2014-2020 total allocation. The maximum total allocation from the funds for a Member State having a GNI per capita (in PPS) equal to or above 110% and below 120% of the EU-27 average shall correspond to 90 % of its individual 2014-2020 total allocation. The adjustments needed to fulfil this requirement shall be applied proportionally to the allocations from the Funds, excluding the allocation under the European territorial cooperation goal (Inter-

reg). If a Member State has transition regions for which paragraph 16 applies, 25 % of that Member State's allocation for the more developed regions shall be transferred to the allocation of that Member State's transition regions.

Additional provisions

14. For all regions that were classified as less developed regions for the 2014-2020 programming period, but whose GDP *per capita* is above 75 % of the EU-27 average *per capita*, the minimum yearly level of support under the Investment for jobs and growth goal shall correspond to 60 % of their former indicative average annual allocation under the Investment for jobs and growth goal, calculated by the Commission within the multi-annual financial framework 2014-2020.

15. No transition region shall receive less than what it would have received if it had been a more developed region.

16. The minimum total allocation of a Member State for its transition regions, which were already transition regions in 2014-2020, shall correspond to a minimum of 65 % of the total 2014-2020 allocation for these regions in that Member State.

17. Notwithstanding paragraphs 10 to 13, additional allocations as set out in paragraphs 18 to 23 shall apply.

18. A total of EUR 120 000 000 shall be allocated for the PEACE PLUS programme where it is acting in support of peace and reconciliation and of the continuation of North-South cross border co-operation. In addition, at least EUR 60 000 000 shall be allocated for the PEACE PLUS programme from the allocation for Ireland under the European territorial cooperation goal (Interreg).

19. Where the population of a Member State has declined, on average, by more than 1% per year, between the periods 2007-2009 and 2016-2018, that Member State shall receive an additional allocation equivalent to the total fall in its population between those two periods multiplied by EUR 500. Where applicable, that additional allocation shall be allocated to the less developed regions in the Member State concerned.
20. The less developed regions of the Member States which have only started receiving support from the Funds in the 2014-2020 programming period, shall receive an additional allocation of EUR 400 000 000.
21. In order to recognise the challenges posed by the situation of island Member States and the remoteness of certain parts of the Union, Malta and Cyprus shall receive an additional allocation of EUR 100 000 000 each for the Structural Funds under the Investment for jobs and growth goal. The northern sparsely populated areas of Finland shall receive an additional allocation of EUR 100 000 000 to the amount referred to in paragraph 9.
22. In order to boost competitiveness, growth and job creation in certain Member States, the Funds shall provide the following additional allocations under the Investment for jobs and growth goal:
- (a) EUR 200 000 000 for the transition regions in Belgium;
- (b) EUR 200 000 000 for the less developed regions in Bulgaria;
- (c) EUR 1 550 000 000 for Czechia under the Cohesion Fund;
- (d) EUR 100 000 000 for Cyprus under the Structural Funds;
- (e) EUR 50 000 000 for Estonia under the Structural Funds;
- (f) EUR 650 000 000 for the transition regions of Germany affected by paragraph 16;
- (g) EUR 50 000 000 for Malta under the Structural Funds;
- (h) EUR 600 000 000 for the less developed regions in Poland;
- (i) EUR 300 000 000 for the transition regions in Portugal;
- (j) EUR 350 000 000 for the more developed region of Slovenia.
23. An additional EUR 100 million shall support cross-border cooperation. It shall complete the allocations of resources by Member States pursuant to the weighted criteria detailed in points (a) and (b) of paragraph 8.

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