



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 1 August 2012

13030/12

**Interinstitutional File:
2011/0368 (COD)**

LIMITE

**JAI 559
ENFOPOL 246
PROCIV 133
CADREFIN 369
CODEC 2000**

OUTCOME OF PROCEEDINGS

of: Ad Hoc Group JHA financial instruments (Home formation)

on: 11 July 2012

No. Cion prop.: 17287/11 JAI 852 ENFOPOL 408 PROCIV 156 CADREFIN 147 CODEC 2140

No prev. doc.: 12023/12 JAI 385 ENFOPOL 158 PROCIV 85 CADREFIN 279 CODEC 1517

Subject: Draft Regulation of the European Parliament of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management
- Revised compromise proposal by the Presidency

The discussion in the Ad Hoc Group addressed mainly the new proposals made by the Presidency in the revised compromise proposal (document 12023/12 JAI 494 ENFOPOL 215 PROCIV 111 CADREFIN 339 CODEC 1802). The outcome of the discussion is reflected in the Annex to this note. The Presidency asked delegations to provide written comments to the revised compromise proposal on the ISF Police Regulation no later than 18 July. Written comments from HU, BG, CZ, SE, SK, AT, LU, SI, DE, PL, PT, ES, FR and EE have been included hereafter.

The following issues were also addressed during the meeting:

The Group discussed the issue of drug-related funding covered by the ISF Police instrument, also in relation to the newly suggested recital 10a. Some delegations¹ expressed further concerns and maintained reservation on the fact that some aspects of the drugs policy, such as the psychoactive substances, might not be covered by any of the programmes concerned (i.e. ISF Police, Health for Growth and Justice Programmes). However, some other delegations² and the Commission were of the view that the ISF Police instrument is sufficiently clear in describing actions that are covered (i.e. all the supply-reduction related actions - see reference to combating drug trafficking in Article 3(3)(a) and in Annex). Dealing with potential gaps should therefore be left to the Groups discussing the Justice and Health for Growth Programmes, with the involvement of the Horizontal Drugs Group (HDG). The Presidency invited delegations to further reflect on this issue which will further be addressed at one of the forthcoming meetings.

The Commission introduced its Fiche 17 (which had been distributed to Member States) on financial flexibility. This financial flexibility, designed to cope with increased needs in certain policy areas by using the margin foreseen, had been created by the Inter-institutional agreement and aims i.a. to improve the functioning of the annual budgetary procedure. It was clarified that this flexibility can only impact the budgetary commitments linked to the direct management mode. The amounts allocated to Member States under the shared management are set out precisely either in an Annex to the basic act (AMF and ISF-Borders) or through the definition of a precise calculation method in the body of the basic act (Article 10 of ISF-Police) and therefore constitute an essential element of the Regulation which means that any change would require an amendment of the Regulation.

The Presidency reported on the meeting of the LIBE Committee of the European Parliament on 10 July, which discussed a draft report on the ISF Police Regulation and presented the main elements of the draft.

The Presidency also reported, in the Mixed Committee format, on the same meeting of the LIBE Committee that had also discussed a draft-report on the ISF Borders Regulation including the main elements of the draft.

¹ BE, FR, ES, HU

² DE, CZ

The Commission informed that a workshop on indicators will take place on 2 October. The invitations are to be sent out by the end of August - early September. The Presidency invited delegations to submit any questions relating to the issue of indicators which might then be addressed at the workshop.

2011/0368 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management**

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 Commission³,

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

Having regard to the opinion of the European Economic and Social Committee⁴,Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the ordinary legislative procedure,

[Whereas:

- (1) The Union's objective of ensuring a high level of security within an area of Freedom, Security and Justice (Article 67(3) of the Treaty on the Functioning of the Union) 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 of Member States and with relevant third-countries and international organisations.
- (2) To achieve this objective, enhanced actions at Union level should be taken to protect people and goods from increasingly transnational threats and to support the work carried out by Member States' competent authorities. Terrorism and organised crime, drug trafficking, corruption, cyber crime, trafficking in human beings and arms, inter alia, continue to challenge the internal security of the Union.

³ O J C ...

⁴ O J C ...

⁵ O J C...

- (3) The Internal Security Strategy for the European Union, adopted by the Council in February 2010⁶, constitutes a shared agenda for tackling these common security challenges. The Commission's Communication of November 2010 "The EU Internal Security Strategy in Action"⁷ translates the strategy's principles and guidelines into concrete actions by identifying five strategic objectives: to disrupt international crime networks, to prevent terrorism and address radicalisation and recruitment, to raise levels of security for citizens and businesses in cyberspace, to strengthen security through border management and to increase Europe's resilience to crises and disasters.
- (4) Solidarity among Member States, clarity about the division of tasks, respect for fundamental rights and the rule of law as well as a strong focus on the global perspective and the inextricable link with external security should be key principles guiding the implementation of the Internal Security Strategy.
- (5) To promote the implementation of the Internal Security Strategy and to ensure that it becomes an operational reality, Member States should be provided with adequate Union financial support by setting up an Internal Security Fund.
- (6) Due to the legal particularities applicable to Title V of the Treaty, it is not possible to establish the Internal Security Fund as a single financial instrument.
- (7) The Fund should therefore be established as a comprehensive framework for EU financial support in the field of internal security comprising the instrument established by this Regulation as well as the Instrument set up by Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa⁸. The comprehensive framework should be complemented by Regulation (EU) No XXX/2012⁹ laying down general provisions on the Asylum and Migration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.

⁶ Council doc. 7120/10

⁷ COM (2010) 673 final

⁸ OJ L...

⁹ OJ L...

- (8) The global resources for this Regulation and for Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa should jointly establish the financial envelope for the entire duration of the Fund, which should constitute the prime reference for the budgetary authority during the annual budgetary procedure in accordance with Point 17 of the Inter-institutional Agreement.
- (9) Within the comprehensive framework of the Internal Security Fund, the financial assistance provided under this Instrument should support police¹⁰ cooperation, exchange of information and access to data, crime prevention, the fight against cross-border, serious and organised crime including terrorism and violent extremism, the protection of people and critical infrastructure against security related incidents and the effective management of security related risks and crisis, taking into account common policies (strategies, policy cycles, programmes and action plans), legislation and practical co-operation.
- (10) Financial assistance in these areas should in particular support actions promoting cross-border joint operations, access to and exchange of information, exchange of best practices, facilitated and secure communication and coordination, training and exchange of staff, analytical, monitoring and evaluation activities, comprehensive threat and risk assessments, awareness raising activities, testing and validation of new technology, forensic science research and the acquisition of technical interoperable equipment.

¹⁰ SI: reservation. SI suggested inserting "operations/activities" to provide support for police activities in individual Member States. Ensuring the proper level of security in an individual Member State has a positive impact on neighbouring Member States as well as the region. Usually, these effects are asymmetric, complex, and are reflected in the economy in general (transport, tourism, etc.).

(10a) Within the comprehensive framework of the Union’s anti-drugs strategy that advocates a balanced approach based on simultaneous reduction of supply and demand, the financial assistance provided under this Instrument should support all actions aimed at preventing and combating the trafficking of drugs (supply reduction),¹¹ and in particular measures targetting the production, manufacture, extraction, sale, transport, importation and exportation of illegal drugs, including the possession and purchase with a view to engage in drug trafficking activities.¹²

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- (11) Measures in and in relation to third countries supported through this Instrument should be taken in synergy and coherence with other actions outside the Union supported through Union external assistance instruments, both geographic and thematic. In particular, in implementing such actions full coherence should be sought with the principles and general objectives of the Union external action and foreign policy related to the country or region in question. They should not be intended to support actions directly development-oriented and they should complement, when appropriate, the financial assistance provided through external aid instruments. Coherence will also be sought with the Union humanitarian policy, in particular as regards the implementation of emergency measures.
- (12) This Instrument should be implemented in full respect with the rights and principles enshrined in the Charter of Fundamental Rights of the European Union.

¹¹ PL supported by CZ, ES: suggested inserting "including through judicial cooperation in criminal matters". Recital (10a) should allow for participation of judiciary stakeholders as beneficiaries of the Programme. Additional emphasize of the issue is crucial even under shared management and would prevent any possible misinterpretation.

¹² ES: considers that within the framework of this ISF-Police the EU policy on drugs relating to law enforcement should be included, which is the one covered by ISEC programme currently: prevention and supply reduction. In this policy area of the EU Strategy on drugs a number of actions and measures are included, such as the fight against drug criminal organizations, the disruption of trafficking routes, the fight against drug precursors diversion, drugs detention, common training, analysis on traffic trends and routes, police cooperation on this field, etc.

The other aspect of the comprehensive EU Strategy on drugs, the prevention and demand reduction should be covered by other financial programmes (Health and Justice).

¹³ SI: suggest inserting a new recital 10b: "The instrument should also provide financial support to national priorities in the field of public order and security, aimed at improving the functioning of the police, in order to guarantee greater security in individual Member States and consequently a higher level of internal security at EU level."

- (13) To ensure a uniform implementation of the Internal Security Fund, the Union budget allocated to this financial instrument should be implemented by shared management, with the exception of actions of particular interest to the Union (Union actions), emergency assistance and technical assistance, which are implemented in direct and indirect management.
- (14) The resources allocated to Member States for implementation through their national programmes should be distributed on the basis of clear and objective criteria relating to the public goods to be protected by Member States and the degree of their financial capacity to ensure a high level of internal security, such as the size of their population, their territorial size, the number of passengers and cargo processed through international air, and seaports, ~~the number of European critical infrastructure~~ and their gross domestic product.
- (15) To reinforce solidarity and responsibility sharing for common Union policies, strategies and programmes, Member States should be encouraged to use the part of the global resources available for the national programmes to address the strategic Union priorities set out in the annex to this Regulation. For projects addressing these priorities, the Union contribution to their total eligible cost should be increased to 90%, in accordance with Regulation (EU) No XXX/2012 [Horizontal Regulation].
- (16) The ceiling for resources which remain at the disposal of the Union should be equal to the resources allocated to Member States for the implementation of their national programmes. This will ensure that the Union is able, in a given budget year, to support actions which are of particular interest to the Union, such as studies, testing and validation of new technologies, transnational projects, networking and exchange of best practices, monitoring of the implementation of relevant Union law and Union policies and actions in relation to and in third-countries. The actions supported should be in line with the priorities identified in relevant Union strategies, programmes, action plans and risk and threat assessments.
- (17) To strengthen the EU's capacity to react immediately to security-related incidents or newly emerging threats for the Union, it should be possible to provide emergency assistance, in accordance with the rapid response mechanism set out in Regulation (EU) No XXX/2012 [Horizontal Regulation].

- (18) Funding from the Union budget should concentrate on activities where the Union intervention can bring additional value compared to action of Member States alone. As the Union is in a better position than Member States to address cross-border situations and to provide a platform for common approaches, activities eligible for support under this Regulation should contribute in particular to strengthening national and Union capabilities as well as cross-border cooperation and coordination, networking, mutual trust and the exchange of information and best practices.
- (19) In order to supplement or amend provisions in this Instrument regarding the definition of strategic Union priorities, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission which should carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (20) In order to ensure a uniform, efficient and timely application of the provisions 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 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission exercise of implementing powers.
- (21) Council Decision 2007/125/JHA of 12 February 2007 establishing for the period 2007 to 2013, as part of the General Programme on Security and Safeguarding Liberties, the Specific Programme 'Prevention of and Fight against Crime'¹⁴ should be repealed, subject to the transitional provisions set out in this Regulation.

¹⁴ OJ L 58 of 24.2.2007 p.7.

(22) Since the objectives of this Regulation, namely strengthening coordination and cooperation between law enforcement authorities, preventing and combating crime, protecting people and critical infrastructure against security related incidents and enhancing the capacity of Member States and the Union to manage effectively security related risks and crisis, cannot be sufficiently achieved by the Member States and can 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. 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 that objective.

~~(23) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen acquis which falls within the areas referred to in Article 1, Point H of 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 acquis¹⁵.~~

(24) *(is missing in the original proposal)*

~~(25) 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 latter's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, Point H of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC on the conclusion, on behalf of the European Community, of the Agreement¹⁶.~~

¹⁵ OJ L 176 of 10.7.1999, p. 31.

¹⁶ OJ L 53 of 27.2.2008, p. 1.

- ~~(26) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, Point H of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/349/EU on the conclusion, on behalf of the Union, of the Protocol⁴⁷.~~
- (27) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (28) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland *has notified its wish to take part in the adoption and application of this Regulation.*
- (29) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom *is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.*

HAVE ADOPTED THIS REGULATION:

⁴⁷ ~~OJ L 160 of 18.6.2011, p. 1.~~

Article 1

Purpose and scope

1. This Regulation establishes the instrument for financial support for police¹⁸ cooperation, preventing and combating crime, and crisis management (hereinafter referred to as '*the Instrument*'), as part of the Internal Security Fund (hereinafter referred to as '*the Fund*').

Jointly with Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, this Regulation establishes for the period from 1 January 2014 to 31 December 2020 the Internal Security Fund.

2. This Regulation lays down
 - (a) the objectives, eligible actions and strategic priorities for financial support to be provided under the Instrument;
 - (b) the general framework for the implementation of eligible actions;
 - (c) the resources made available under the Instrument from 1 January 2014 to 31 December 2020 and their distribution.
3. This Regulation provides for the application of the rules set out in Regulation (EU) No XXX/2012 [Horizontal Regulation].
4. The Instrument shall not apply to matters that are covered by the Justice programme, as set out in Regulation (EU) No XXX/2012¹⁹. However this Instrument may cover actions which aim at encouraging cooperation between judicial authorities and law enforcement authorities.
5. Synergies, consistency and complementarity shall be sought with relevant other financial instruments of the Union, such as the Civil Protection Mechanism, Horizon 2020, **the Health for Growth Programme**, the solidarity fund and external aid instruments. Actions financed under this Regulation shall not receive financial support for the same purpose from other Union financial instruments.²⁰

¹⁸ SI: reservation. SI reiterated its comment made previously (footnote 18 in document 11225/12) and suggested enlarging the scope of the Regulation by adding "operations/activities/actions" to paragraph 1. It should be possible under the programme to finance actions at national level which might have impact on the whole EU.

¹⁹ OJ L ...

²⁰ DE, ES: suggested adding "Justice Programme" to cover drugs in order to ensure synergies, consistency and

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:²¹

- (a) 'police cooperation' means the specific measures and types of cooperation involving all the Member States' relevant **competent** authorities²², as defined in Article 87 of the Treaty on the Functioning of the European Union.
- (b) 'exchange of and access to information' means the collection, storage, processing, analysis and exchange of information relevant to law enforcement authorities in relation to the prevention, detection, investigation, and prosecution of criminal offences, in particular cross-border, serious and organised crimes.
- (c) 'crime prevention' means all measures that are intended to reduce or otherwise contribute to reducing crime and citizens' feeling of insecurity, as defined in Council Decision 2009/902/JHA of 30 November 2009 setting-up a European Crime Prevention Network (EUPCN)²³ and repealing Decision 2001/427/JHA.
- (d) 'organised crime' means a punishable conduct committed within a structured association of more than two persons, existing for a period of time and acting in concert in order to obtain, directly or indirectly, a financial or other material benefit.²⁴

complementarity between all the financial instruments involved in the implementation of the EU drugs Strategy. PRES explained that since the partial general approach on the Justice Programme did not include the issue of drugs, it has been decided not to include it here at this stage. COM added that the list is not meant to be exhaustive. Regarding the second sentence, COM clarified that the intention of the provision is not to establish any hierarchy but rather prevent double funding.

²¹ SI: reiterated its comment made previously (footnote 20 in document 11225/12) relating to the suggestion to add a definition of police operations/actions/activities, in order to align the article with the proposed addition in Article 1.

²² SE, FR: suggested expanding on the definition to explicitly include also customs. We recognize that the text already encompass customs services when they have a crime fighting mandate, but we wish to recognize that role even further. The text would read as follows:

“ ‘police cooperation’ means the specific measures and types of cooperation, involving all the Member States’ ~~relevant~~ **competent authorities, including police, customs and other specialised law enforcement services**, as defined in Article 87 of the....”

COM considered the reference to Article 87 of the Treaty, where all authorities are mentioned, sufficient for the purposes of the funding instrument.

²³ OJ L 321 of 8.12.2009, p.44.

²⁴ SE: considered the definition insufficient even though it has improved It would be better to say “...within the context of a structured association...”. Thereby, a slightly broader concept for the purpose of ISF Police would be established, considering the complexity and variations of what is meant by organized crime.

FR: dropped its comment made previously (footnote 26 in document 1225/12) - suggestion for definition from Palermo Convention.

- (e) 'terrorism' means any of the intentional acts and offences as defined in Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism²⁵, as amended by Framework Decision 2008/919/JHA of 28 November 2008²⁶.
- (ee) **'drug trafficking' means the production, manufacture, extraction, sale, transport, importation and exportation of illegal drugs**²⁷
- (f) 'risk and crisis management' means any measure relating to the assessment, prevention, preparedness and consequence management of terrorism and other security-related risks.
- (g) 'prevention and preparedness' means any measure aimed at preventing and/or reducing risks linked to possible terrorist attacks or other security related incidents.
- (h) 'consequence management' means the effective coordination of measures taken in order to react to and to reduce the impact of the effects of a terrorist attack or any other security related incident in order to ensure an effective coordination of actions at national and/or EU level.
- (i) 'critical infrastructure' means an asset, system or part thereof **located in Member States**²⁸ which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption 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.

²⁵ OJ L 64 of 22.6.2002, p.3.

²⁶ OJ L 330 of 9.12.2008, p.21.

²⁷ FR supported by HU: suggested using the definition from Article 2(1)(a) of the Council Framework Decision 2004/757/JHA. "the production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of drugs".

²⁸ COM: regretted that the definition has been restricted by adding "located in Member States" and noted that this would prevent any funding of critical infrastructure with cross-border character (pipelines, IT systems) and invited delegations to further reflect on this and allow for this possibility.
CZ, DE, ES: share COM's concern and would prefer the previous definition (CZ: or any other wording including the cross-border infrastructure).

FR, which suggested the addition at the previous meeting, agreed with COM reasoning and deletion of "located in Member States".

AT: welcomes the current definition.

- (j) 'emergency situation' means any security-related incident or newly emerging threat which has or may have a significant adverse impact on the security of people in one or more Member States.²⁹

Article 3

Objectives³⁰

1. The general objective of the Instrument shall be to contribute to ensuring a high level of security in the European Union.
2. Within the general objective set out in paragraph 1, the Instrument – in line with the priorities identified in relevant Union strategies, policy cycles, programmes, threat and risk assessments – shall contribute to the following specific objectives:³¹
 - (a) crime prevention, combating cross-border, serious and organised crime including terrorism, and reinforcing coordination and cooperation between law enforcement authorities of Member States.³²

The achievement of this objective shall be measured against indicators, [in particular, the number of cross-border-joint operations and the number of best practice documents and events organised].³³

- (b) enhancing the capacity of Member States and the Union for managing effectively security-related risks and crisis, and preparing for and protecting people and critical infrastructure against terrorist attacks and other security related incidents.

²⁹ MT finds the definition of "emergency situations" to be too restrictive and suggested broadening it to cover also longer-term impact on Member States.

³⁰ SI: reservation.

³¹ PT, MT: scrutiny reservation on indicators.

PRES referred to the workshop on indicators to be organised by COM on 2 October. The invitations are to be sent out by the end of August - early September.

³² FR: regretted the deletion of reference to third countries.

³³ EE: doesn't support establishing the number of cross-border joint investigations and the number of best practices documents as an indicator. EE finds such an indicator to be too restrictive, since not every cooperation may necessarily result in an joint investigation and drawing up of a best practices document. Also, only the number of such an activity might not be a positive indicator in itself. The need for organizing and number of cross-border joint investigations depends on a specific criminal activity/case and Member States cannot plan in their national programs such cases. We propose adding that indicators in Art 3 of the regulation are samples and Member States may agree within their national programmes on different indicators, which would comply best with the aims established in their national programs.

The achievement of this objective shall be measured against indicators, [in particular, the number of tools put in place and/or further upgraded to facilitate the protection of critical infrastructure by Member States in all sectors of the economy and the number of threat and risk assessments produced at the level of the Union].³⁴

3. To achieve these objectives, the Instrument shall contribute to the following operational objectives by promoting and developing:³⁵
 - (a) measures strengthening Member States' capability to prevent crime and combat cross-border, serious and organised crime including terrorism, violent extremism, corruption, ~~and~~ drug³⁶ trafficking, **trafficking in human beings, child pornography**, as well as ensuring security for citizens and businesses in cyber space, in particular through public-private partnerships, the exchange of information and best practices, access to data, interoperable technologies, comparable statistics, applied criminology, public communication, and awareness raising.
 - (b) administrative and operational coordination, cooperation, mutual understanding and the exchange of information among Member States' law enforcement authorities, other national authorities, relevant Union bodies and, where appropriate, with third-countries and international organisations.
 - (c) training schemes in implementation of European training policies, including through specific Union law enforcement exchange programmes, in order to foster a genuine European judicial and law enforcement culture.
 - (d) measures and best practices for the protection and support of witnesses and victims of crime, including victims of terrorism.

³⁴ SI supported by HU: reiterated its comment made previously (footnote 37 in document 11225/12) on adding a new point to paragraph 2 relating to increasing the operational capacity of law enforcement authorities. For motivation see footnote 70 in document 9608/12).

³⁵ SI: reiterated its comment made previously (footnote 37 in document 11225/12) on adding a new point (h) "measures maintaining public order and security".

³⁶ PT: suggested inserting "and weapons".

- (e) measures strengthening Member States' administrative and operational capability to protect critical infrastructure in all sectors of economic activity, including through public-private partnerships and improved coordination, cooperation, exchange and dissemination of know how and experience within the Union and with relevant third-countries.
 - (f) secure links and effective coordination between existing sector-specific early warning and crisis cooperation actors at Union and national level, including situation centres in order to enable the quick production of comprehensive and accurate overviews in crisis situations, coordinate response measures and share open, privileged and classified information.
 - (g) measures strengthening the administrative and operational capacity of the Member States and the Union to develop comprehensive threat and risk assessments³⁷ in order to enable the Union to develop integrated approaches based on common and shared appreciations in crisis situations and to enhance mutual understanding of Member States' and partner countries' various definitions of threat levels.
4. The Instrument shall also contribute to the financing of technical assistance at the initiative of the Member States and the Commission.

Article 4

Eligible actions under National Programmes³⁸

1. Within the objectives defined in Article 3, and in line with the objectives of the national programme defined in Article 6, this Instrument shall support actions in Member States, and in particular the following:³⁹

³⁷ UK: expressed concern on a possible duplication of work regarding threat assessments done e.g. by IntCen.

³⁸ HU: scrutiny reservation on changes made in Article 4.
SI: reservation.

³⁹ BE: sought confirmation from the COM that staff costs, even though they are not mentioned in Article 4, can be covered if linked to the implementation of a project. COM recalled what was already said at the previous meeting (footnote 46 in document 11225/12) - staff costs are not considered as action but can be an eligible expenditure covered by the Horizontal Regulation (Articles 18, 19). Reference was also made to Fiche 14 where eligibility of expenditure is explained.

- (a) actions improving police cooperation and coordination between law enforcement authorities, including joint investigation teams and any other form of cross-border joint operation, the access to and exchange of information and interoperable technologies;⁴⁰
- (b) projects promoting networking, public-private partnerships, mutual confidence, understanding and learning, the identification, exchange and dissemination of know-how, experience and good practices, information sharing, shared situation awareness and foresight, contingency planning and interoperability;
- (c) analytical, monitoring and evaluation activities, including studies and threat, risk and impact assessments;
- (d) awareness raising, dissemination and communication activities;
- (e) acquisition, maintenance and/or further upgrading of technical equipment⁴¹, including testing compatibility of systems, secure facilities, infrastructures, related buildings and systems, especially ICT systems and their components, including for the purpose of European cooperation on cyber security and cyber crime, notably with the European Cybercrime Centre;⁴²
- (ee) the setting up⁴³ of large-scale IT systems such as a European Passenger Name Record system ~~and a Terrorist Finance Tracking system~~⁴⁴, the upgrading and the adjustment of existing systems;⁴⁵**

⁴⁰ HU supported by FR: Financial support to policing activities maintaining public order with a cross-border dimension (e.g. major events and cross-border traffic police actions) should be explicitly covered.

⁴¹ SI supported by FR: reiterated its comment made at previous meeting (footnote 49 in document 11225/12) relating to a proposal to add "special vehicles, protective work equipment, armaments".

SI: suggested replacing "notably" by "including", since SI considers the term "notably" to be too restrictive.

⁴² FR: reiterated its comment made at the previous meeting (footnote 48 in document 11225/12) in which construction and renting of premises was suggested for addition.

⁴³ PT, SI, ES: suggest adding "maintenance, functioning".

⁴⁴ PT, FR, AT: in favour of keeping reference to the TFTS in order to secure adequate financing in advance.

SI, DE, UK: agree with deletion of reference to TFTS.

⁴⁵ DE cautioned about the large amounts of money being potentially spent on IT systems. The purpose of the fund should be elsewhere (support for new developments and forms of cooperation, especially police cooperation, e.g. in JITs, and new methods and technologies). Including "upgrading"/"adjustment" as an eligible action fails to do justice to the fundamental (separate) financial responsibility of the MS for the implementation of EU legal acts in the respective administrative and IT structures. A clause should hence be inserted which prevents a disproportionate weighting between the eligible actions listed in Art. 4. For this reason, the following new version of para. 1 is proposed:

"This Instrument shall support actions in Member States within the objectives defined in Article 3, and in line with the objectives of the national programmes defined in Article 6. In particular the following actions should be covered in a proportionate manner:"

- (f) exchange, training and education of staff and experts of relevant authorities, including language training and joint exercises or programmes;
 - (g) measures deploying, transferring, testing and validating new methodology or technology, including pilot projects and follow-up measures to Union funded security research projects.
2. (deleted)⁴⁶

Article 5

Global resources and implementation

1. The global resources for the implementation of this Regulation shall be [EUR 1,128 million].
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the Financial Framework.
3. The global resources shall be implemented through the following means:
 - (a) national programmes, in accordance with Article 6;

⁴⁶ COM strongly opposed any inclusion of maintenance costs (while upgrading might be considered as eligible) and noted this was a red line for COM. General running costs of EU systems should be borne from national budgets, otherwise these could consume most of resources provided under the Fund. COM further sought clarification of "adjustment" and suggested merging of points (e) and (ee). PRES will look at this term again. FI, FR, SE, ES, AT opposed the deletion of paragraph 2 and supported keeping the possibility to include cooperation with third countries in the national programme, e.g. on the basis of bilateral agreements. RO noted a distinction should be made between "cooperation with third countries" and "action of MS in third countries". FI reservation.

AT suggests to partly re-integrate following paragraph 2 (justification provided for in AT written comments):
 "2. Within the objectives referred to in Article 3, the Instrument shall also support the following actions in relation to third-countries:

- (a) actions improving police cooperation and coordination between law enforcement authorities, including joint investigation teams and any other form of cross-border joint operation, the access to and exchange of information and interoperable technologies;
- (b) networking, mutual confidence, understanding and learning, the identification, exchange and dissemination of know-how, experience and good practices, information sharing, shared situation awareness and foresight, contingency planning and interoperability;
- (c) exchange, training and education of staff and experts of relevant authorities."

UK expressed sympathy with the deletion of paragraph 2 and its placement under Union actions in order to ensure coherence but asked the COM to explain more clearly how MS will be able to make bids and carry out bilateral actions in third countries.

COM referred to Fiche 13 (External dimension) and reiterated its position that actions in and in relation to third countries should be carried out exclusively from centrally managed resources, for reasons of ensuring coherence, complementarity and coordination of all EU actions in the field. Each year certain amount of resources will be earmarked through annual work programme and targeted calls for proposals will be published for actions in third countries. These actions will also be eligible under the future emergency mechanism (provided for under the Horizontal Regulation).

- (b) Union actions, in accordance with Article 7;
 - (c) technical assistance, in accordance with Article 8;
 - (d) emergency assistance, in accordance with Article 9;
4. The budget allocated under the Instrument shall be implemented under shared management in accordance with Article 55(1)(b) of Regulation (EU) No XXXX/2012 [New Financial Regulation]⁴⁷, with the exception of the Union actions referred to in Article 7, the technical assistance referred to in Article 8(1) and the emergency assistance referred to in Article 9.
5. The global resources shall be used indicatively as follows:⁴⁸
- (a) [EUR 733.2 million] for the national programmes of Member States;
 - (b) [EUR 394.8 million] for Union actions, emergency assistance and technical assistance at the initiative of the Commission.

⁴⁷ OJ L ...

⁴⁸ Many delegations (FR, SE, DE, SI, PL, HU, UK, AT, SK, BE) saw the change in the ratio as a step in the right direction, however, they need to consider the amounts, once finalised, in the overall context (also in relation to Articles 8, 10 as well as together with the ISF Borders). DE, PL, AT pleaded for further increase of amounts for the national programmes (75%); SI, ES 70%. HU noted the calculation might not be correct - the PRES will check.

SE, SI, PL, HU, SK, BE, PT: maintain scrutiny reservation.

SE suggest a ratio of 70/30 in favour of MS. It may well be the case that this will prove to be an agreeable division between shared and central management, taking into account also PNR, administrative burden in relation to the allocated funds, the need to preserve some substantial funding for central management etc.

SI: Under the current MFF (under ISEC and CIPS programmes) EC has not been able to allocate all the available resources to MS for various reasons (evaluation criteria, transnationality of projects). Taking this into account and considering that in the next MFF even more resources will be available more emphasis should be put on national programmes and their implementation.

DE noted that the use of the resources from the ISEC programmes for the setting up of the PNR systems in the next two years might have an impact on the financial needs for the national programmes.

COM agreed that the final ratio and amounts cannot be decided yet but noted that a certain minimum amount of funds needs to be kept at EU level - as a bottom line, a ratio of 2/3-1/3 is considered appropriate. Regarding the use of ISEC for the PNR, COM referred to Fiche 12.

6. Jointly with the global resources established for Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, the global resources available for this Regulation as established in paragraph 1 constitute the financial envelope for the Internal Security Fund and serve as the prime reference for the budgetary authority during the annual budgetary procedure within the meaning of Point 17 of the Inter-institutional Agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters and on sound financial management^{49 50}.
7. (deleted)
8. (deleted)

Article 6

National Programmes

1. The national programme to be prepared under the Instrument and the one to be prepared under Regulation (EU) No XXX/2012 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa shall be proposed to the Commission as one single national programme for the Fund, in accordance with Article 14 of Regulation (EU) No XXX/2012 [Horizontal Regulation].
2. Under the national programmes to be examined and approved by the Commission pursuant to Article 14 of Regulation (EU) No XXX/2012 [Horizontal Regulation], Member States shall, within the objectives defined in Article 3, pursue in particular the strategic Union priorities listed in the annex to this Regulation, taking account of the outcome of the dialogue referred to in Article 13 of Regulation (EU) No. XXX/2012 [Horizontal Regulation].
3. The Commission shall be empowered to adopt delegated acts⁵¹ in accordance with Article 11 to amend the annex referred to in paragraph 2 by amending, adding or deleting strategic Union priorities.

⁴⁹ COM(2011)403 final

⁵⁰ PL: wishes to increase the flexibility within ISF and looks forward to receiving the information on the possibility of creating a single budget line for the whole ISF despite different legal bases for the both instruments.

⁵¹ BE: study reserve on delegated vs implementing acts.

FR, NL, SI, UK, SE, ES, PT: in favour of the comitology procedure. PRES asked for arguments to clarify legal positions.

PT: scrutiny reservation

DE: supports the current wording; COM refers to "Common understanding" reached between the Institutions.

Article 7

Union actions

1. At the Commission's initiative, this Instrument may be used to finance transnational actions or actions of particular interest to the Union ('Union actions') concerning the general, specific and operational objectives set out in Article 3.

2. To be eligible for funding, Union actions shall be in line with the priorities identified in relevant Union strategies, policy cycles, programmes, threat and risk assessments, and support in particular:
 - (a) preparatory, monitoring, administrative and technical activities, and development of an evaluation mechanism required to implement the policies on police cooperation, preventing and combating crime, and crisis management;
 - (b) transnational projects involving two or more Member States or at least one Member State and one third-country⁵²;
 - (c) analytical, monitoring and evaluation activities, including threat, risk and impact assessments and projects monitoring the implementation of Union law and Union policy objectives in the Member States;⁵³
 - (d) projects promoting networking, public-private partnerships, mutual confidence, understanding and learning, identification and dissemination of good practices and innovative approaches at Union level, training and exchange programmes;
 - (e) projects supporting the development of methodological, notably statistical, tools and methods and common indicators;

⁵² SI: reservation. SI maintains its wish for adding: "or relevant international organisations" (footnote 61 in document 11225/12).

⁵³ UK: confirmed that it will send a text suggestion on threat assessments, IntCen's work and Member States competences.

- (f) the acquisition, maintenance and/or further upgrading of technical equipment, secure facilities, infrastructures, related buildings and systems, especially ICT systems and their components at the Union level, including for the purpose of European cooperation on cyber security and cyber crime, notably a European Cybercrime Centre;
- (g) projects enhancing awareness of Union policies and objectives among stakeholders and the general public, including corporate communication on the political priorities of the Union;
- (h) particularly innovative projects developing new methods and/or deploying new technologies with a potential for transferability to other Member States, especially projects aiming at testing and validating the outcome of Union funded security research projects;
- (i) studies and pilot projects;
- (j) (deleted)

2a. Within the objectives referred to in Article 3, the Instrument shall also support actions in relation to and in third-countries, and in particular the following:

- (a) actions improving police cooperation and coordination between law enforcement authorities, and, where applicable, international organisations, including joint investigation teams and any other form of cross-border⁵⁴ joint operation, the access to and exchange of information and interoperable technologies;
- (b) networking, mutual confidence, understanding and learning, the identification, exchange and dissemination of know-how, experience and good practices, information sharing, shared situation awareness and foresight, contingency planning and interoperability;
- (c) acquisition, maintenance, and/or further upgrading of technical equipment, including ICT systems and their components;

⁵⁴ MT: which borders are meant? COM: intra-Schengen borders

- (d) exchange, training and education of staff and experts of relevant authorities, including language training;
 - (e) awareness raising, dissemination and communication activities
 - (f) threat, risk and impact assessments;
 - (g) studies and pilot projects.
3. Union actions shall be implemented in accordance with Article 7 of Regulation (EU) No XXX/2012 [Horizontal Regulation].

Article 8

Technical assistance

1. At the initiative of and/or on behalf of the Commission, the Instrument may contribute up to [EUR 800,000] annually for technical assistance to the Internal Security Fund, in accordance with Article 10 of Regulation (EU) No XXX/2012 [Horizontal Regulation].
2. At the initiative of a Member State, the Instrument may contribute up to 5% of the total amount allocated to the Member State plus EUR 250.000 to technical assistance under the national programme, in accordance with Article 20 of Regulation (EU) No XXX/2012 [Horizontal Regulation].⁵⁵

⁵⁵ AT, SE, DE: in favour of 7 %
 DE: suggests an explicit provision in Art. 20 of the Horizontal Regulation according to which expenditure in preparation of ISF Police is immediately eligible as technical assistance (at the latest from the entry into force of the Regulation by 1 January 2014). The following wording should be added at the end of the text in Article 20(2)(aa) "in particular for the establishment of the new structures for ISF police".
 HU, SK: scrutiny reservation. Increase the percentage to 6% while keeping the proposed amount of 250 000 EUR or to keep 5% and increase the proposed amount to 350 000EUR.
 PT: increase the proposed amount to 350 000 EUR while keeping the proposed percentage at 5%.
 CZ: prefer an increase of the fixed amount to at least 300,000 EUR.
 ES: wants the percentage be increased up to 5,66%, with the aim of keeping the same level as proposed for the ISF-Borders instrument.
 MT, UK: agree to current proposal or an increase.
 BE: would prefer to have one identical figure for ISF Police and for ISF Borders.
 Reasoning for increased percentage provided for by SE, SK, CZ: these delegations expressed concern about the administrative investment that has to be made to properly implement ISF Police. The basic costs for the technical assistance would be the same as for the ISF Borders. This amount should cover the costs for an entirely new administration and monitoring system to be introduced under the instrument.

Article 9

Emergency assistance

1. This Instrument shall provide financial assistance to address urgent and specific needs in the event of an emergency situation, as defined in point (j) of Article 2.
2. Emergency assistance shall be implemented in accordance with the mechanism laid down in Article 8 of Regulation (EU) No XXX/2012 [Horizontal Regulation].

Article 10

Resources for eligible actions in the Member States

1. [EUR ~~733.2~~ 564 million] shall be allocated to the Member States indicatively as follows⁵⁶:
 - (a) 30% in proportion of the size of their total population;
 - (b) 10% in proportion to the size of their territory;⁵⁷

⁵⁶ NL, LU, HU, CZ, PT: scrutiny reservation;
LU: recommends to reconsider the criteria of “population” and “size of territory” and to add (or replace both by) a more qualitative criterion that could be “population density” or “degree of urbanisation”, since there seems not to be a direct correlation between the size of a population or size of a territory and criminality. On the other hand, the correlation with “population density” and/or “urbanisation” seems to be generally accepted. LU also thinks that some forms of criminality such as e.g. financial criminality, cyber-crime are not reflected in the criterion proposed.
CZ is carrying out new calculations; preliminary more in favour of the previous division.
CZ supported by EE: consider another mechanism ensuring first 5 M. EUR per MS and then apply these percentages.
UK: supports the search for a compromise, would support 25 % for a), b), c) and d), and deletion of e).
SE: In favour of giving the objective factors in (a) to (c) the principal role in determining the distribution of funds. Consequently, SE is in favour of a lesser weight of factor (d) on the inverse proportion of GDP - SE did not perceive ISF Police as an instrument for cohesion.

⁵⁷ PT reiterated its comment made previously (footnote 71 in document 11225/12) regarding the suggestion of adding "including the maritime jurisdictions areas of Member States".

(c) ~~2~~**25**% in proportion to the number of passengers and the tons of cargo processed through their international air and sea ports⁵⁸;

(d) (deleted)⁵⁹

(e) ~~40~~**35**% in inverse proportion to their Gross Domestic Product (purchasing power standard per inhabitant).⁶⁰

2. The reference figures for the data referred to in paragraph 1 shall be the latest statistics produced by the Commission (Eurostat), on the basis of data provided by Member States in accordance with Union law. The reference date is 30 June 2013.

⁵⁸ EE, FI, SK, HU, PL: scrutiny reservation to the percentages and support LT suggestion to add "and land border crossings";
SK, PT: the percentage should be kept at 20%, as originally suggested.
EE, SK argued that there is no pragmatic reasoning why passengers and cargo going through only international air and sea ports are taken into consideration, leaving out land border. Considering the purpose and objectives of the instrument, which include crime prevention, combating cross-border crime and serious and organized crime, then it is clear that Member States sharing an external border with a third country cannot prioritize only international air and sea ports when it comes to actions combating cross-border crime and serious and organized crime. Similarly to the number of passengers and the tons of cargo passing through international air and sea ports of a Member State, same objective and measurable statistics are available regarding the number of passengers and the tons of cargo passing through border checks points on land through Eurostat.
COM considers that seaports and cargo are priorities because of their relevance for Police tasks.
PT does not agree with the inclusion of land border crossings as security threats and large-scale are essentially by air and sea ports.
SE: would be very careful in opening up the Article for the inclusions of additional factors. However, SE would be open to examine the possibility to divide point (c) into two separate factors as mentioned by COM.
DE, NL: wished density of population to be taken into account (supported by MT) and acknowledged importance of cargo; prefers therefore 30 % for point c).
ES: increase to 30%, splitting this percentage in the following way: 20% in relation to the number of passengers and 10% in relation to the freight. As a consequence, there should be a reduction of the percentage in (e) to 30%.
HU: referred to its written contribution, suggesting in c) 20 %.
AT: envisage splitting between passengers (20%) and cargo (5 %).
CZ: In the interest of legal certainty CZ would like to include concrete division of percentages between the number of passenger and tons of cargo in the text of this paragraph. As for now the division (50:50) is included only in the chart of Fiche 7.
LU: welcomes the 25% allocation for this criterion but would like to keep an equal weight between the number of passengers and the tons of cargo (12.5%-12.5%).

⁵⁹ SE, EE, LU: agrees with the deletion of d).
SK: required reconsidering the inclusion of the former letter d) European critical infrastructure, given the fact that Art. 3(3)(e) refers to "promoting and developing ...operational capability to protect critical infrastructure..." as one of the operational objectives. If point d) is not reintroduced, SK request deleting the reference to EU critical infrastructure from the Art. 3(3)(e).

⁶⁰ FR: is of the opinion that this criterion belongs to the Cohesion Fund, not to the Police Fund
LU, DE, NL, BG, SK, PT agree to this criterion.
BG, SK, PT: strongly support the use of GDP for repartition of the available financial resources and would like to keep it at the initial level of 40%.
ES: decrease to 30% (as a consequence to the suggestion under (c)).
LU is strongly opposed to cut on the percentage attached to the inverse proportion of GDP and wants to keep the 40% proposed. As some MS will receive up to 97% of their total allocated funds from this criteria (with 8 MS from 80-97%), every cut in this percentage has an important impact on the total funds allocated to those MS. Although LU is the MS with the highest GDP, LU makes a call for solidarity in favour of countries with less important GDP.

Article 11

Exercise of the delegation⁶¹

1. The power to adopt delegated acts⁶² is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of powers referred to in this Regulation shall be conferred on the Commission for a period of 7 years from [*date of entry into force of this Regulation*]. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of powers referred to in this Regulation may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to this Regulation shall enter into force only if no objection has been expressed either by the European Parliament or 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 the Council.

⁶¹ DE: On the basis of the presentation by the COM and of the remarks of the Council's Legal Service on 21 June 2012 (Horizontal Regulation), DE suggests the following amendments to Art. 11 (wording identical to Art. 54 of the Horizontal Regulation):

Paragraph 2 should read: "The delegation of power referred to in this Regulation shall be conferred on the Commission for a period of ~~seven~~**five** years from the entry into force of this Regulation. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 7 5 year period.** The delegation of power shall be tacitly extended for a period of an identical duration, unless the European Parliament or the Council opposes such extension no later than 3 months before the end of each period."

In paragraph 5, "the period of 2 months" should be replaced by "four months".

PT maintains its scrutiny reservation in view of the comment on Article 6 (preference of comitology), and delegation of power tacitly extended.

⁶² MT: in favour of implementing acts; MT was asked to present legal arguments for this position.

Article 12

Committee procedure

1. The Commission shall be assisted by the common committee 'Asylum, Migration and Security' established by Article 55(1) of Regulation (EU) No XXX/2012 [Horizontal Regulation].
2. (deleted)⁶³

Article 13

Applicability of Regulation (EU) No XXX/2012

The provisions of Regulation (EU) No XXX/2012 [Horizontal Regulation] shall apply to the Instrument.

Article 14

Repeal

Council Decision 2007/125/JHA is repealed with effect from 1 January 2014.

Article 15

Transitional provisions

1. This Regulation shall not affect the continuation or modification, including the total or partial cancellation of the projects until their closure or the financial assistance approved by the Commission on the basis of Council Decision 2007/125/JHA, or any other legislation applying to that assistance on 31 December 2013.

⁶³ FR: Article 55(1) of the Horizontal Regulation provides only for the creation of the Committee without giving any definition of its operating rules. Therefore, if paragraph 2 of article 12 is deleted, the Committee would be left without operating rules with regard to its activities under the present instrument. Furthermore, the examination procedure described in article 5 of the Regulation 182/2011 (referred to in article 55(3) of the Horizontal Regulation) states that in the event the Committee cannot reach a decision by qualified majority either for or against the proposal, the Commission may have the draft adopted unless the initial instrument expressly provides otherwise. It is consequently advisable, in compliance with the qualified majority rules, not to delete paragraph 2 and to add at the end of this paragraph the following standard sentence (that is common to many EU instruments): "The Commission shall not adopt the draft implementing act when no opinion is delivered by the Committee and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply."
ES agrees with the addition of the last sentence.
COM does not object to deletion. Council Legal Service: all texts must be reviewed at the end on their consistency in these matters.

2. When adopting decisions on co-financing under the Instrument, the Commission shall take account of measures adopted on the basis of Council Decision 2007/125/JHA before [*date of publication in the Official Journal*] which have financial repercussions during the period covered by that co-financing.
3. Sums committed for co-financing approved by the Commission between 1 January 2011 and 31 December 2014 for which the documents required for closure of the operations have not been sent to the Commission by the deadline for submitting the final report shall be automatically decommitted by the Commission by 31 December 2017, giving rise to the repayment of amounts unduly paid.

Amounts relating to operations which have been suspended due to legal proceedings or administrative appeals having suspensory effect shall be disregarded in calculating the amount to be automatically decommitted.

4. (deleted)
5. The Commission shall submit to the European Parliament and the Council, by 31 March 2015, an ex-post evaluation of Council Decision 2007/125/JHA for the period 2011 to 2013.

Article 16

Review

On the basis of a proposal from the Commission, the European Parliament and the Council shall review this Regulation by 30 June 2020 at the latest.

Article 17

Entry into force and application

This Regulation shall enter into force on the [...] day following 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,

For the European Parliament
The President The President

For the Council

ANNEX

List of Strategic Union Priorities (Article 6 (2))

- Measures preventing all types of crime and fighting cross-border, serious and organised crime, in particular projects implementing relevant policy cycles, drug trafficking, trafficking in human beings, sexual exploitation of children and projects identifying and dismantling criminal networks, enhancing capacities to fight corruption, protecting the economy against criminal infiltration and reducing financial incentives by seizing, freezing and confiscating criminal assets.
- Measures preventing and combating cybercrime and raising the levels of security for citizens and business in cyberspace, in particular projects building capacities in law enforcement and the judiciary, projects ensuring work with industry to empower and protect citizens, and projects improving capabilities for dealing with cyber attacks.
- Measures preventing and combating terrorism and addressing radicalisation and recruitment, in particular projects empowering communities to develop local approaches and prevention policies, projects enabling competent authorities to cut off terrorists from access to funding and materials and follow their transactions, projects protecting the transport of passengers and cargo, and projects enhancing the security of explosives and CBRN materials.
- Measures designed to raise Member States' administrative and operational capability to protect critical infrastructure in all economic sectors including those covered by Directive 2008/114, in particular projects promoting public-private partnerships in order to build trust and facilitate cooperation, coordination, contingency planning and the exchange and dissemination of information and good practices among public and private actors.
- Measures increasing Europe's resilience to crisis and disaster, in particular projects promoting the development of a coherent Union policy on risk management linking threat and risk assessments to decision making, as well as projects supporting an effective and coordinated response to crisis linking up existing (sector-specific) capabilities, expertise and situation awareness centres, including those for health, civil protection and terrorism.