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WORKING PAPER

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From: Commission Services
To: Ad Hoc Working Party on JHA Financial instruments

Subject: Fiche 1 - The 'Thematic Facility' in the Asylum and Migration Fund, the Border Management and Visa Instrument under the Integrated Border Management Fund and the Internal Security Fund in the 2021-2027 Multiannual Financial Framework

In view of the meeting of the Ad Hoc Working Party on JHA Financial Instruments on 24 September 2018, delegations will find attached a fiche from the Commission on the 'Thematic Facility' in the Asylum and Migration Fund, the Border Management and Visa Instrument under the Integrated Border Management Fund and the Internal Security Fund in the 2021-2027 Multiannual Financial Framework.

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WORKING DOCUMENT OF THE COMMISSION SERVICES

Subject: The 'Thematic Facility' in the Asylum and Migration Fund, the Border Management and Visa Instrument under the Integrated Border Management Fund and the Internal Security Fund in the 2021-2027 Multiannual Financial Framework

1. INTRODUCTION

The interim evaluations of the current generation of EU funding instruments in the areas of migration, border management and security have shown that those instruments could not always adequately respond to the challenges on the ground as they happened. This was due to the rigidities in the legal structure of the Funds that allocated the bulk of the financial envelopes at the beginning of the programming period to national programmes, whereas a small envelope was retained for other actions such as Specific and Union actions, resettlement and the implementation of the new Dublin Regulation and emergency assistance. Due to the increasingly volatile and unpredictable nature of these policy areas, additional funding from the margins of the EU budget was added on top of the amounts initially available for these instruments. However, due to the legal framework, top-up funding to national programmes could only be provided to Member States in an ad-hoc manner, resulting in some cases in a mismatch between the allocation and the actual needs. The allocation could only occur through an outdated distribution key¹, whereas targeted funding to Member States that needed it the most, could only be provided as emergency assistance. Emergency assistance was therefore used at a larger scale and for purposes other than those initially intended, while, extra funding through the distribution key was provided to Member States that were not concerned or affected².

¹ The distribution key determining the allocation of funding to participating Member States has in the current Multiannual Financial Framework been based on the 2008 to 2012 statistics. While the Internal Security Fund (Borders and Visa) 2014-2020 had an additional envelope to be distributed at mid-term, using updated statistical data, the current Asylum, Integration and Migration Fund and the Internal Security Fund (Police) did not have this possibility. In addition, all the top-up funding added on top of the basic envelope to deal with the migratory crisis and new legislative developments (apart from the small envelopes for specific actions and emergency assistance) had to be distributed using the outdated distribution key.

² A case in point is the top-up funding provided to the national programmes under the Internal Security Fund for the implementation of the Passenger Name Record; this funding had to be distributed using the distribution key, which allocated funding to some Member States that did not need it because their PNR systems had already been set up, sometimes even with the support of EU funding, while other Member States that needed much more funding did not receive it because of the distribution key criteria that are not meant to determine amounts for funding of targeted actions.

To respond to migration and security challenges as they occur and to maximise the use of shared management to provide targeted support in real-time, the proposals for the Asylum and Migration Fund, the Border Management and Visa Instrument and the Internal Security Fund contain provisions on setting up 'Thematic Facilities' for each of the funding instruments. This fiche aims to present the principle behind the concept of the Thematic Facility, as well as the modalities for its use.

2. INTRODUCING THE THEMATIC FACILITY

In order to plan for long-term actions and investments under the three funding instruments, it is proposed to reserve 60%³ of the envelopes of the Asylum and Migration Fund, the Border Management and Visa Instrument and the Internal Security Fund for the Member States' programmes. The remaining 40% of each of the three financial envelopes would be managed through a Thematic Facility.

The Thematic Facility is essentially a mechanism that offers flexibility in the management of the Fund/Instrument by allowing allocating funds to various priorities through the different components of the Facility. Through this approach, the Commission aims at correcting the rigidities of the current funding instruments. The Thematic Facility will ensure more responsiveness with better planned and targeted activities to cater to the specific needs of Member States, including through top-ups of national programmes. The advantage of having unallocated amounts of the Thematic Facility is that the Union will be better equipped to react to urgent needs, unforeseen challenges, new legislative developments and innovative solutions that are likely to come up in the course of period of the next Multiannual Financial Framework.

a) The Thematic Facility components

The Thematic Facility will enable the allocation of funds through the different components⁴ of the Facility, which can be managed either through shared management or through direct/indirect management. In principle, the bigger share of the Thematic Facility funding is expected to be channelled through shared management (Member States' programmes), while direct or indirect management will be used for those actions (for example very specific measures, transnational initiatives or support to international organizations) that can better be managed at EU-level:

	Shared management	Direct management	Indirect management
<i>Specific actions</i>			
<ul style="list-style-type: none"> • Provided as top-ups of Member States' programmes (shared management) • Can be transnational or purely national actions 	x		
<i>Union actions</i>		x	x
<i>Emergency assistance</i>	x	x	x

³ 50% of the funding envelope of the Asylum and Migration Fund, the Border Management and Visa Instrument and the Internal Security Fund would be distributed at the beginning of the programming period and 10% at mid-term, through an updated distribution key.

⁴ Technical assistance at the initiative of the Commission, for which the ceiling is set in the Fund-specific Regulations, would also come from the Thematic Facility envelope.

<ul style="list-style-type: none"> • If implemented by a Member State, provided as top-ups of Member States' programmes, managed through shared management • If implemented by an International Organization, managed through direct or indirect management 			
Resettlement <ul style="list-style-type: none"> • Asylum and Migration Fund, only • Provided as lump sum top-ups of Member States' programmes, managed through shared management 	x		
Resources for the implementation of the new Dublin Regulation <ul style="list-style-type: none"> • Asylum and Migration Fund, only • Provided as lump sum top-ups of Member States' programmes, managed through shared management 	x		

Why was the 60%-40% division chosen?

This division reflects the current (2014-2020) repartition of funds between those which were allocated through the different components of the future Thematic Facility i.e. Specific Actions, Special Cases such as the implementation of the new Dublin Regulation and resettlement, emergency assistance and Union Actions (40%) and those allocated initially through the distribution key to national programmes (60%).

b) Examples of the Thematic Facility priorities

Even though it is not possible to provide an exhaustive list of priorities the Thematic Facility would support, based on the current experience with top-ups of Member States' programmes, some examples of priorities are provided below.

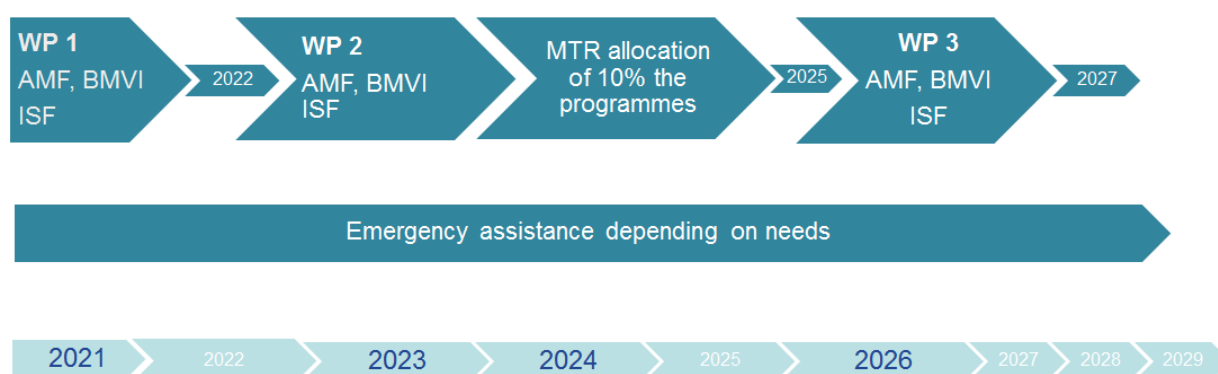
	Examples of actions to be funded		
	Asylum and Migration Fund	Border Management and Visa Instrument	Internal Security Fund
Urgent needs or unforeseen challenges that could be addressed by emergency assistance funding	sudden increases of the need for reception capacity or support for the processing of unforeseen numbers of asylum applications in Member States emergency resettlement	support to Member States to address sudden pressure at the external border or the opening up of new migratory routes emergency capacity building of border guards in neighbouring third	support to Member States facing sudden or disproportionate security threats or terrorist attacks through for example support for setting up emergency Joint Investigation Teams or by providing victim support

	<p>measures</p> <p>emergency secondment of experts between Member States in case of a large influx</p>	<p>countries or facilitation of cooperation with those border guards</p>	
<p>Medium and long-term support to address new developments, implement measures following the adoption of new legislation or funding for innovative solutions that cannot be addressed by the Member States' programmes, but for which specific or Union actions can be programmed</p>	<p>support to facilitating the processing of asylum applications in third countries</p> <p>support to setting up and running of hotspots or disembarkation arrangements</p> <p>lump sums for resettlement following Council decisions on categories of persons</p> <p>giving an additional boost to improving the speed of treating asylum applications or return decisions in Member States</p> <p><i>ad-hoc</i> measures in third countries facilitating more swift return and reintegration of specific groups of third-country nationals</p> <p>support for transnational initiatives in the area of asylum and return</p> <p>support to improving</p>	<p>funding for purchasing specific equipment to address the needs of the European Border and Coast Guard Agency</p> <p>developments of new IT systems, as well as measures aimed at ensuring their interoperability</p> <p>implementation of measures stemming from the legislative proposals as regards the modernization of the common visa policy</p>	<p>measures needed to react to new security threats (for example the usage of Unmanned Aerial Vehicles, new types of Chemical, Biological, Radiological, Nuclear, and Explosive threats, new <i>modi operandi</i> of organised crime groups, <i>ad hoc</i> protection measures for public spaces etc.)</p> <p>support to innovative transnational cooperation initiatives in the area of anti-radicalisation, drugs, serious and organised crime, cybercrime and financial crime</p> <p>new support measures complementary to actions carried out in the implementation of the Policy Cycle</p> <p>the extension of the Passengers Name Record to the maritime and land</p>

	integration measures in Member States, for example through innovative approaches		areas.
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3. PROGRAMMING THE THEMATIC FACILITY

The programming of the actions under the Thematic Facility will be done through work programmes which would be set up every two years. Programming of the Thematic Facility for funding under emergency assistance could take place annually. Below is an outline of the moments in which the Thematic Facility can be programmed:



Draft work programmes prepared by the Commission would contain proposed priorities, the proposed amounts and how these amounts will be distributed (i.e. through which of the components of the Thematic Facility). These draft work programmes would be presented to the Coordination Committee for the Asylum and Migration Fund, the Internal Security Fund and the instrument for Border Management and Visa in which discussions on the proposed priorities, the corresponding amounts and the suggested implementation modes would take place.

The majority of funding from the Thematic Facility is expected to be channelled through Specific Actions as top-ups to Member States' programmes. The Commission could distribute funding to national programmes via Specific Actions in the following ways:

- as targeted support to a single Member State or a group of Member States facing high migratory pressures or security threats, or having specific needs as attested by a technical assessment of the Commission of the needs of or threats and pressure on one or more Member States (e.g. assessments carried out by European Asylum Support Office, European Border and Coast Guard Agency and EUROPOL);
- following the results of pledging by Member States based on a call of interest from the Commission for example for joint or innovative actions;
- using the distribution key from the legal basis to allocate additional funding to all Member States, for example to implement newly adopted legislation.