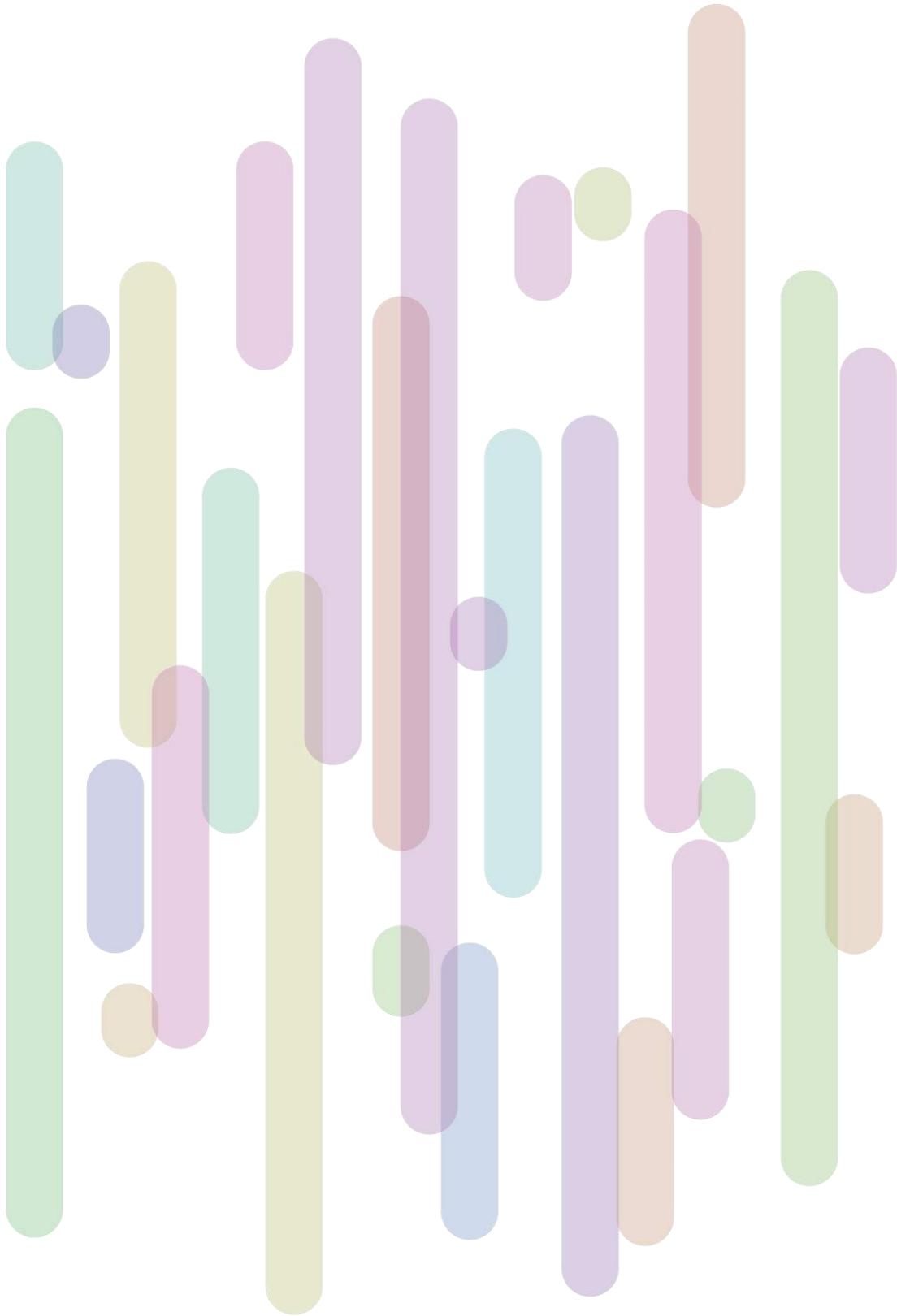


# “THE WAY FORWARD”



A Comprehensive Study of the new Proposals for EU funds on Asylum, Migration and Integration



**ecre**  
European Council  
on Refugees and Exiles

## ACKNOWLEDGEMENT

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# EXECUTIVE SUMMARY

This report has been produced in the framework of the strategic partnership between the European Council for Refugees and Exiles (ECRE) and the UN Refugee Agency (UNHCR).

It builds on the findings of ['Follow the Money: report on the use of AMIF funding at the national level'](#), published by the strategic partnership in early 2018, which critically examined the programming of national Asylum Migration & Integration Fund (AMIF) resources by European Union Member States during the 2014-17 period. It specifically follows up on the study's third specific objective of providing input in order to assist the European Commission, Member States and partners in the development of European asylum, migration and integration funding instruments post-2020.

This document analyses selected new legislative and budgetary proposals published by the European Commission within the framework of the proposed Multiannual Financial Framework for 2021-27. It focuses on those proposals relevant to current AMIF beneficiaries and which have been proposed to be delivered by Member States via 'shared management' arrangements (National Programmes).

**Chapter 1** provides the background to the new legislative and budgetary proposals regarding asylum and migration for the Multiannual Financial Framework (2021-27). It summarises the scope and objectives of the AMIF (2014-20), and notes other European Union funding instruments that can support reception and integration measures for asylum seekers, refugees and/or migrants, notably including the current European Social Fund (ESF).

This chapter lists the proposals by the European Commission that have been published in the framework of the Multiannual Financial Framework (2021-27) which are relevant to the beneficiaries of the current AMIF (the 'target group') and form the focus of this study, namely:

- Proposals for Regulations on the Asylum and Migration Fund, European Social Fund Plus, European Regional Development Fund and Cohesion Fund.
- Proposal for a Regulation laying down common provisions for the Asylum & Migration Fund, European Social Fund Plus, European Regional Development Fund and other Funds (Common Provisions Regulation).

It also notes the report's inclusion of the provisions set forth by the 2014 European Code of Conduct on Partnership, given its applicability during the 2021-27 programming period to the previously listed proposed instruments.

It goes on to summarise the outcomes of the relevant European Commission public and stakeholder consultations carried out in support of the development of proposals for the Multiannual Financial Framework (2021-27), and the outcomes of the European Commission ex-post evaluations of relevant funds and programmes. Included here is an overview of the initial outcomes of the programmed interim evaluation of the AMIF, carried out by the European Commission and Member States during the 2017-18 period.

Key consultation and evaluation outcomes included:

- A need to simplify and align the rules and procedures regarding implementation and management.
- Room for improvement in terms of capacity for funds and programmes that can respond to changing needs.
- A need to strengthen links to EU priorities and policy.
- Support for the merger of Funds and programmes to achieve better synergies.
- A need to simplify administrative implementation arrangements, in particular through the use of simplified cost options.

The section concludes by providing an overview of the recommendations presented in ['Follow the Money: report on the use of AMIF funding at the national level'](#), specifically those addressed to the

European Commission in relation to the provisions set forth by the Multiannual Financial Framework (2021-27) relevant to current AMIF beneficiaries.

**Chapter 2** presents the broader operational and policy context for the new legislative proposals, including:

- **A changing migration context**, in which migrant arrivals and the number of asylum claims received by EU Member States had vastly increased during the 2013-16 period, and the number of those granted refugee status or other forms of protection had also increased. While asylum claims and migrant arrivals stabilised in 2017. Member States continue to process the backlogs of asylum claims.
- **A focus on migration management** in EU asylum and migration policy responses to increased migrant arrivals to the EU. This approach was initially set out in the May 2015 European Agenda on Migration, and reinforced in subsequent Council Conclusions and policy initiatives relating to border management, return, the reduction of incentives for illegal immigration, and the inclusion of migration in external actions.
- **Ongoing reform of the Common European Asylum System**, begun in April 2016, will, when concluded, alter the legal and operational environment in which the new legislative proposals will be implemented.
- **Slow and inconsistent progress on return across the EU**, evidenced in the interim evaluation of the AMIF, and despite efforts to strengthen the capacity of Member States for more effective returns in the framework of the European Agenda on Migration.
- **The European Commission's intention to 'strengthen the link between the EU budget and the European Semester of economic policy coordination'** in the Multiannual Financial Framework (2021-27), in particular by linking the programming of key Funds with relevant country-specific recommendations made in the context of the European Semester process.

**Chapter 3** provides an overview of the structure of the new proposals with references to the provisions relevant to current AMIF beneficiaries. It notes:

- The proposed merger of several Funds and programmes in order to form a new **European Social Fund Plus (ESF+)**.
- **Common rules and provisions** for seven shared management Funds, set out in the proposed Common Provisions Regulation (CPR).
- The introduction of **common horizontal 'enabling conditions'** which must be fulfilled by MS' implementation programmes for shared management funds throughout the programming period, notably including the effective implementation of the EU Charter of Fundamental Rights and the United Nations Convention on the Rights of Persons with Disabilities.

The chapter details how the legislative proposals for 2021-27 present **a new approach to supporting integration**, within which the competence for integration is distributed across the proposed Funds as follows:

- Proposed **Asylum & Migration Fund**:
  - **Short-term integration measures** '*generally implemented in the early stage of integration in the period after arrival on EU territory*'.
  - **Horizontal actions promoting 'mutual trust'**, such as capacity-building and exchanges with the host society.
- Proposed **European Social Fund+, European Regional Development Fund and Cohesion Fund**:
  - Medium to long-term integration of third-country nationals, implemented '*after the initial phase of reception*' and '*including the integration into the labour market*'.

**Chapters 4-13** take a thematic approach to examining the new proposals. Each chapter describes their key provisions for each specific area, before mapping out the significant changes from the current AMIF and providing relevant additional analysis. Each chapter presents the key risks and opportunities for both the target group and the potential beneficiary organisations throughout the respective texts.

**Chapter 4** covers the overall **objectives of the new proposals**.

In terms of the proposed Asylum & Migration Fund, it presents the Fund's Policy Objective and describes a reduction in the number of Specific Objectives, from four in the current AMIF to three in the Asylum & Migration Fund. It notes how Specific Objectives 1 and 2 of the proposed Asylum & Migration Fund reflect the 'asylum' and 'legal migration and integration' priorities of the current AMIF, while Specific Objective 3 effectively transforms the 'return priority' of the current AMIF into a 'countering irregular migration' priority for the Asylum & Migration Fund (with return and readmission as enabling measures).

This chapter notes the **Asylum & Migration Fund's emphasis on migration management**. An overall Policy Objective outlines the Asylum & Migration Fund's core purpose 'to contribute to an efficient management of migration flows' with a commitment to implementing actions 'in line' with the Common European Asylum System, and its contrast with the current AMIF's aim of strengthening and developing protection systems in the EU.

This emphasis on migration management is reflected throughout the Fund's Specific Objectives, in particular via:

- The new and eminently broad provision for **cooperation with third countries** for the purposes of managing migration (Specific Objective 1: asylum).
- A **reframing of resettlement**, from a humanitarian tool in the current AMIF to a measure for enhancing cooperation and solidarity with third countries in the context of asylum for the AMF (Specific Objective 1: asylum)
- **Asylum & Migration Fund support for external migration policy goals and instruments**, including supporting the capacity of third countries to implement readmission agreements (Specific Objective 3: countering irregular migration).

**Asylum & Migration Fund provisions for integration** reflect the Fund's intended support for early integration measures and horizontal actions only, and introduce a new emphasis on local/regional authorities and civil society organisations as key implementing organisations.

In regard to the **European Social Fund+** and **European Regional Development Fund**, this chapter summarises the proposed Funds' provisions regarding integration. **Both Funds include Specific Objectives relating specifically to the socioeconomic integration of third-country nationals and migrants, respectively**, under a wider common Policy Objective of 'implementing the European Pillar of Social Rights'. While the European Social Fund+ makes a general reference to 'promoting socioeconomic integration', the European Regional Development Fund specifically refers to 'housing and social services' as key measures in this area.

**Other European Social Fund+ Specific Objectives under this common Policy Objective are relevant to socioeconomic integration and could include third-country nationals** as target beneficiaries. Of specific interest are those Specific Objectives relating to education and training, active inclusion, access to services, measures for the inclusion of people at risk of poverty or social exclusion, and support for addressing material deprivation.

**Other Specific Objectives of the proposed European Regional Development Fund which fall under the same Policy Objective are relevant to socioeconomic integration for migrants**, in that they commit to improving equality of access to education, healthcare and employment through the development of infrastructure.

**Chapter 5** addresses the **scope of support for the new proposals**.

This chapter notes several positive aspects of the proposed Asylum & Migration Fund's definition of **target beneficiaries** when compared to those of the current AMIF. These include a broadening of beneficiaries to include trafficked persons, and the possibility for all measures supported by the Fund to support any target beneficiary (in contrast to the current AMIF's specification of eligible target beneficiaries per Specific Objective). The **European Social Fund+** references 'third-country nationals' within its target beneficiaries, and the **ERDF** includes 'migrants', although neither offer a specific definition for these terms.

It goes on to detail how **the proposed Asylum & Migration Fund removes much of the specificity of the current AMIF** in relation to the types of services and the support to be provided to target beneficiaries, alongside the strategic and policy frameworks in which they should be implemented, as well as the data and collection methods that should be used to evaluate them.

These more specific elements of the AMIF are to some extent reflected in a number of generalised horizontal measures intended to support the implementation of the three Specific Objectives included under the Fund's overall Policy Objective, which provide an increased level of flexibility for national implementation. However, Member States will have a great deal of discretion in the selection of services and supports to be implemented under this Fund, in addition to how far national implementation will take place within, and/or support the development of, related national strategies and policies.

In relation to **asylum**, both the **European Regional Development Fund** and the **Asylum & Migration Fund** support the establishment of reception accommodation infrastructure for persons seeking international protection, although the division of tasks between the two Funds regarding actions in this area is not clarified in the proposed texts.

Regarding **integration**, the proposed Funds further clarify the types of measures to be implemented under each Fund:

- **Early integration:**

- Asylum & Migration Fund: integration programmes and tailored support (education, language training, civic orientation, professional guidance).
- European Regional Development Fund: reception accommodation infrastructure.

- **Medium-long term integration:**

- European Social Fund+: labour market integration; education and training; anti-poverty, social inclusion, and anti-discrimination measures; alleviating food and material deprivation; policy and system reform.
- European Regional Development Fund: housing infrastructure.

- **Horizontal measures:**

Asylum & Migration Fund:

- Promoting equality of access to services.
- Cooperation of government and civil society through initiatives such as one-stop “shops” for integration.
- Promoting the active social participation of third-country nationals, acceptance by receiving societies, and mutual dialogue.

In the context of **return**, the proposed Asylum & Migration Fund introduces a new provision for the direct participation of third countries in the Fund. The proposed use of the Fund to support infrastructure and equipment in third countries is likely to represent a high value expenditure, and its general reference to '*other measures*' leaves a large amount of uncertainty regarding the scope of actions in third countries in this context.

**Chapter 6** presents the budgetary proposals for the new instruments, both individually and in the broader context of the Multiannual Financial Framework (2021-27).

**Budget allocations for asylum, migration and borders** make up 3% of the total Multiannual Financial Framework (2021-27), with the proposed Asylum & Migration Fund accounting for 1%. The Asylum & Migration Fund is one of seven instruments and budgetary headings in the area of asylum, migration and borders, and the **proposed AMF's total budgetary allocation of €10.42bn** accounts for 29% of the total financial envelope for this policy area. Given the increase in the total budget allocated to the AMIF for 2014-20, from an initial €3.1bn to just under €6.9bn, **the financial envelope for the proposed Asylum & Migration Fund (€10.42bn) increases that of the current AMIF by €3.54bn (51%).**

**60% (€6.25bn) of the financial envelope for the Asylum & Migration Fund is allocated to Member States via shared management.** While this significantly decreases the share of the total Asylum &

Migration Fund resources allocated to Member States when compared to the current AMIF (from 88% to 60%), the actual budget allocated to Member States has increased by 56% (€2.75bn to €6.25bn).<sup>1</sup>

The remaining **40% (€4.17bn) of Asylum & Migration Fund resources has been allocated to a new Thematic Facility**, implemented via shared, direct, and/or indirect management, and programmed via biannual work programmes issued by the European Commission. Its proposed components are:

- Specific actions (within which 'specific attention will be put on promoting effective returns').
- Union actions.
- Emergency assistance.
- Resettlement.
- Support for MS that are contributing to solidarity and responsibility efforts.
- The European Migration Network.

Allocations to the European Social Fund+ and the European Regional Development Fund represent 9% and 18% of the Multiannual Financial Framework 2021-17, respectively. **The total financial envelope for the European Social Fund+ is €101.17bn, €100bn (98.8%) of which is allocated to Member States via shared management.** Member States are further required to allocate **25% (€25bn) of national European Social Fund+ resources to social inclusion**, covering five Specific Objectives including the Specific Objective relating to integration. A further 4% of national European Social Fund+ resources must support the most deprived, and at least 2% must address forms of extreme poverty.

The **total financial envelope for the proposed European Regional Development Fund is €200.6bn**, of which **€190.8bn (95%) is allocated to Member States under shared management.** The proposed Fund does not specify minimum allocations to the Policy Objective regarding the implementation of the European Pillar of Social Rights', under which the Specific Objective on socioeconomic integration of migrants is included.

**Chapter 7** covers the processes for the allocation of funding to Member States.

It describes how **in the proposed Asylum & Migration Fund, €5.21bn (83.3%) of the €6.25bn allocated to Member States under shared management is distributed at the outset of the programming period.** All Member States receive a fixed amount of €5m (€0.13bn), in addition to a €5.08bn allocated through the use of a new distribution key. The remaining **16.7% (€1.04bn) of the Asylum & Migration Fund shared management funds is distributed to Member States via a reapplication of the distribution key in the context of a 2024 mid-term review.**

At the start of the programming period, the key first distributes the €5.08bn across each of the three Asylum & Migration Fund Specific Objectives: 'countering irregular migration' (40%/€2.03bn), 'asylum' (30%/€1.52bn) and 'legal migration and integration' (30%/€1.52bn). It then determines the allocations for each Member State by weighing specific statistical information from these policy areas. The statistical information utilised covers the three years preceding the date on which the Fund is established, using the latest annual statistics produced by the European Commission (Eurostat).

The chapter presents a **simulated application of the proposed Asylum & Migration Fund distribution key**, using data for the three-years 2015-17 period, leading to several significant differences in the distribution of funding across MS when compared to the current AMIF. These differences include a substantial increase for Germany (from 10.31% to 30.08%), and reduced allocations for 22 Member States (the most substantial for Spain, Greece and Italy).

**The distribution key does not assess Member State capacities and resources for the management of migration.** In the simulation of allocations using the 2015-17 data, Germany and France would together account for 43.4% of the total initial Asylum & Migration Fund allocations to Member States. Both could, however, be argued to be significantly better positioned to meet migratory challenges

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<sup>1</sup> The EC interim evaluation indicates that 78% (€5.4bn) of current AMIF resources were ultimately allocated to MS via shared management (AMIF Interim Evaluation, p3)

than other Member States which would receive substantially lower shares of the Fund's shared management resources.

The simulated application of the proposed distribution key also results in basic allocations for some Member States that draw heavily on a single Asylum & Migration Fund priority:

- **Asylum priority:** Hungary (63%), Germany (49%), Austria (47%) and Sweden (44%), although the first two years from which simulation data is drawn witnessed spikes in the number of asylum claims in these Member States which have since stabilised.
- **Integration priority:** Estonia (80%), Latvia (75%), Spain (59%), Czech Republic (59%), Slovenia (58%), Ireland (55%), Italy (53%) and Portugal (53%).
- **Countering irregular migration priority:** Croatia (84%), Poland (79%), Lithuania (72%), Slovakia (72%), Belgium (62%), Bulgaria (67%), The Netherlands (61%), Finland (61%), Romania (58%) and Cyprus (54%).

The chapter goes on to note how indicators used to calculate allocations under the countering irregular migration priority are more measures of the extent to which return is prioritised in practice by Member States, as well as Member State performance in relation to returns. It sets financial allocations resulting from the use of these indicators against asylum recognition rates, showing that **seven Member States (Greece, Bulgaria, Croatia, Hungary, Poland, Slovakia and Slovenia) will effectively be financially rewarded for asylum recognition rates far lower than the EU average**, which in turn create larger populations eligible to undergo return procedures.

Moving on to budgetary allocations to Member States under the **European Social Fund+** and **European Regional Development Fund**, the chapter describes how these will be calculated using an amended version of the 'Berlin formula' used in the current programming period. 'Berlin+' retains the older Berlin formula's different allocation calculation methods for three different categories of regions within Member States ('less developed', 'transitional', and 'more developed'), and adds new criteria applicable to all regions.

**The total amount to be allocated to Member States is €279.4bn, of which the majority (€198.6bn/71%) is allocated to 'less developed' regions.** 'Berlin+' is applied by the European Commission at the start of the programming period, and **Member State allocations are reviewed in 2024** through a reapplication of the formula and an adjustment of Member State allocations for the 2025-27 period as required. 'Berlin+' also uses new criteria – applicable to all regions – relating to youth (un)employment, education levels, climate change, and migration from outside the EU. Regarding migration, regions in all three groupings receive €400 per person applied to each region's share of the population of net migration from outside the EU. Member States are not required to allocate this migration premium to the implementation of integration measures.

**Chapter 8** sets out arrangements for programming under the proposed new instruments.

It describes how Member States are required to submit their **Partnership Agreements** and **National Programmes** for shared management funds for approval to the European Commission, covering the implementation period of 1 January 2021-31 December 2027.

**Partnership Agreements** are strategic documents which set out the arrangements for the use of all shared management funds during the 2021-27 period. Member States are required to prepare Partnership Agreements using a standard template included in the new proposals, and Partnership Agreements must be submitted to the European Commission either prior to, or at the same time as, the first National Programme. Partnership Agreements include details of the objectives selected for implementation by Member States, how each of the Funds will be used to support said partnership agreements, as well as planned programmes and indicative financial allocations (including national contributions), and arrangements for coordination between Funds.

While Member States are required to justify the selection of particular Policy Objectives (European Social Fund+ and European Regional Development Fund) and Specific Objectives (Asylum & Migration Fund) within the Partnership Agreement, **the Partnership Agreement does not require Member States**

**to provide a standalone assessment of national needs and challenges, or to present a baseline situation.**

Moving on to **National Programmes**, the chapter notes how Member States are required to prepare separate National Programmes for each shared management Fund through the use of one of two standard templates for the Asylum & Migration Fund, and the European Social Fund+/European Regional Development Fund, respectively. Member States can submit requests for an **amendment of National Programmes**, which the European Commission must approve within six months.

Although the Asylum & Migration Fund National Programme template requires Member States to communicate how the programme will address the main challenges identified in the Partnership Agreement, this information is not present in the Partnership Agreements according to the standard template. Additionally, the Asylum & Migration Fund National Programme asks that Member States provide a summary of national challenges based on local, regional and national needs assessments and/or strategies. However, as guidance on the identification of national challenges is not present in the Partnership Agreement, the overall approach that Member States should use in this context lacks clarity.

**The proposed Asylum & Migration Fund makes no reference to a policy dialogue process** to support the preparation of National Programmes, as is included in the current AMIF. Some current provisions on transparency – such as the requirement for the European Commission to share Policy Dialogue outcomes with the European Parliament – are therefore effectively removed.

In a marked change from the current AMIF, the **proposed Asylum & Migration Fund makes a provision for the oversight of national programmes by the proposed European Union Agency for Asylum and the European Border and Coast Guard Agency (Frontex)**. The European Commission will consult these decentralised agencies on draft National Programmes, and Member States must implement the recommendations of the European Agency for Asylum on monitoring exercises through amended National Programmes.

**Chapter 9** covers the financial implementation requirements and arrangements for the relevant Funds.

This chapter notes how **the proposed Asylum & Migration Fund does not require Member States to allocate minimum percentages of national Asylum & Migration Fund resources to any of the Fund's three Specific Objectives**, in contrast to the current AMIF requirement for minimum allocations of 40% to asylum (20%) and integration (20%) priorities.

As above, **Member States are required to allocate 25% of national European Social Fund+ resources (€25bn) to the 'social inclusion policy area'**, including the Specific Objective of the promotion of the socioeconomic integration of third-country nationals. A further 2% must be allocated towards measures addressing material deprivation, and Member States possessing a rate of young people not enrolled in education or engaged in employment or training above the 2019 Union average must allocate at least 10% of European Social Fund+ resources to measures supporting youth employment.

Also as above, the **European Regional Development Fund** specifies minimum allocations per category of region for some Policy Objectives. These variable regional allocations leave 4-34% available for two Policy Objectives for which minimum allocations are not required, including those under which the Specific Objective for the socioeconomic integration of migrants is included.

Moving on to co-financing, this chapter notes **the Asylum & Migration Fund's general provision for a maximum co-financing rate of 75%**, with a maximum rate of 100% available for emergency assistance. The Asylum & Migration Fund also introduces a higher level of co-financing up to a maximum of 90% in order to encourage Member States to include specific types of action within their programming, including:

- Integration measures implemented by local/regional authorities and civil society 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 needs, in particular unaccompanied children.

**Co-financing rates for the proposed European Social Fund+ and European Regional Development Fund** are set differently per type of region, and are explicitly reduced in order to return them to the rates in place prior to the financial crisis of 2007-8. When compared to the current AMIF, these **reduced co-financing rates present a substantial reduction in EU contributions to integration actions for third-country nationals**, particularly in those regions classified as being in *'transition'* (reduction of 20%) or *'more developed'* (reduction of 35%).

Additionally, lowered co-financing rates and the subsequent necessity for increased public/external investment may negatively affect the overall Member State intake of European Social Fund+ and European Regional Development Fund resources. The effect of such a situation may be more acute for those actions related to integration and social inclusion, which by their nature provide fewer immediately tangible outcomes than – for example – measures to assist those target beneficiaries immediate to the labour market to undertake employment.

The chapter goes on to describe **common simplified cost options** for shared management Funds, with some of the potential benefits for implementing organisations:

- The **obligatory use of simplified cost options for actions with a total budget of €200,000 or less** will significantly reduce the administrative burden on beneficiaries engaged in the implementation of lower value actions, which are often smaller organisations that possess less of an administrative capacity for the management of complex grants.
- Provisions on staff cost calculations will enable the full recovery of staff costs for all beneficiaries, and remove complex accounting systems for the time staff spend on different projects.

The chapter then describes arrangements for payments to Member States, including the possibility of the European Commission suspending payments when it considers that one or more of the horizontal enabling conditions are no longer being fulfilled.

**Chapter 10** deals with the operational implementation of the Funds.

It first details the **eligible beneficiary organisations**, noting that both the ESF+ and AMF can include the participation of third countries. As detailed in previous chapters, the eligibility of third countries for direct support from the AMF is an entirely new provision from the current AMIF. Although the proposed AMF includes several specific conditions for MS to fulfil prior to engaging with third countries, this provision represents a significant shift towards external use of the Fund.

The chapter then moves on to the **management and control systems for the Funds**, noting MS responsibility to designate one Managing Authority and one Audit Authority per Fund, with the possibility of assigning responsibility for specific policy or operational areas to intermediate bodies.

MS are not required to undertake a designation process in the assigning of these functions, and may instead 'roll-over' existing systems. This provision may promote the more immediate establishment and implementation of national programmes. However, it is not clear if specific MS could be required to undertake a new designation process, in particular where NP management during the 2014-20 period has thus far been problematic and/or where an alternative body may be more suited to the management of specific programme elements.

**MS management responsibilities also include the examination of complaints**, including those made directly to the EC. Complaints are defined in the new proposals as a 'dispute between potential and selected beneficiaries with regard to the proposed or selected operation' or 'disputes with third parties' on programme implementation; however, it is not clear if this allows for complaints regarding the overall MS programme management and implementation.

A single national Managing Authority can be responsible for more than one Fund, although the extent to which this possibility for joint management is implemented for the ESF+, ERDF and AMF NPs is a decision for MS. Concerning integration, for which related objectives are dispersed across individual Funds, joint management could prevent duplication and maximise the impact of available resources. The EC might usefully consider providing additional guidance or recommendations for MS on joint management and/or ensuring cooperation between Managing Authorities on cross-cutting policy issues such as integration.

The chapter continues by outlining **common provisions for project selection**. It notes how MS Managing Authorities are responsible for the selection of all projects intended to be supported under the Funds, and are required to establish criteria and procedures for project selection that are transparent, non-discriminatory, and prioritise actions that maximise achievement of the Fund's objectives.

The chapter concludes by noting improvements in the areas of auditing and payments for beneficiary organisations:

- **Restricting the number of audits on operations possessing relatively small total budgets** to one per year (by either the Audit Authority or the EC) will particularly benefit smaller beneficiary organisations that have less of an administrative capacity to participate in auditing exercises.
- Managing Authorities must make **payments of the amounts due to beneficiaries** within 90 days, a significant improvement from the current requirement of making payments 'as soon as possible,' a development which will particularly benefit smaller beneficiary organisations.

**Chapter 11** covers common and Fund-specific monitoring, reporting and evaluation provisions set out in the new proposals.

It notes how **MS are responsible for establishing a performance framework for the monitoring, evaluation, and measurement of the overall performance of all shared management Funds**. The output and result indicators for the proposed ESF+, ERDF, and AMF are provided in the Fund-specific Regulations, and MS are responsible for setting milestones/goals and targets for each objective included in a Fund's NPs.

The Fund-specific Regulations are inconsistent in their use of performance indicators in several instances:

- **The proposed AMF presents a list of indicators without identifying which ones measure outputs and which measure results**. The majority of AMF indicators are those that measure outputs, leading to a strong focus on deliverables rather than on the Fund's impact for target beneficiaries.
- Performance indicators for the proposed AMF cover the Fund's three SOs only. **No performance indicators are proposed for the AMF's overall Policy Objective**, despite the inclusion of a number of important implementation measures under this heading.
- The proposed AMF and ERDF include output and result indicators linked to specific objectives, while those in the ESF+'s Regulation are thematic. The ESF+ also divides result indicators between '*immediate result indicators*' (results after four weeks) and '*longer term result indicators*' (results after six months).

The chapter goes on to detail performance reporting provisions for the proposed Funds, noting:

- The requirement for Member States to **transmit performance data for all Funds to the European Commission six times per year using an electronic data exchange system**.
- **Performance reviews** conducted by Member States and the European Commission, annually for the European Social Fund+ and European Regional Development Fund, and twice during the programming period for the Asylum & Migration Fund.
- **Annual performance reports** for the Asylum & Migration Fund (not required for the European Social Fund+ and European Regional Development Fund).
- **Final performance reports** for the European Social Fund+ and European Regional Development Fund.

Moving on to the role of **national Monitoring Committees**, which Member States are required to establish for each Fund's National Programme, the chapter details the far more prominent and well-defined role for Monitoring Committees in the monitoring, evaluation, and oversight of the implementation of National Programmes.

It notes in particular a significant shift in the nature of the relationship between Managing Authorities and Monitoring Committees, in which Managing Authorities have a responsibility toward – rather than oversight of – the work of Monitoring Committees, and Monitoring Committees are enabled to direct the work of Managing Authorities to some degree. It also details how **the amount of information on National Programmes available in the public domain will be vastly increased**, via the requirement for Member States to publish all of the extensive data and information required to be shared with Monitoring Committees.

While the Common Provisions Regulation enables Member States to set up a single Monitoring Committee to cover more than one programme, approaches to collaboration between Monitoring Committees for different National Programmes – for example on common policy areas such as integration or on joint actions – is not dealt with in the new proposals. Monitoring Committees are however able to establish Working Groups, which could potentially be vehicles for such forms of collaboration across programmes.

In terms of **evaluation**, this chapter describes the requirements for Member States to:

- Carry out evaluations of Asylum & Migration Fund, European Social Fund+ and European Regional Development Fund National Programmes, including one evaluation per programme to assess each Fund's impact by 30 June 2029.
- Complete a mid-term evaluation for the Asylum & Migration Fund by 31 March 2024.
- Draw up evaluation plans (which can cover more than one programme).
- Ensure the necessary procedures for producing and collecting the required data.

The European Commission will carry out mid-term evaluations of all Funds by the end of 2024, and a retrospective evaluation by 31 December 2031.

The framework for evaluations, set out in the proposed Common Provisions Regulation, is structured in much the same way as that of the current AMIF, but does not include either the current AMIF's extensive set of evaluation questions linked to each of the five key evaluation criteria, or its specific questions on sustainability, simplification, and the reduction of administrative impact for beneficiaries. Both Member States and the European Commission are therefore free to determine how these criteria will be addressed in mid-term and final programme evaluations.

As noted above, **Member States must conduct mid-term reviews of the national implementation of the Asylum & Migration Fund, European Social Fund+ and European Regional Development Fund in 2024**. For the Asylum & Migration Fund the mid-term review is linked to distribution of remaining funding allocated to Member States under shared management, and for the European Social Fund+ and European Regional Development Fund to an adjustment of global allocations for 2025-27.

**Chapter 12** deals with the **Partnership Principle** in the shared management Funds, and in the 2014 EU Code of Conduct on Partnership in which the requirements for organising and implementing partnerships are included.

**Member States are responsible for the organisation of national partnerships** and ensuring their involvement in the **preparation, implementation, monitoring and evaluation of National Programmes**. Member States must form partnerships that include, at the minimum, representation from:

- Urban and other public authorities
- Economic and social partners
- Relevant bodies representing civil society, environmental partners and bodies promoting social inclusion (and) fundamental rights
- Community-based and voluntary organisations

**Partners should be the most representative of relevant stakeholders who can significantly influence or be significantly affected by the implementation of the Partnership Agreement and programmes.** Member States should additionally ensure the inclusion of **vulnerable, excluded, and/or marginalised groups** that may be affected by the programmes but still find it difficult to influence them. While international organisations are not included as potential partners, their participation is not expressly excluded.

**MS are required to involve partners in the preparation of both Partnership Agreements and Fund-specific National Programmes,** and the European Code of Conduct on Partnership sets out principles and standards for consulting partners in this context. Partners for the preparation of Partnership Agreements should be those most relevant for the planned use of all Funds, while for National Programmes partners should be the most relevant for the specific Fund concerned.

The European Code of Conduct on Partnership requires Member States to provide information on the partners involved in preparing the Partnership Agreement, how their participation was facilitated, the consultation outcomes, and the added value of partner involvement. However, the standard Partnership Agreement template does not include a space to enter this information, and it is not specified by when Member States should provide said information, in what format, to whom, and via which publication channels. For National Programmes, Member States must provide information on actions taken to involve partners in their preparation in the dedicated 'Partnership' section of the standard National Programme template.

The chapter goes on to describe requirements for **national Monitoring Committees**, the key vehicle for partner involvement in the implementation, monitoring and evaluation of National Programmes. Member States must consider partners previously involved in the preparation of the programmes when formulating the membership of the Monitoring Committee, in addition to formulating rules of procedure for Monitoring Committees that include elements such as voting rights, minimum notice periods for meeting dates, and the provision of documents, travel reimbursement, and capacity-building opportunities for Monitoring Committee members.

Although the European Code of Conduct on Partnership is newly applicable to the proposed Asylum & Migration Fund and will continue to be applicable to the proposed new European Structural and Investment Funds for 2021-27, the European Commission has not indicated that it will be amended prior to the next programming period. This has led to inconsistencies in terminology and references to specific Funds and programmes between the texts of the European Code of Conduct on Partnership and the new legislative proposals. The requirement for MS to involve partners in the **preparation of annual performance reports**, for example, is no longer relevant for the proposed European Social Fund+ and European Regional Development Fund, in which annual implementation reports are replaced by annual performance reviews. As performance reviews are not mentioned in the European Code of Conduct on Partnership, the extent of the input specified partners may have in this process is uncertain.

Moving on to **programme evaluation**, the chapter notes how Member States must involve partners in the assessment of programme performance via Monitoring Committees, including through the establishment of Monitoring Committee Working Groups for this purpose, and consulting partners on evaluation reports.

The chapter concludes by highlighting the new and positive requirement for the European Commission to consult organisations representing partners at the European level on programme implementation at least once per year, but notes that no further information is provided on the scope, format, or purpose of these consultations.

**Chapter 13** covers the provisions for communication and transparency included in the new proposals.

It describes **the requirement for Member States to communicate the Funds and their achievements to the general public**, by:

- Including details of the planned approach to communication and visibility in National Programmes.
- Appointing a **Communications Coordinator** responsible for the coordination of communication and visibility activities across all shared management programmes.
- Appointing a **Programme Communications Officer** for each specific Fund.
- Establishing a **website** providing access to the information regarding all shared management programmes implemented in that particular Member State.

Member States are required to publish extensive information on national websites, including a summary of planned and published Calls for Proposals, a list of operations selected for support, the rules of procedures for and membership of Monitoring Committees, evaluations, performance reports and data, and all information shared with Monitoring Committees. The new proposals therefore make far broader provisions for transparency of information on national implementation of shared management funds when compared to the current AMIF.

However, National Programmes, Partnership Agreements, Management Declarations and the outcomes of annual performance reviews are not required to be published. Additionally, and aside from Calls for Proposals (one month before opening) and lists of selected operations (every three months), the new proposals do not specify the time limits for when websites should be updated, either as part of a general cycle or within a minimum period after specific information is amended.

Beneficiary organisations must acknowledge support from the Funds via acknowledgements or publicity on organisational websites and/or social media pages and all project documents and materials, and by displaying plaques and billboards where project budgets exceed the specified thresholds.

A Member State can cancel up to 5% of the total support provided to a project wherein it judges that a beneficiary has not complied with the requirements regarding the publicising of Union funding. This provision is not accompanied by a specific process for the determination of either Member State decision-making on non-compliance, or beneficiary redress when a substantial portion of an individual project's budget is cancelled.

# INTRODUCTION

This report has been produced in the framework of the strategic partnership between the European Council for Refugees and Exiles (ECRE) and the UN Refugee Agency (UNHCR). This partnership was established in 2016 to develop and promote discussions on the future of the Common European Asylum System (CEAS).

It builds on the findings of ['Follow the Money: report on the use of AMIF funding at the national level'](#), published by the strategic partnership in early 2018, which critically examined the programming of AMIF funding at the national level during the 2014-17 period. It specifically follows up on the study's third specific objective of providing input in order to assist the European Commission (EC), Member States (MS) and partners in the development of European asylum, migration and integration funding instruments post-2020.

The Multiannual Financial Framework (MFF) of the European Union (EU) is the framework that regulates the implementation of the EU budget for seven-year periods. The MFF reflects the Union's political priorities and sets their corresponding financial terms, setting expenditure ceilings for the EU budget and specific priorities. The current MFF regulates the 2014-20 period, and the next MFF will be in place for the 2021-27 period.

The EC presented its MFF budget proposals for the 2021-27 period to the European Parliament (EP) and the Council on 2 May and 14 May 2018, respectively, and legislative proposals for the spending programmes were published during the period of 29 May-14 June 2018. The negotiation process for agreement on the new MFF will involve the Council, the EP, and the EC.

This document analyses selected new legislative and budgetary proposals published by the EC in the framework of the proposed MFF for 2021-27. It focuses on those proposals which are:

- relevant to beneficiaries of the current Asylum Migration & Integration Fund (AMIF) 2014-20 (hereafter referred to as 'the target group'); and
- proposed to be delivered by MS via 'shared management' arrangements (National Programmes).

This document:

- Summarises the background and context for the new proposals.
- Outlines the provisions of the proposed new instruments.
- Maps significant changes from the current Asylum, Migration & Integration Fund (AMIF) 2014-20.

# 1. BACKGROUND

## a. Current arrangements

Within the current MFF for 2014-20, the AMIF is the key instrument for the support of MS and Union actions in the field of migration.

The AMIF aims to 'contribute, via financial assistance, to the effective management of migration flows and to the implementation and development of a common European Union (EU) approach to asylum and migration'.<sup>2</sup> The AMIF has four specific objectives:

- Strengthening and developing the establishment of the **Common European Asylum System (CEAS)** ('asylum priority').
- Supporting **legal migration** to MS in accordance with their economic and social needs, and promoting the **effective integration** of third-country nationals ('legal migration and integration' priority).
- Enhancing **fair and effective return strategies** with an outlook of countering **illegal immigration** ('return priority').
- Increasing **solidarity and responsibility sharing** between MS, with a particular focus on those most affected by migration and asylum flows.<sup>3</sup>

Other EU funding instruments can support reception and integration measures for asylum seekers, refugees, legally residing third-country nationals (TCNs), and/or other migrants:

- European Social Fund (ESF),
- European Regional Development Fund (ERDF).
- Fund for European Aid to the Most Deprived (FEAD).
- Internal Security Fund (ISF) – borders and visas.<sup>4</sup>

## b. Relevant proposed funding instruments

The following EC proposals published in the framework of the MFF 2021-27 are of relevance to the target group:

- [Proposal for a Regulation on the European Regional Development Fund and on the CF and accompanying Annex \(ERDF Regulation\)](#), published 29 May 2018.
- [Proposal for a Regulation laying down common provisions on the European Regional Development Fund, the ESF+, the CF, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument and accompanying Annexes \(CPR\)](#), published 29 May 2018.
- [Proposal for a Regulation on the European Social Fund+ \(ESF+\) and accompanying Annexes \(ESF+ Regulation\)](#), published 30 May 2018.
- [Proposal for a Regulation establishing the Asylum & Migration Fund and accompanying Annexes \(AMF Regulation\)](#), published 12 June 2018.

All of the above proposals, with the exception of the CPR, are accompanied by Impact Assessments.

This document also assesses provisions for partnerships included in the 2014 [European Code of Conduct on Partnership in the framework of the European Structural and Investment Funds \(ECCP\)](#), which will apply to the proposed instruments listed above during the 2021-27 programming period.

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<sup>2</sup> Article 3(1) *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*. (hereafter 'Regulation 516/2014').

<sup>3</sup> Article 3(2), Regulation 516/2014.

<sup>4</sup> European Commission (2016) *Synergies between the Asylum Migration and Integration Fund (AMIF) and other EU funding instruments in relation to reception and integration of asylum seekers*, p1

## c. EC evaluation and consultation outcomes

To support the development of proposals for the MFF 2021-27, the EC conducted stakeholder consultations in relation to specific Funds and public consultations on key areas of Union policy. The EC also carried out ex-post evaluations of individual Funds and programmes and, in the case of the AMIF, completed with MS a programmed interim evaluation of the fund during the 2017-18 period, the results of which were published in June 2018.<sup>5</sup>

For the current shared management Funds and programmes that are the predecessors to the new proposals listed previously in b – namely the AMIF, ESF, ERDF, FEAD, and Cohesion Fund (CF) – EC evaluations and consultations produced several common outcomes:

- Funds and programmes were **generally considered to be effective**, although the achievement of their objectives was impeded by **complex rules, procedures, and management procedures** (all Funds).
- Implementation was hindered by a **weak alignment of EU rules across the Funds** (ESF, ERDF, CF).
- **A need to strengthen links to EU priorities and policy**, including to the implementation of the Union acquis on asylum and migration and the development of return strategies (AMIF), to the European Semester process (ESF and ERDF), and to the social dimension of EU policy (ESF).
- Some improvements in flexibility, but **further room to improve the Funds' capacities to respond to prevailing needs and circumstances**.
- **Support for the merger of funds** as the best way to achieve synergies (ESF, ERDF and CF).
- A need for **further simplification of administrative arrangements** for programme implementation, in particular through the use of **simplified cost options** (all Funds and programmes).<sup>6</sup>

The AMIF interim evaluation also highlighted how integration measures implemented under the Fund had tended to prioritise support for short-term integration over medium-to-long term integration.<sup>7</sup>

## d. 'Follow the Money' (phase I): key findings and recommendations for the MFF 2021-27

['Follow the Money: report on the use of AMIF funding at the national level'](#) made a number of recommendations addressed to the EC in relation to provisions in the MFF 2021-27 relevant to current AMIF beneficiaries, summarised below:

- Retaining the current **multiannual programming** approach.
- **Using the most recently available Eurostat statistical data in the distribution key for the allocation of funding across MS**, incorporating specific elements such as the number of asylum claims and resident third-country nationals, GDP, unemployment rates, and others.
- **Reapplying the statistical distribution key at the mid-term review stage through the use of updated data**.
- Including **emergency assistance** in MS National Programmes.
- Requiring MS to **allocate and spend specific percentages of relevant national envelopes on integration (30%) and asylum (20%) priorities**.

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<sup>5</sup> DG Migration and Home Affairs (June 2018) *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on interim evaluation of the Asylum, Migration and Integration Fund and the Internal Security Fund*

<sup>6</sup> Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund (hereafter the *AMF Regulation*), preamble p8; Proposal for a Regulation of the European Parliament and of the Council on the European Social Fund Plus (ESF+) (hereafter the *ESF+ Regulation*), preamble p5-8; Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the CF (hereafter the *ERDF/CF Regulation*), preamble p4-5; Proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the CF, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument (hereafter the *CPR*), preamble p2-4

<sup>7</sup> *AMF Regulation*, preamble p8

- Specifying that MS use of **statistical data from a range of governmental and non-governmental sources when assessing needs** being addressed by National Programmes.
- **Retaining the high-level Policy Dialogue process** so as to include documented and meaningful consultation with partners.
- **Specifying the purpose of the fund(s) as providing complementarity for core MS activities**, and including a reflection on what constitutes 'core' and 'complementary' actions in this context.
- Establishing a **web facility for AMIF beneficiaries** to communicate feedback on AMIF National Programmes directly to the EC.
- Ensure a **common European framework for the evaluation of National Programmes**, which requires MS to collect and present input and data from partners.
- **Expand and strengthen the Partnership Principle to:**
  - Be a compulsory part of MS National Programmes.
  - Systematically include representation from a specified range of partners.
  - Ensure meaningful engagement of partners at all stages of programme design, implementation, monitoring, and evaluation.
  - Be implemented at the European level, in addition to the national one.
    - **Empower civil society organisations to carry out their complementary role**, including allocating and distributing reasonable minimum percentages of programme funding to civil society organisations in the asylum and integration priority areas

## 2. CONTEXT FOR THE NEW PROPOSALS

### a. A changing migration context

The implementation period for the AMIF 2014-20 witnessed dramatic changes in the European migration landscape. During 2013-16, the number of asylum claims received annually by EU MS increased from 431,090 to 1,260,910,<sup>8</sup> and vastly increased migrant and refugee arrivals strongly affected many MS.

In 2017, however, asylum applications stabilised: EU MS received 705,680 asylum applications, a decrease of just over 44% on the previous year, albeit still a higher level than that of 2014.<sup>9</sup>

Also, during 2017, 539,200 individuals were granted refugee status, subsidiary protection, or the authorisation to stay in the EU-28 for humanitarian reasons. In terms of asylum decision-making, MS continue to process large backlogs built up during 2015 and 2016,<sup>10</sup> when just under 2.7m individuals applied for asylum in EU MS.<sup>11</sup>

### b. A focus on migration management

The EU adopted an approach to migration management in response to the increased arrivals at Europe's borders during 2015. This approach was initially set out in the May 2015 European Agenda on Migration (EAM). The EAM was comprised of a set of short and long-term measures focused on the reduction of smuggling and trafficking, the management of borders, effective implementation of the CEAS, and the development of a new European policy on legal migration.<sup>12</sup>

The Council Conclusions of October 2017 placed a renewed emphasis on the management of external borders and the reduction of migration flows, in addition to an emphasis on effective returns as the central

<sup>8</sup> Eurostat [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en) (last accessed 27 June 2018)

<sup>9</sup> European Migration Network (May 2018) *Annual Report on Migration and Asylum 2017*, p24

<sup>10</sup> Eurostat *Asylum Statistics* [http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics) (extracted 18 April 2018, last accessed 26 June 2018)

<sup>11</sup> European Asylum Support Office (2018) *Annual Report on the situation of Asylum in the European Union 2017* p34

<sup>12</sup> European Commission (May 2015) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee Of The Regions: A European Agenda On Migration*, p6-7

measure for achieving 'a reduction of incentives for illegal migration'.<sup>13</sup> The June 2018 Council Conclusions again emphasised border control, reducing incentives for illegal migration, and the development of a return policy at the European level, together with a strong focus on external and development-oriented actions in relation to Africa.<sup>14</sup>

### c. Reform of the Common European Asylum System (CEAS)

The current reform of the CEAS has been ongoing since early 2016, following the EC's April 2016 presentation of a Communication setting out the proposed reform process and the adoption of two packages of proposals for CEAS reform in May and June of the same year, respectively. A number of new and recast legislative proposals are under negotiation which will, when concluded, alter the legal and operational environment in which the new legislative proposals for asylum and migration will be implemented, including:

- [Revision of the Dublin Regulation](#)
- [Transforming the European Asylum Support Office \(EASO\) into the European Union Asylum Agency \(EUAA\)](#)
- [Reform of the Asylum Procedures Directive](#)
- [Reform of the Qualification Directive](#)
- [Reform of the Reception Conditions Directive](#)
- [A new EU Resettlement Framework](#)

### d. Return

MS progress on increasing the rates of return of third-country nationals legally ordered to leave their territories has been slow and inconsistent. During 2014-15 and in 2017, the EU-wide effective return rate<sup>15</sup> remained between 36.3-36.8%.<sup>16</sup> 2016 saw a spike in the effective return rate when 226,150 (46%) of 493,785 third-country nationals ordered to leave the EU were returned to their countries of origin.<sup>17</sup>

Efforts in the framework of the EAM have concentrated on building MS capacity for more effective returns, working towards an effective common EU return policy, and increasing cooperation on return with third countries.<sup>18</sup> However, the EC's interim evaluation of the current AMIF found that it had made '*limited contributions to the effective implementation of return strategies*' in MS.<sup>19</sup>

MS have demonstrated huge variations in the share of those returned via coercive and voluntary mechanisms, although difficulties in recording voluntary returns limits comparability.<sup>20</sup>

### e. Linking the EU budget to the European Semester

The European Semester is an annual process for coordinating economic policy across the EU, in which in-depth reports are published for individual MS, and MS are required to submit national stability/reform programmes and implement country-specific recommendations agreed to by the EC and the Council.

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<sup>13</sup> European Council conclusions, 19 October 2017 (<https://www.consilium.europa.eu/media/21620/19-euco-final-conclusions-en.pdf>)

<sup>14</sup> European Council conclusions, 28 June 2018 (<http://www.consilium.europa.eu/en/press/press-releases/2018/06/29/20180628-euco-conclusions-final/pdf>) last accessed 30 June 2018

<sup>15</sup> The 'effective return rate' refers to the proportion of third-country nationals legally ordered to leave the territory of a MS that have left that territory via either voluntary or coercive return measures.

<sup>16</sup> European Commission (June 2018) *Managing Migration in all its Aspects: Commission Note ahead of the June European Council 2018*

<sup>17</sup> Eurostat *Statistics on enforcement of immigration legislation* [http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics\\_on\\_enforcement\\_of\\_immigration\\_legislation\\_-\\_Number\\_of\\_non-EU\\_citizens\\_ordered\\_to\\_leave\\_EU\\_territories\\_stood\\_at\\_almost\\_500.C2.A0000\\_in\\_2016](http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation_-_Number_of_non-EU_citizens_ordered_to_leave_EU_territories_stood_at_almost_500.C2.A0000_in_2016) (extracted May 2018, last accessed 26 June 2018).

<sup>18</sup> European Migration Network (May 2018) *Annual Report on Migration and Asylum 2017*, p8

<sup>19</sup> *AMF Regulation*, preamble p8

<sup>20</sup> Eurostat *Statistics on enforcement of immigration legislation* [http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics\\_on\\_enforcement\\_of\\_immigration\\_legislation\\_-\\_Number\\_of\\_non-EU\\_citizens\\_ordered\\_to\\_leave\\_EU\\_territories\\_stood\\_at\\_almost\\_500.C2.A0000\\_in\\_2016](http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation_-_Number_of_non-EU_citizens_ordered_to_leave_EU_territories_stood_at_almost_500.C2.A0000_in_2016) (extracted May 2018, last accessed 26 June 2018).

Within the MFF 2021-27, the EC proposes to '*strengthen the link between the EU budget and the European Semester of economic policy coordination*', in particular by linking the programming of key Funds to relevant country-specific recommendations provided in the Semester process.<sup>21</sup>

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<sup>21</sup> European Commission (May 2018) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee Of The Regions: An EU Budget for the Future*

### 3. STRUCTURE OF THE NEW PROPOSALS

#### a. Merging of Funds and programmes

The EC proposes merging the following funds and programmes into a single ESF+:

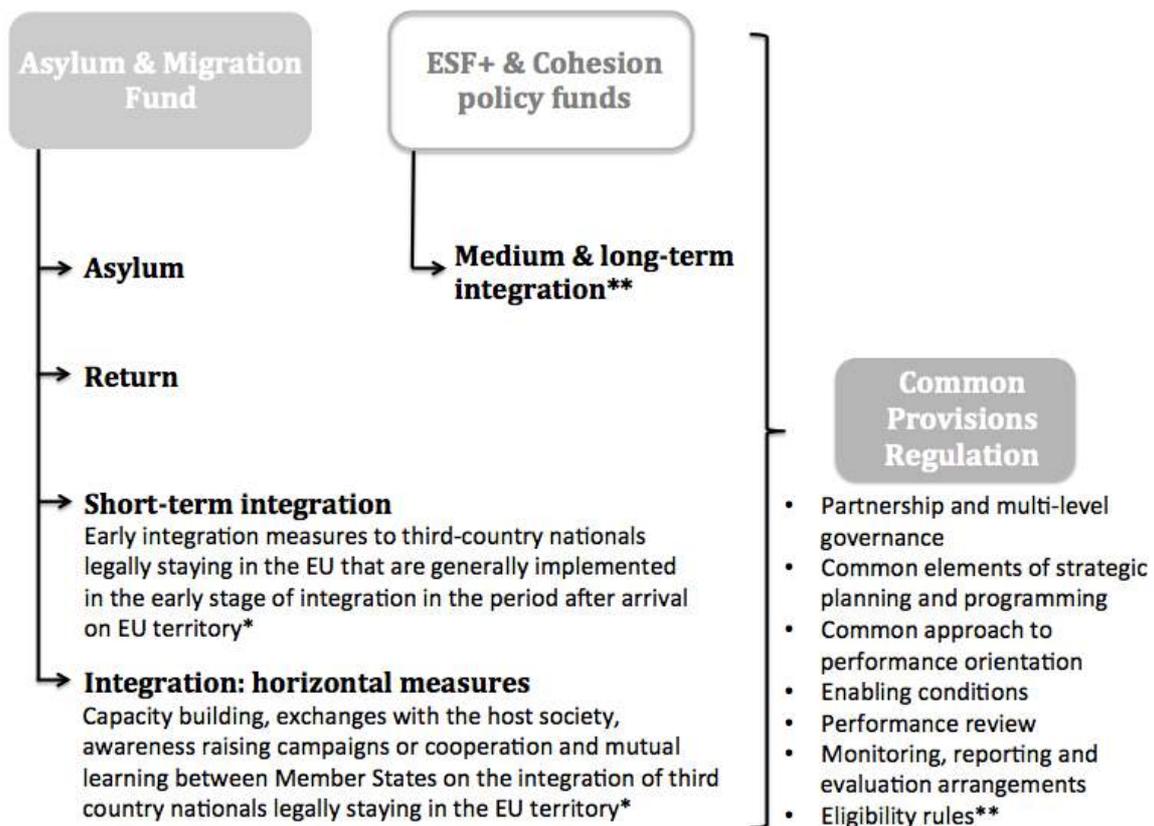
- European Social Fund (ESF) and the Youth Employment Initiative (YEI)
- Fund for European Aid to the Most Deprived (FEAD)
- Employment and Social Innovation (EaSI) programme
- Programme for the Union's actions in the field of health (the Health Programme)

The ESF+ will include three components:

- The ESF+ component under shared management.
- The Employment and Social Innovation component.
- The Health component.<sup>22</sup>

The proposed merger is designed 'to develop an integrated approach to programming and implementation for funds with common and/or similar aims', improve flexibility, and reduce administrative burdens regarding implementation through simplification.<sup>23</sup>

#### b. A new approach to supporting integration



\* Preamble to the AMF Regulation \*\* Preamble to the ESF+ Regulation

Figure 3.1: Main areas of competence of the new legislative/budget proposals for integration

<sup>22</sup> Recital 9, ESF+ Regulation

<sup>23</sup> ESF+ Regulation, preamble p1-2

As above, the proposed Asylum & Migration Fund (AMF) continues to support measures relating to asylum and return priorities, as in the current AMIF. It also supports 'reception and integration' measures for third-country nationals that are 'generally implemented in the early stage of integration in the period after arrival on EU territory'. The proposed AMF also supports MS in developing 'horizontal actions' promoting 'mutual trust', such as capacity-building and exchanges with the host society.<sup>24</sup>

Measures relating to the medium to long-term integration of third-country nationals, implemented 'after the initial phase of reception' and 'including the integration into the labour market',<sup>25</sup> are proposed to be moved entirely to the European Social Fund+ and Cohesion policy funds (specifically the Cohesion Fund (CF) and European Regional Development Fund (ERDF)).

Despite the short/mid-to-long-term integration rationale used to divide support for integration measures between the proposed instruments, the EC stated in a June 2018 presentation that infrastructure measures for reception centres and housing are proposed to be included under the 'long-term integration' heading, as seen below:



Figure 3.2: Extract from EC presentation at 'Refugee protection and forced displacement in the EU post-2020 Multiannual Financial Framework (MFF)' (June 18 2018, Brussels)

### c. Common rules for shared management funds

In response to evaluation and consultation outcomes which have highlighted a need for increased simplification, particularly in regards to the financial and management rules, the proposed Common Provisions Regulation (CPR) sets out common rules and provisions for seven shared management Funds,<sup>26</sup> including the proposed AMF, ESF+, ERDF and CF.

### d. Common enabling conditions

The proposed CPR introduces 'enabling conditions' which implementing MS must fulfil throughout the programming period in order to deduct their expenditures.<sup>27</sup> It includes the following horizontal

<sup>24</sup> AMF Regulation, preamble p2

<sup>25</sup> AMF Regulation, preamble p2

<sup>26</sup> The CF, European Maritime & Fisheries Fund, European Regional Development Fund, European Social Fund Plus, Asylum & Migration Fund, Border Management & Visa Instrument and

<sup>27</sup> CPR, Article 11(1) and preamble p7

enabling conditions, applicable to all Funds and specific objectives, with their associated 'fulfilment criteria':

Enabling condition	Fulfilment criteria
Effective monitoring mechanisms for the public procurement market	Various criteria covering the compilation of data and indicators, register of bidders, transparency of information, procurement procedures.
Tools and capacity for effective application of State aid rules	Capacity of management authorities to manage compliance with State aid rules
Effective application and implementation of the EU Charter of Fundamental Rights (CFEU)	Effective mechanisms to ensure compliance with the CFEU, including: <ul style="list-style-type: none"> <li>• Arrangements to ensure verification of compliance of operations supported by the Funds with the CFEU.</li> <li>• Reporting arrangements to the monitoring committee on the compliance with the CFEU of the operations supported by the Funds.</li> </ul>
Implementation and application of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)	National framework for implementing the UNCRPD, including: <ul style="list-style-type: none"> <li>• Objectives with measurable goals</li> <li>• Data collection and monitoring mechanisms.</li> <li>• Arrangements to ensure that the accessibility policy, legislation, and standards are properly reflected in the preparation and implementation of the programmes.</li> </ul>

Figure 3.3: Horizontal Enabling Conditions for proposed shared management funds 2021-17 (Annex III CPR)

## 4. OBJECTIVES OF THE NEW PROPOSALS

### OVERVIEW OF THE NEW PROPOSALS

Common General Objectives for the proposed ESF+, ERDF, and CF are set out in the CPR, with Specific Objectives included in the respective Fund-specific Regulations. Specific Objectives for the proposed AMF are set out in the proposed AMF Regulation.

#### a. Asylum & Migration Fund (AMF)

The overall **Policy Objective of the proposed AMF** is 'to contribute to an efficient management of migration flows in line with the Union acquis on asylum and migration and in compliance with the Union's commitments on fundamental rights.'<sup>28</sup>

The **AMF has three specific objectives (SOs)**. SO1 and SO2 reflect the 'asylum' and 'legal migration and integration' priorities included in the current AMIF, while SO3 amends the current AMIF's 'return' priority into a 'countering irregular migration' priority that includes return measures. See 'Comparison with the current AMIF', below, for more information on the AMF's three SOs.

#### b. ESF+ (ESF+), European Regional Development Fund (ERDF) and CF (CF)

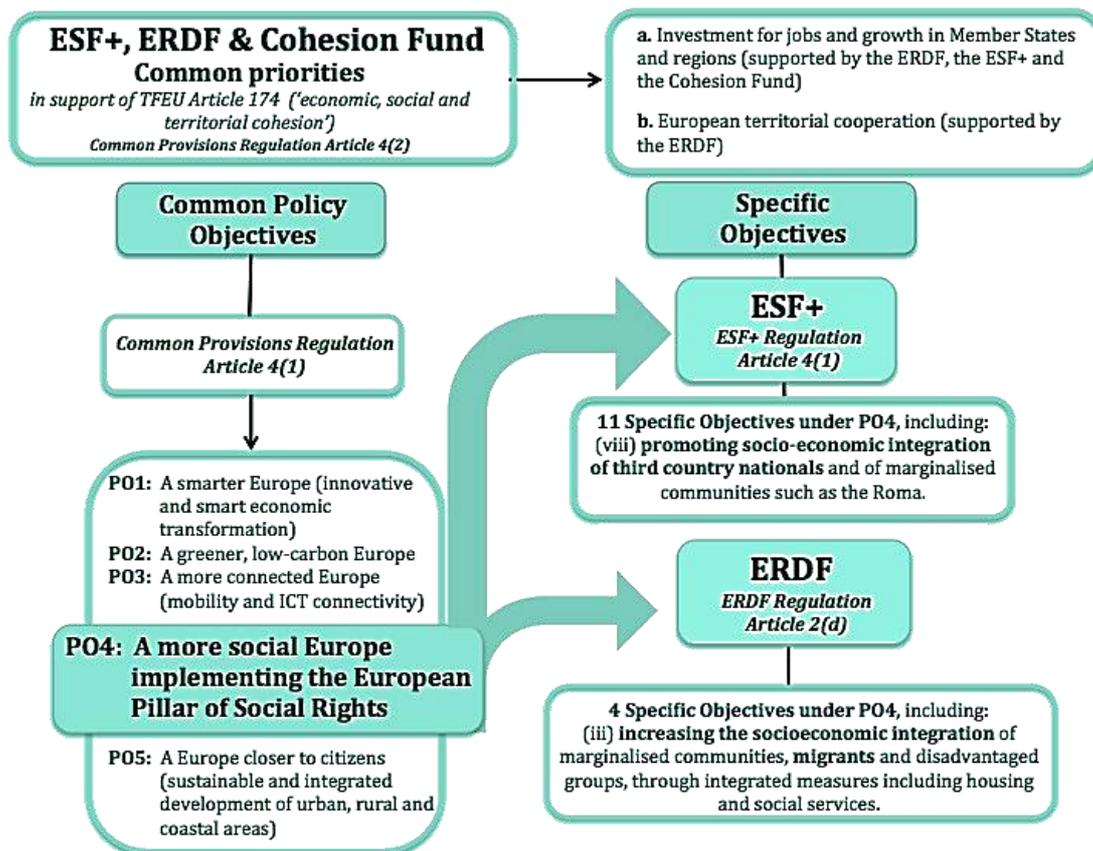


Figure 4.1: Common priorities, Policy Objectives and Specific Objectives, proposed ERDF, ESF+ and CF (sources included)

<sup>28</sup> Article 3(1) AMF Regulation

As above, the five Policy Objectives (POs) of the proposed ESF+, ERDF, and CF have been implemented in pursuit of the overarching goal of *'investment for jobs and growth in Member States and regions'*.<sup>29</sup>

The proposed ESF+ and ERDF include specific SOs relating to the socioeconomic integration – of third-country nationals and migrants respectively – under PO4 on *'implementing the European Pillar of Social Rights'*. Specific Objectives for the proposed CF relate only to PO2 and PO3, which cover environmental and transport measures, and as such are not relevant for integration. The European Pillar of Social Rights (hereafter 'the Pillar') thus provides the broader policy framework for objectives related to integration included in the ESF+ and ERDF.

Adopted in November 2017, the Pillar aims to guide Union and MS actions *'towards efficient employment and social outcomes...fulfilling people's essential needs and...ensuring better enactment and implementation of social rights'*.<sup>30</sup> The *'principles and rights'* it sets out are not legally enforceable in their entirety: it *instead 'reaffirms some of the rights already present in the Union acquis' and 'adds new principles' that require 'dedicated measures or legislation to be adopted' to make them enforceable.*<sup>31</sup> The principles set out in the Pillar apply to both *'Union citizens and third-country nationals with legal residence'*.<sup>32</sup> The proposed ESF+ is envisaged as the EU's *'main instrument to invest in people and implement the European Pillar of Social Rights'*,<sup>33</sup> and *'the scope of support for ESF+' is thus 'aligned with the European Pillar of Social Rights',*<sup>34</sup> including in terms of integration.

The inclusion of socioeconomic integration for third-country nationals/migrant groups as specific SOs in the proposed ESF+ and ERDF is a new development,<sup>35</sup> and in line with the EC's intention of *'integrating it into a menu of policy objectives'* within these proposed Funds. While the ESF+ makes a general reference to *'promoting socioeconomic integration'*, the ERDF specifically refers to *'housing and social services'* as key measures in this area.

The remaining ten SOs of the proposed ESF+ under PO4 are all relevant to socioeconomic integration, and measures regarding their implementation could include third-country nationals as target beneficiaries. The following SOs are of particular relevance:

- **SO5:** *promoting 'equal access to and completion of quality and inclusive education and training, in particular for disadvantaged groups' including 'early childhood education...general and vocational education and training...as well as adult education and learning'.*
- **SO7:** *'fostering active inclusion...promoting equal opportunities and active participation'.*
- **SO9:** *'enhancing the equal and timely access to quality, sustainable and affordable services' including social protection, healthcare and long-term care.*
- **SO10:** *'promoting social integration of people at risk of poverty or social exclusion'.*
- **SO11:** *'addressing material deprivation through food and/or basic material assistance to the most deprived, including accompanying measures'.<sup>36</sup>*

The remaining three SOs under PO4 for the proposed ERDF, listed below, are relevant to socioeconomic integration for migrants, in that they commit to improving the equality of access to education, healthcare and employment through the development of infrastructure:

- **SO1:** *enhancing the effectiveness of labour markets and access to quality employment through the development of social innovation and infrastructure.*
- **SO2:** *improving access to inclusive and quality services in education, training and life-long learning through the development of infrastructure*

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<sup>29</sup> Article 4(2)a CPR

<sup>30</sup> *European Pillar of Social Rights*, para.12

<sup>31</sup> *European Pillar of Social Rights*, para 14

<sup>32</sup> *European Pillar of Social Rights*, para 15

<sup>33</sup> *ESF+ Regulation*, preamble p1

<sup>34</sup> *ESF+ Regulation*, preamble p8

<sup>35</sup> The current ESF mentions only that *'attention should be paid to the participation of those seeking asylum and refugees'* in social exclusion and poverty reduction measures (Recital 6, Regulation (EU) No 1304/2013 of the European Parliament and of the Council on the European Social Fund and repealing Council Regulation (EC) No 1081/2006: hereafter *current ESF Regulation*) and includes migrants as target beneficiaries together with other *'disadvantaged people'* (Article 2(3), *current ESF Regulation*). The current ERDF does not refer to migrants or related subgroups as beneficiaries.

<sup>36</sup> Article 4(1) *ESF+ Regulation*

- **SO3:** ensuring equal access to health care through the development of infrastructure, including primary care.<sup>37</sup>

## COMPARISON WITH THE CURRENT AMIF

### a. Objectives and implementation measures

The Policy Objective of the proposed AMF does not include the reference to *'strengthening and development of the common policy on asylum, subsidiary protection and temporary protection and the common immigration policy'*<sup>38</sup> found in the General Objective of the current AMIF. The AMF's Policy Objective thus relates solely to migration management, with no overall commitment to building a European protection system. The proposed AMF would additionally be implemented *'in line with'* the Union acquis, rather than with a commitment to *'strengthen and develop'* it.

The specific reference to the Charter of Fundamental Rights (CFEU) included in the General Objective of the AMIF has been replaced by a more general requirement for implementation *'in compliance with the Union's commitments on fundamental rights'*. Recital 5 of the proposed AMF Regulation, however, requires the AMF to be implemented *'in full compliance'* with CFEU rights and principles, and with the Union's international obligations on fundamental rights.

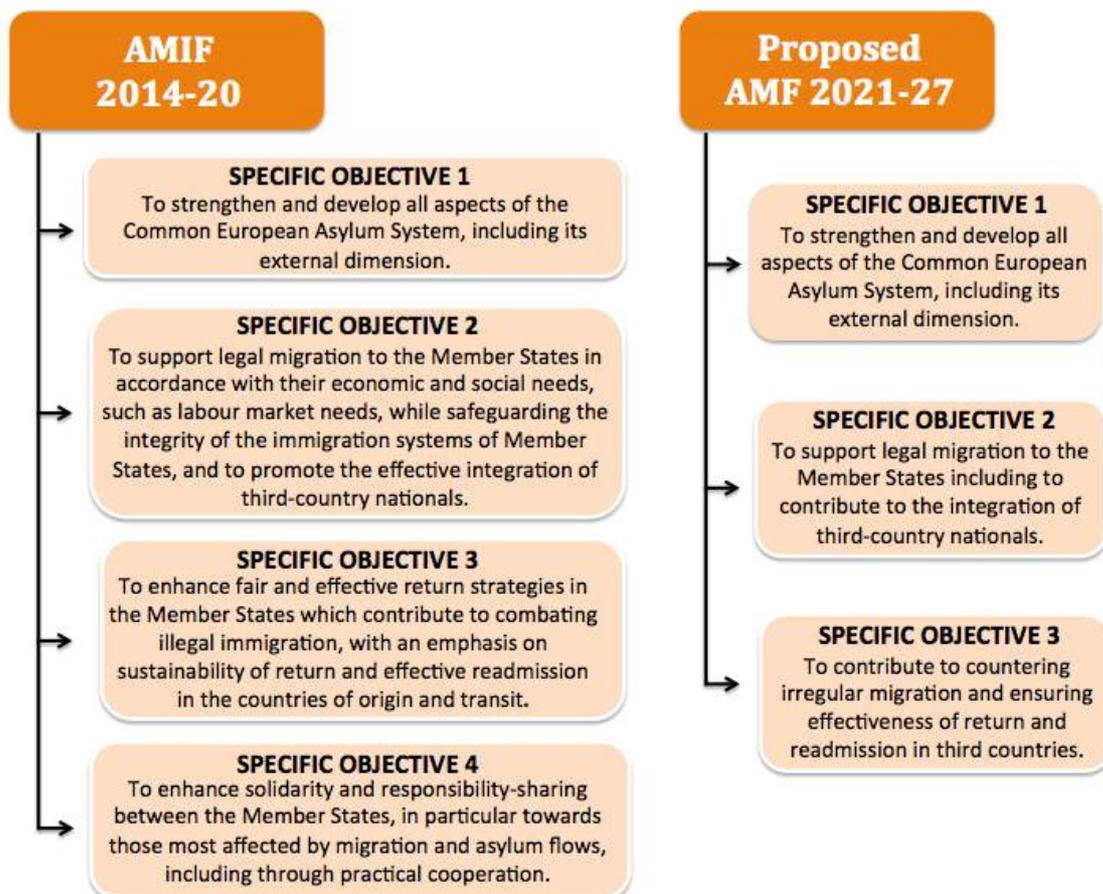


Figure 4.2: Specific Objectives, AMIF 2014-20 and proposed AMF 2021-27 (Article 3(2) AMIF Regulation 516/2014 and Article 3 AMF Regulation)

<sup>37</sup> Article 2(1) ERDF Regulation

<sup>38</sup> Article 3(1) AMIF Regulation 516/2014

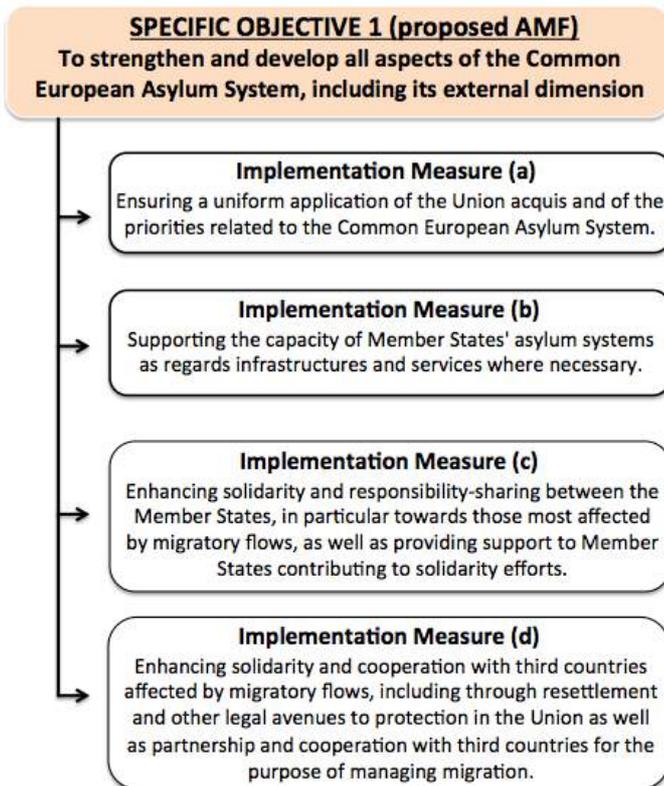


Figure 4.3: Implementation Measures for Specific Objective 1, proposed AMF (Annex II(1), AMF Regulation)

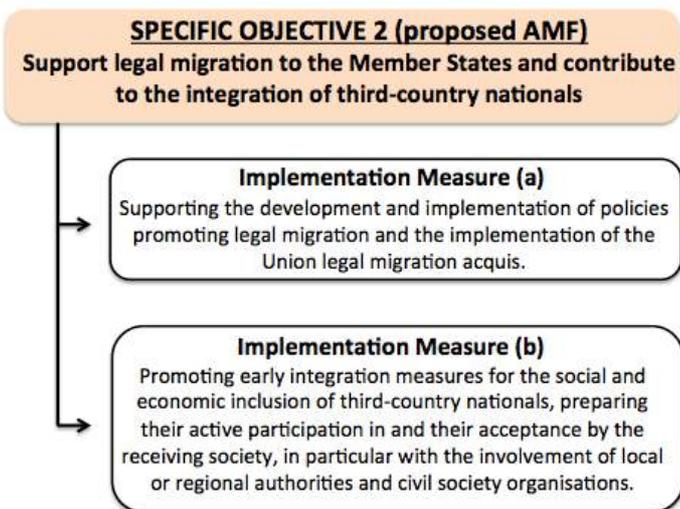


Figure 4.4: Implementation Measures for Specific Objective 2, proposed AMF (Annex II(2), AMF Regulation)

proposed AMF.

While the current AMIF provides detailed the lists of actions, per SO, that the Fund supports 'in particular', the proposed AMF includes more concise implementation measures per SO.<sup>39</sup>

Although **AMF SO1** retains the commitment to 'strengthen and develop' the CEAS, the implementation measures refer only to a 'uniform application' of the acquis and CEAS priorities. In the Impact Assessment accompanying the AMF proposal, the EC sets out how the proposed AMF would support 'new Union competences following the reform of the CEAS'.<sup>40</sup>

SO4 of the current AMIF is included here as an AMF implementation measure (c). Solidarity and responsibility-sharing are therefore envisaged solely in the context of asylum, and 'practical cooperation' is replaced by 'providing support to MS contributing to solidarity efforts'.

Implementation measure (d) introduces a new provision for cooperation with third countries in the context of asylum. Although resettlement is included under the asylum priority in the current AMIF, here it is newly presented as one measure for cooperating with third countries. The provision on resettlement sits alongside a new – and very general – provision for cooperation with third countries 'for the purpose of managing migration'.

As per the transfer of some integration measures to the ESF+, ERDF and CF (see above), AMF implementation will 'contribute to' rather than 'promote' the integration of third-country nationals.

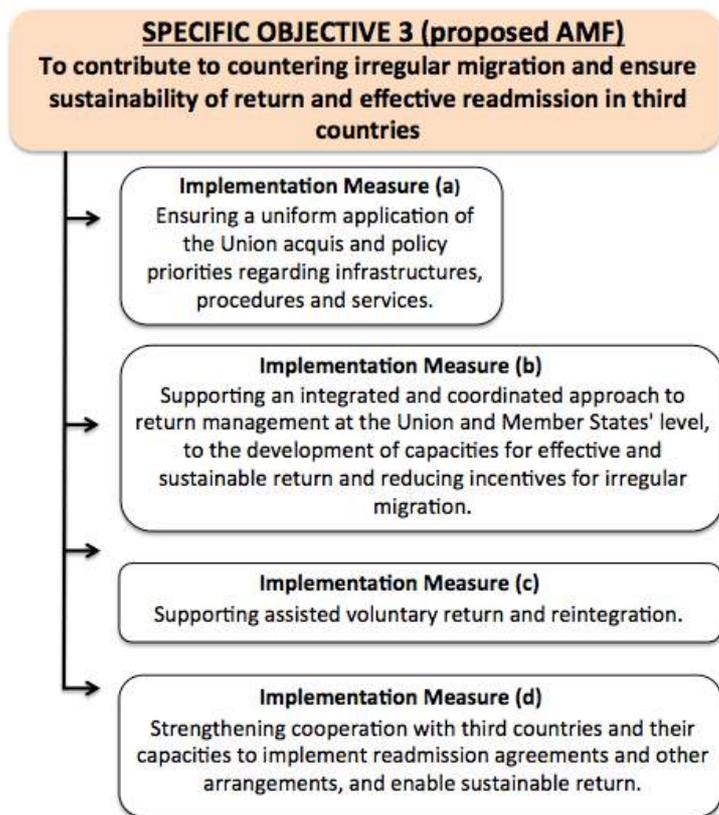
Implementation measure (b) clarifies that this will specifically include 'early integration measures for social and economic integration' focused on 'active participation' and 'acceptance' by receiving societies.

Implementation measure (b) introduces a new emphasis on 'local or regional authorities and civil society organisations' as key implementing organisations for integration measures under the

<sup>39</sup> Annex II, AMF Regulation

<sup>40</sup> AMF Impact Assessment, p20

Figure 4.5: Implementation Measures for Specific Objective 3, proposed AMF (Annex II(3), AMF Regulation)



SO3 of the proposed AMF effectively transforms the 'return priority' of the current AMIF into a 'countering irregular migration' priority, with return and readmission as enabling measures. The AMIF reference to 'fair and effective return strategies' is absent, although the focus on sustainability and effectiveness of return and readmission is retained.

Implementation measures (a) and (b) widen the geographical scope of implementation from those MS 'which contribute to combating illegal immigration' to the Union in general, with a specific focus on the standardised implementation of the acquis and other Union priorities in this area.

Voluntary Assisted Return (VAR) and reintegration are included in the current AMIF<sup>41</sup> and as an implementation measure in the proposed AMF.

Implementation measure (d) introduces cooperation with third countries in the context of implementing readmission agreements and achieving 'sustainable return', a marked difference from the current AMIF. The EC's Impact Assessment accompanying the AMF proposal clarified this includes the possibility 'to provide incentives and support to (and in) third countries to

accept and reintegrate returnees from the EU in the area of return'.<sup>42</sup>

## ADDITIONAL ANALYSIS

### a. AMF focus on migration management

The Policy Objective of the proposed AMF focuses on efficient migration management, with a commitment to implementing actions in line with the CEAS rather than strengthening and/or developing protection systems in the EU.

This emphasis on migration management is reflected throughout the Fund's SOs, in particular via:

- The new and particularly broad provision for cooperation with third countries for the purposes of managing migration (SO1: asylum).
- A reframing of resettlement, from a humanitarian tool in the current AMIF to a measure for enhancing cooperation and solidarity with third countries in the context of asylum for the AMF (SO1: asylum).
- AMF support for external migration policy goals and instruments, including supporting the capacity of third countries to implement readmission agreements for example (SO3: countering irregular migration)

<sup>41</sup> Article 12(c) & (e) AMIF Regulation 516/2014

<sup>42</sup> European Commission (June 2018) *Commission Staff Working Document: Impact Assessment accompanying the document Proposal for a Regulation of the European Parliament and of the Council establishing the Asylum and Migration Fund; Proposal for a Regulation of the European Parliament and of the Council establishing the Internal Security Fund; Proposal for a Regulation of the European Parliament and of the Council establishing, as part of the Integrated Border Management Fund, the instrument for financial support for border management and visa; Proposal for a Regulation of the European Parliament and of the Council establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment* (hereafter AMF Impact Assessment), p30

## 5. SCOPE OF SUPPORT

### OVERVIEW OF THE NEW PROPOSALS

The proposed AMF Regulation sets out the Fund's scope of support for the included implementation measures as an Annex to the draft Regulation. The proposed ESF+ and ERDF both have much broader fields of implementation, and as such specify the general areas in which actions would be implemented in their corresponding specific Regulations.

Some additional information on specific measures for TCN/migrant integration is provided in the performance, output and result indicators proposed for the ERDF and ESF+, and in the common intervention codes<sup>43</sup> for actions under the ERDF, ESF+ and CF included in the proposed CPR.

#### a. Target beneficiaries

The proposed AMF makes a general provision for the Fund to '*support actions focusing on one or more target groups within the scope of Articles 78 and 79 of the Treaty on the Functioning of the European Union*',<sup>44</sup> which include:

- Any TCN requiring international protection.
- Applicants for asylum or subsidiary protection.
- Displaced persons requiring temporary protection.
- TCNs residing legally in Member States.
- Trafficked persons.
- Persons residing without authorisation (for the purposes of 'removal and repatriation').<sup>45</sup>

In terms of the target group discussed in this document, the scope of ESF+ support includes TCNs.<sup>46</sup> Neither the ESF+ Regulation nor the proposed CPR offers a specific definition of this group, although the ESF+ Regulation clarifies that a third country is a state which is not a member of the EU.<sup>47</sup>

The ERDF refers to 'migrants' as one amongst several final beneficiaries of ERDF actions '*increasing socioeconomic integration*',<sup>48</sup> but does not offer a definition of the term. 'Migrants' could therefore be understood to include both TCNs and EU nationals moving to and residing in an MS other than that of their nationality.

#### b. Asylum

Both the ERDF and AMF support the establishment of reception accommodation infrastructure: the AMF by '*establishing or improving reception accommodation infrastructure*' under the asylum priority,<sup>49</sup> and the ERDF by increasing the capacity of '*temporary reception infrastructure*' and '*rehabilitated housing*' for various groups including '*persons applying for international protection*'.<sup>50</sup> The division of tasks between the two Funds for actions in this area is not clarified or delineated in the proposed texts.

#### c. Integration

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<sup>43</sup> 'Intervention codes' are numerical codes corresponding to specific types of actions implemented using resources provided by a specific Fund, and used by MS to report on implementation.

<sup>44</sup> Article 4(3), AMF Regulation

<sup>45</sup> Article 78-9, Treaty on the Functioning of the European Union

<sup>46</sup> Article 4(1) ESF+ Regulation

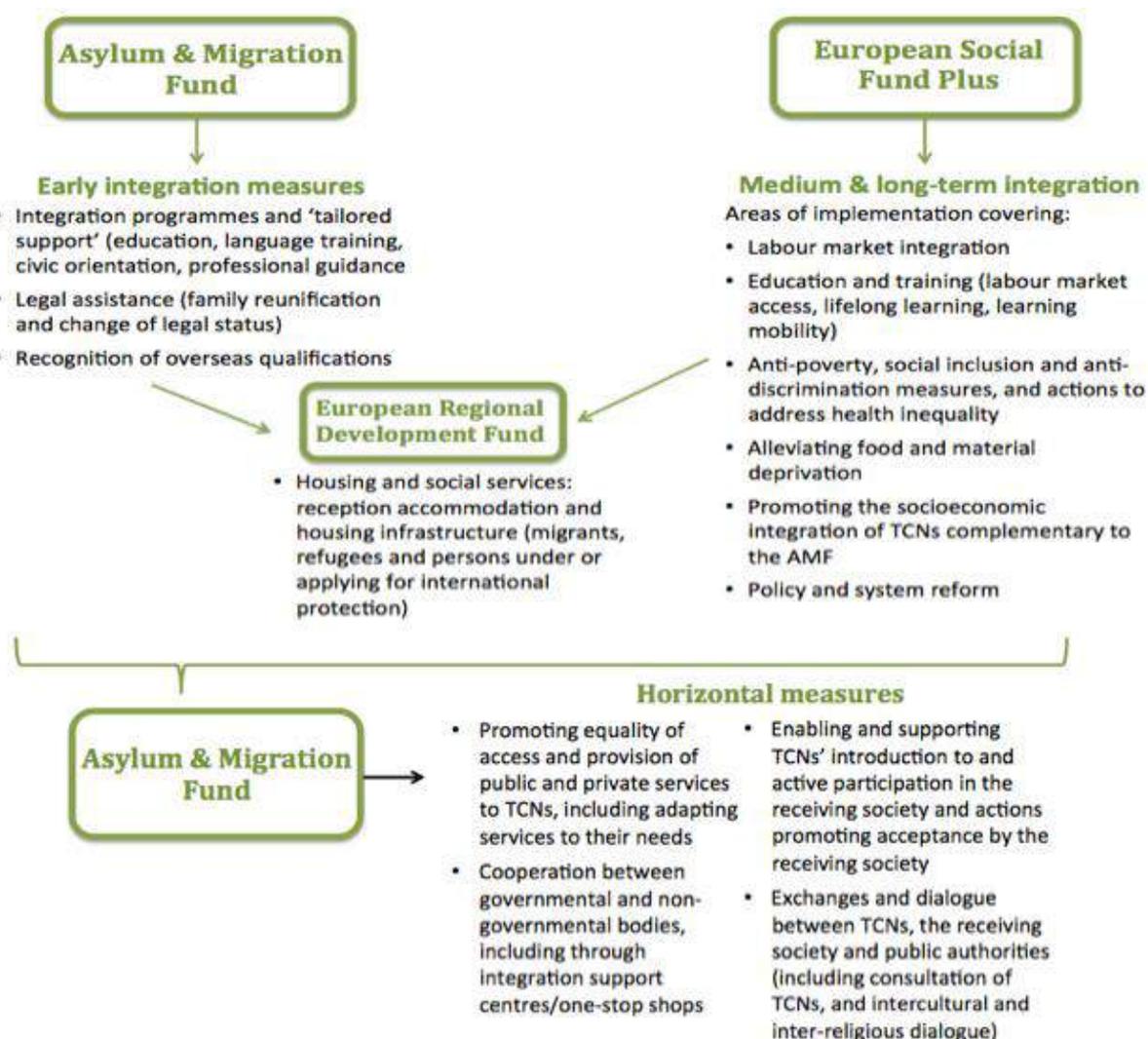
<sup>47</sup> Article 2(19) ESF+ Regulation

<sup>48</sup> Article 1(d) ERDF Regulation

<sup>49</sup> Annex III 2(d) AMF Regulation

<sup>50</sup> Annex I & II (core performance indicators and common output and result indicators under PO4) ERDF/CF Regulation

The scope of support in the proposed AMF, ERDF and ESF+ in relation to integration is set out below:



**Figure 5.1:** Scope of support of the proposed AMF, ERDF and ESF+ in relation to integration (Annex II AMF Regulation, Recitals 13-21 & Annex I ESF+ Regulation, Annex I & II ERDF/CF Regulation)

The proposed CPR includes intervention codes for the following types of actions, indicating their prioritisation in the implementation of the ERDF and ESF+:

- Housing infrastructure for migrants, refugees and persons under, or applying for, international protection (ERDF).
- Temporary reception infrastructure for migrants, refugees and persons under, or applying for, international protection (ERDF).
- Specific actions to increase the participation of third-country nationals in employment (ESF+).
- Measures for the social integration of third-country nationals (ESF+).<sup>51</sup>

The number of TCN participants is included as a common output indicator for 'operations targeting people' in the ESF+ shared management component, indicating the applicability of all ESF+ actions under shared management to TCNs in support of the Fund's wider objective of promoting their socioeconomic integration.<sup>52</sup>

<sup>51</sup> Annex I CPR

<sup>52</sup> Annex I (1)b CPR

The number of beneficiary TCNs is also included as a common result indicator for 'ESF+ support for addressing material deprivation', indicating that this support is anticipated to be made use of for TCNs to a relatively substantial degree.<sup>53</sup>

#### d. Countering irregular migration

The proposed AMF introduces a new provision under the 'countering irregular migration' priority for 'support for and actions in third countries', including 'infrastructure, equipment and other measures'. Such actions must 'contribute to enhancing effective cooperation between third countries and the Union and its Member States on return and readmission',<sup>54</sup> 'complement other actions...supported through the Union's external financing instruments', and be coherent with 'the principles and general objectives of the Union's external action and foreign policy in respect of the country or region in question and the Union international commitments'.<sup>55</sup>

While the proposed AMF in fact enables many of the actions set out in the Fund's 'Scope of Support' to be implemented 'in relation to and in' third countries,<sup>56</sup> this specific provision indicates that implementation in third countries will be focused on managing irregular migration.

## COMPARISON WITH THE CURRENT AMIF

### a. Target beneficiaries

The current AMIF specifies the eligible target beneficiaries per SO,<sup>57</sup> in contrast to the proposed AMF's general reference to the TFEU. In addition to enabling all target beneficiaries to benefit from AMF actions implemented under any of the Fund's SOs, the proposed AMF also widens the target beneficiary group to include trafficked persons.

Both the current AMIF and the proposed AMF include 'stateless persons and persons with undetermined nationality' in their definition of TCNs,<sup>58</sup> and both also specify that actions for integration under those Funds 'may include immediate relatives of third-country nationals', insofar as 'this is necessary for the effective implementation of such actions'.<sup>59</sup>

### b. The Policy Objective of the proposed AMF

In its description of the scope of support, the proposed AMF Regulation includes a number of actions to be supported under the Fund's overall Policy Objective.<sup>60</sup> These consist of a range of horizontal measures that support the general implementation of the three SOs.

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<sup>53</sup> Annex II (3) CPR

<sup>54</sup> Annex III 4(m) AMF Regulation

<sup>55</sup> Recital 30, AMF Regulation

<sup>56</sup> Article 4(2) AMF Regulation

<sup>57</sup> The AMIF's target beneficiaries per SO are:

- **Asylum:** applicants for international protection; resettled persons; persons granted refugee status or subsidiary protection; displaced persons enjoying temporary protection.
- **Integration:** TCNs residing legally or 'in the process of acquiring legal residence' in a MS, with an additional reference to integration actions that take into account the specific needs of resettled persons and those granted international protection.
- **Return:** TCNs wishing to make use of voluntary return (including those legally residing in a MS and those with ongoing requests for international protection or legal residence); TCNs present in a MS but who no longer fulfil the conditions for entry and/or residence.

(Article 5(1), 9(1), 9(2) and Article 11 (a-c) AMIF Regulation 516/2014)

<sup>58</sup> Article 2(e) AMIF Regulation 516/2014 and Article 2(i) AMF Regulation

<sup>59</sup> The term 'immediate relative' can mean spouses, partners and any person having direct family links in with the third-country national targeted by the integration action (Recital 23, AMIF Regulation 516/2014 and Recital 16, AMF Regulation)

<sup>60</sup> Annex III AMF Regulation

Of particular interest is the general provision for support for *'assistance and support services consistent with the status and the needs of the person concerned, in particular the vulnerable groups'*.<sup>61</sup> When compared to the current AMIF, actions listed as within the proposed AMF's scope of support under individual SOs are much less specific about the types of services and support to be provided to target beneficiaries. Thus, while this broad *'assistance and support services'* provision under the AMF's Policy Objective may provide more flexibility when it comes to implementing actions in accordance with prevailing needs, it is largely MS authorities who will determine what both 'needs' and appropriate responses in terms of services and support are in this context.

Other measures included for support under the proposed AMF's Policy Objective reflect, to differing degrees, those included under individual SOs in the current AMIF, as follows:

- Establishing and developing national strategies (asylum, legal migration, return and irregular migration).
- Establishment of administrative structures, systems and tools.
- Staff training for relevant stakeholders, in which local authorities are highlighted in particular.
- Development and monitoring of policies and procedures (including collection and exchange of information and data; development and use of common statistical tools; methods and indicators for measuring progress; assessing policy development).<sup>62</sup>

These provisions are, however, far less specific than the current AMIF in terms of the scope of such actions in relation to each priority area, as seen below:

- **Asylum:** the current AMIF specifies the use of methods such as *'national impact assessments (and) surveys amongst target groups and other relevant stakeholders'* to evaluate asylum policies,<sup>63</sup> while the proposed AMF does not specify particular evaluation methods for this area.

The current AMIF includes within its scope of support actions to enhance MS data collection, analysis and dissemination *'in relation to the mechanism for early warning, preparedness and crisis management'*<sup>64</sup> established in the Dublin Regulation, an aspect of monitoring and evaluation of asylum systems that is not present in the proposed AMF.

- **Integration:** the current AMIF supports integration actions in particular *'which take place in the framework of consistent strategies, taking into account the integration needs of third-country nationals at local and/or regional level'*.<sup>65</sup> The proposed AMF does not include the same preference for supporting integration measures implemented in the framework of well-developed national strategies.

The proposed AMF also does not reflect the current AMIF's reference to supporting actions *'building sustainable organisational structures for integration and diversity management'* in particular via the *'pool(ing) of resources between relevant authorities as well as between governmental and non-governmental bodies to provide services to TCNs'*.<sup>66</sup>

- **Return:** the current AMIF specifies actions to *'collect, analyse and disseminate detailed and systematic data and statistics on return'*,<sup>67</sup> including aspects such as *'procedures, reception and detention capacities, enforced and voluntary returns...and reintegration'*, while the proposed AMF does not specify the particular types of data/statistics covered by this context.

The proposed AMF does not include an SO on *'solidarity and responsibility-sharing...through practical cooperation'* (as in the current AMIF), instead incorporating this priority into SO1 (the asylum priority). The AMF does however include under its scope of support for the Policy Objective a provision covering aspects including exchange of information and best practice, mutual learning, research, joint actions and operations,

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<sup>61</sup> Annex III 1(e) AMF Regulation

<sup>62</sup> Annex III 1(a-c) AMF Regulation

<sup>63</sup> Article 6(c) AMIF Regulation 516/2014

<sup>64</sup> Article 6(a), AMIF Regulation 516/2014

<sup>65</sup> Article 9(1) AMIF Regulation 516/2014

<sup>66</sup> Article 10(e) AMIF Regulation 516/2014

<sup>67</sup> Article 13(d) AMIF Regulation 516/2014

and the establishment of transnational cooperation networks.<sup>68</sup> This inclusion of a general provision for 'joint actions and operations' provides MS with a large amount of flexibility to cooperate on any aspect of the priority areas set out in the proposed AMF's SOs.

The proposed AMF also includes under the Policy Objective a new provision for 'actions to raise awareness of asylum, integration, legal migration and return policies amongst stakeholders and the general public',<sup>69</sup> not present in the current AMIF.

### c. Asylum

When compared to the current AMIF, the proposed AMF significantly reduces the level of detail for services to be implemented under the asylum priority, instead including the general 'assistance and support services' provision under the Policy Objective. All services specified in the current AMIF would be eligible for implementation under this provision, providing more flexibility for implementation at the national level but leaving decisions as to which services are selected for implementation entirely to the discretion of MS.

Current AMIF	Proposed AMF
-	General provision under the Policy Objective for 'assistance and support services consistent with the status and the needs of the person concerned, in particular the vulnerable groups' <sup>70</sup>
'Provision of material aid, including assistance at the border, education, training, support services, health and psychological care' <sup>71</sup>	'Provision of material aid, including assistance at the border' (no further services specified) <sup>72</sup>
'Provision of support services such as translation, interpretation, education, training, including language training' <sup>73</sup>	Not included
'Provision of social assistance, information or help with administrative and/or judicial formalities and information or counselling on the possible outcomes of the asylum procedure, including on aspects such as return procedures' <sup>74</sup>	Not included
'Provision of legal assistance and representation' <sup>75</sup>	Not included

Figure 5.2: Services and assistance for asylum supported under the AMIF and proposed AMF (sources included)

As seen above, the proposed AMF includes general provisions for the establishment of administrative structures and systems, and the training of staff of relevant stakeholders. It does not, however, include

<sup>68</sup> Annex II 1(d) AMF Regulation

<sup>69</sup> Annex II 1(f) AMF Regulation

<sup>70</sup> Annex III 1(e) AMF Regulation

<sup>71</sup> Article 5(a) AMIF Regulation 516/2014

<sup>72</sup> Annex II 2(a) AMF Regulation

<sup>73</sup> Article 5(b) AMIF Regulation 516/2014

<sup>74</sup> Article 5(d) AMIF Regulation 516/2014

<sup>75</sup> Article 5(e) AMIF Regulation 516/2014

'ensur(ing) easy access to asylum procedures and efficient and high-quality asylum procedures'<sup>76</sup> as an objective of such actions in relation to the asylum priority, as is the case in the current AMIF.

The proposed AMF includes several new scope of support provisions for the asylum priority not present in the current AMIF:

- 'Conducting asylum procedures'<sup>77</sup> (the current AMIF makes a provision only for actions supporting and enhancing the quality of asylum procedures).
- 'Enhancing capacities of third countries to improve the protection of persons in need of protection'.<sup>78</sup>
- Adding a specific focus on measures for 'unaccompanied minors and families' in relation to alternatives to detention.<sup>79</sup>
- Introducing a provision for 'the possible joint use of...facilities by more than one Member State' in relation to reception accommodation infrastructure.<sup>80</sup>

## d. Integration

The proposed AMF amends the scope of integration support included in the current AMIF, both in terms of measures for early integration and horizontal measures that are included for support under the AMF, and the transfer of measures for mid-long term integration to the ESF+.

In terms of early integration measures, the current AMIF's provision for measures to provide 'advice and assistance in areas such as housing, means of subsistence, administrative and legal guidance, health, psychological and social care (and) childcare'<sup>81</sup> is removed (although the provision for advice and assistance on applications for family reunification is retained<sup>82</sup>).

For horizontal measures, the current AMIF's provision for 'actions introducing third-country nationals to the receiving society and actions enabling them to adapt to it' is amended in the proposed AMF to remove references to the informing of TCNs 'about their rights and obligations' and enabling TCNs 'to share the values enshrined in the Charter of Fundamental Rights of the European Union'.<sup>83</sup> While the proposed AMF retains measures to promote 'equality in the access and provision of public and private services' for TCNs,<sup>84</sup> the current AMIF's reference to 'equality of outcomes'<sup>85</sup> in this context is removed.

The proposed AMF includes several new provisions regarding the scope of support for the integration priority that are not present in the current AMIF:

- 'Assistance in relation to a change of status for TCNs already legally residing in a MS'.<sup>86</sup>
- 'Cooperation between governmental and non-governmental bodies...including through coordinated integration-support centres, such as one-stop shops'.<sup>87</sup>
- Actions to enable TCNs 'active participation in the receiving society' and to promote 'acceptance by the receiving society'.<sup>88</sup>

## e. Countering irregular migration

The proposed AMF's provision for 'support for and actions in third countries' is a marked change from the previous cooperation with third country authorities on returns and readmission included in the current AMIF. The use of AMF funds to support 'infrastructure and equipment' is likely to represent high value expenditure,

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<sup>76</sup> Article 5(1)c, AMIF Regulation 516/2014

<sup>77</sup> Annex III 2(b) AMF Regulation

<sup>78</sup> Annex III 2(h) AMF Regulation

<sup>79</sup> Annex III 2(i) AMF Regulation

<sup>80</sup> Annex III 2(d) AMF Regulation

<sup>81</sup> Article 9(1)b AMIF Regulation 516/2014

<sup>82</sup> Annex III 3(e) AMF Regulation

<sup>83</sup> Article 9(1)c AMIF Regulation 516/2014 & Annex III 3(j) AMF Regulation

<sup>84</sup> Annex III 3(h) AMF Regulation

<sup>85</sup> Article 9(g) AMIF Regulation 516/2014

<sup>86</sup> Annex III 3(f) AMF Regulation

<sup>87</sup> Annex III 3(i) AMF Regulation

<sup>88</sup> Annex III 3(j) AMF Regulation

and the provision's general reference to 'other measures' leaves a large amount of uncertainty as to the scope of actions in third countries in this context.

As with the asylum priority, when compared to the current AMIF the proposed AMF significantly reduces the level of detail for services intended to be implemented under the 'countering irregular migration' priority, replacing this with the general 'services and support' provision under the general Policy Objective. The following provisions of the current AMIF are not included in the proposed AMF:

- 'Provision of social assistance, information or help with administrative and/or judicial formalities and information or counselling'.
- 'Provision of legal aid and language assistance'.
- 'Specific assistance for vulnerable persons'.

The proposed AMF retains a provision for measures 'raising awareness of the appropriate legal channels for immigration and the risks of illegal immigration' included in the current AMIF, but removes the requirement that these should be implemented in third countries only.<sup>89</sup> The proposed AMF retains other provisions of the current AMIF under the 'return priority', with amendments:

Current AMIF	Proposed AMF
Infrastructure for reception or detention <sup>90</sup>	Adds 'including the possible joint use of such facilities by more than one Member State' <sup>91</sup>
Introduction, development and improvement of effective alternative measures to detention <sup>92</sup>	Adds 'in particular in relation to unaccompanied minors and families' <sup>93</sup>
Cooperation with the consular authorities and immigration services or other relevant authorities and services of third countries <sup>94</sup>	Adds 'through the deployment of third-country liaison officers' <sup>95</sup>
'Assisted voluntary return measures, including medical examinations and assistance, travel arrangements, financial contributions and pre- and post-return counselling and assistance' <sup>96</sup>	Includes 'return assistance, in particular assisted voluntary return' and 'information about assisted voluntary return' but removes the references to specific types of support <sup>97</sup>
'Facilities and services in third countries ensuring appropriate temporary accommodation and reception upon arrival' <sup>98</sup>	Adds 'including for unaccompanied minors and other vulnerable groups in line with international standards' <sup>99</sup>

Figure 5.3: Provisions for return measures included in both the current and AMIF and proposed AMF (sources included)

<sup>89</sup> Annex III 4(l) AMF Regulation

<sup>90</sup> Article 11(f) AMIF Regulation 516/2014

<sup>91</sup> Annex III 4(a) AMF Regulation

<sup>92</sup> Article 11(a) AMIF Regulation 516/2014

<sup>93</sup> Annex III 4(b) AMF Regulation

<sup>94</sup> Article 12(b) AMIF Regulation 516/2014

<sup>95</sup> Annex III 4(f) AMF Regulation

<sup>96</sup> Article 12(c) AMIF Regulation 516/2014

<sup>97</sup> Annex III 4(g) AMF Regulation

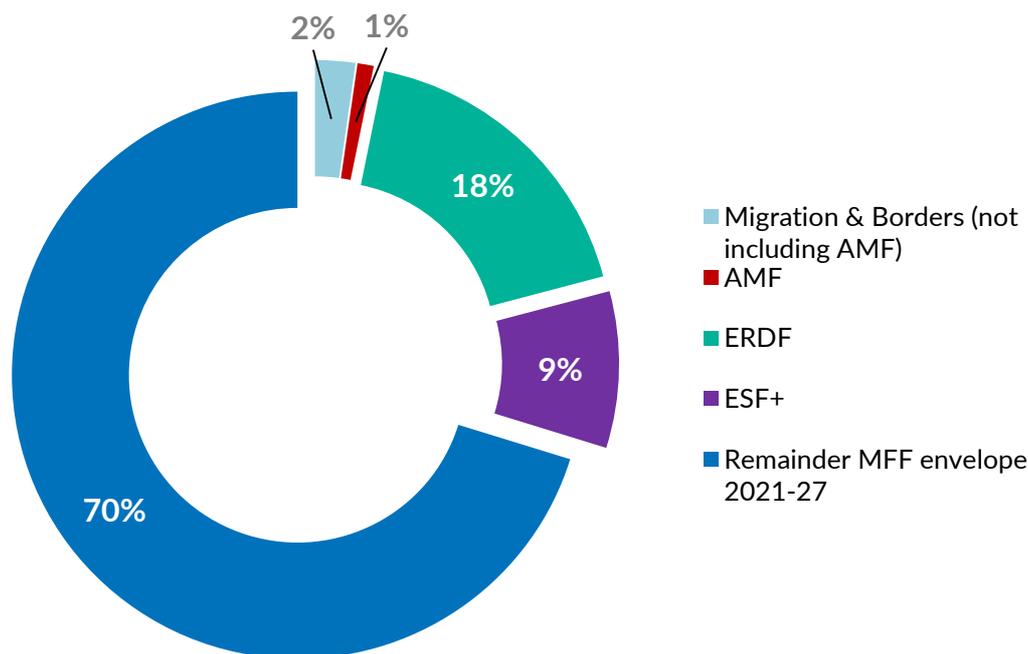
<sup>98</sup> Article 12(f) AMIF Regulation 516/2014

<sup>99</sup> Annex III 4(j) AMF Regulation

## 6. BUDGETS

### OVERVIEW OF THE NEW PROPOSALS

#### a. Allocations in the proposed MFF 2021-27



**Figure 6.1:** Budgetary allocations for the AMF, other Migration & Borders Funds and programmes, ESF+ and ERDF in the proposed MFF 2021-27<sup>100</sup>

The total financial envelope of the proposed MFF 2021-27 is €1134.6bn, a slight decrease of €3.4bn from the current 2014-20 envelope of €1138bn (adjusted to 2018 prices).<sup>101</sup> The 'Migration & Border Management' budget heading (which includes the proposed AMF) accounts for 3% of the overall envelope of the MFF 2021-27, with the AMF allocation accounting for 1% of the total MFF envelope.

#### b. Asylum & Migration Fund (AMF)

The 'Migration & Borders' budget heading in the proposed MFF for 2021-27 has a total financial envelope of €36.2bn, of which **€10.42bn (29%) has been allocated to the proposed AMF.**

<sup>100</sup> Article 8 AMF Regulation; EC (May 2018) *Factsheet: EU Budget for the Future (Investing in People)*; ERDF Regulation, preamble p7; EC (May 2018) *Annex to the proposal for a Council Regulation laying down the multiannual financial framework for the years 2021-2027*

<sup>101</sup> European Parliament briefing (May 2018) *Multiannual Financial Framework 2021-27: Commission proposal. Initial Comparison with the current MFF* p2

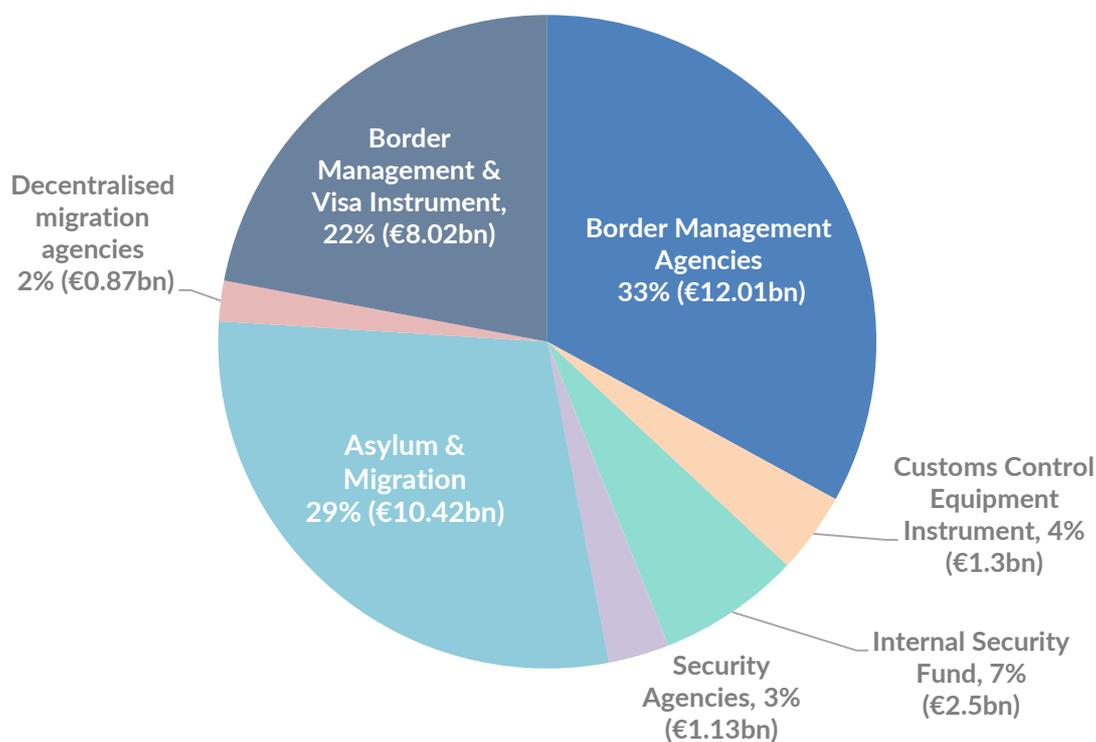


Figure 6.2: Proposed budget allocations 2021-27 for 'Migration and Borders' (EC presentation at 'Refugee protection and forced displacement in the EU post-2020 Multiannual Financial Framework (MFF)', June 18 2018, Brussels)

60% (€6.25bn) of the proposed AMF's total financial envelope is allocated to MS via shared management. The remaining 40% (€4.17bn) is allocated to a new Thematic Facility,<sup>102</sup> the proposed components of which are:

- Specific actions<sup>103</sup> (within which 'specific attention will be put on promoting effective returns').<sup>104</sup>
- Union actions.
- Emergency assistance.
- Resettlement.
- Support to MS contributing to solidarity and responsibility efforts.
- The European Migration Network.<sup>105</sup>

The Thematic Facility will in particular support 'early integration measures for the social and economic inclusion of third-country nationals' in particular those involving 'local or regional authorities and civil society organisations'.<sup>106</sup>

The Thematic Facility will be implemented via shared, direct and/or indirect management, and programmed via biannual work programmes issued by the EC.<sup>107</sup> 0.42% (€43.8m) of the total AMF financial envelope is proposed to be allocated via the Thematic Facility to 'technical assistance at the initiative of the Commission'.<sup>108</sup>

<sup>102</sup> Article 8(2) AMF Regulation

<sup>103</sup> 'Specific actions' are 'transnational or national projects in line with the objectives of (the AMF Regulation) for which one, several or all Member States may receive an additional allocation to their programmes' (Article 15, AMF Regulation)

<sup>104</sup> AMF Regulation, preamble p3

<sup>105</sup> Article 9(1) AMF Regulation

<sup>106</sup> Article 9(6) & Annex II 2(b) AMF Regulation

<sup>107</sup> Article 9(1) AMF Regulation. Although the Regulation does not specify the frequency of EC work programmes, an EC presentation at 'Refugee protection and forced displacement in the EU post-2020 Multiannual Financial Framework (MFF)' (June 18 2018, Brussels) referred to 'biannual work programmes' for the Thematic Facility

<sup>108</sup> Article 8(3) and 9(1) AMF Regulation

## c. European Social Fund+ (ESF+)

The ESF+ is included under the 'Cohesion & Values' budget heading in the proposed MFF 2021-27, within policy cluster 7 'Investing in People, Social Cohesion & Values' (together with the Erasmus+, European Solidarity Corps, Justice Rights & Values and Creative Europe programmes). The total financial envelope for this policy cluster is €139.5bn, of which **€101.17bn (72.5%) is allocated as the financial envelope of the proposed ESF+.**<sup>109</sup>

**€100bn (98.8%) of the total financial envelope of the proposed ESF+ is allocated to MS under shared management** under the 'Investment for Jobs and Growth' goal.<sup>110</sup> **MS are required to allocate 25% of their ESF+ resources (€25bn) to the 'social inclusion policy area'**, covering SOs 7-11 under PO4 ('A more social Europe: implementing the European Pillar of Social Rights'), listed below:<sup>111</sup>

- **SO7:** *fostering active inclusion...promoting equal opportunities and active participation*'.
- **SO8:** **promoting the socioeconomic integration of third-country nationals** and marginalised communities such as the Roma.
- **SO9:** *'enhancing the equal and timely access to quality, sustainable and affordable services' including social protection, healthcare and long-term care.*
- **SO10:** *'promoting social integration of people at risk of poverty or social exclusion'*.
- **SO11:** *'addressing material deprivation through food and/or basic material assistance to the most deprived, including accompanying measures'*.<sup>112</sup>

The proposed ESF+ does not specify ring-fenced amounts per SO or within the 'social inclusion policy area', meaning **MS are not required to make specific minimum allocations of national ESF+ resources to integration for third-country nationals (SO8).**

At least 4% of the resources of the proposed ESF+ shared management component should support the 'most deprived', and MS are required to allocate at least 2% of their national ESF+ resources of the ESF+ component to address forms of 'extreme poverty with the greatest social exclusion impact, such as homelessness, child poverty and food deprivation'.<sup>113</sup>

## d. European Regional Development Fund (ERDF)

The ERDF is included under the 'Cohesion & Values' budget heading in the proposed MFF 2021-27, within policy cluster 5 'Regional Development & Cohesion'. It has a total financial envelope of €200.6bn, of which €190.8bn (95%) is allocated to the 'Investment for Jobs & Growth' goal, implemented under shared management.<sup>114</sup>

To determine the thematic concentration of the major part of ERDF resources for national programmes implemented under the 'Investment for Jobs & Growth' goal, MS are classified into three groups based on Gross National Income (GNI) relative to the EU average:

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<sup>109</sup> EC (May 2018) *Factsheet: EU Budget for the Future (Investing in People)*

<sup>110</sup> Article 5(2) *ESF+ Regulation*

<sup>111</sup> Article 7(3) *ESF+ Regulation*

<sup>112</sup> At least 2% of MS ESF+ resources are required to be allocated to SO11, although resources allocated to 'the most deprived' under SO10 may be taken into account when determining compliance with this requirement 'in duly justified cases' (Article 7(4) *ESF+ Regulation*)

<sup>113</sup> Recital 19, *ESF+ Regulation*

<sup>114</sup> *ERDF Regulation*, preamble p7

MS groupings	PO1 (‘A smarter Europe’)	PO2 (‘A greener, low carbon Europe’)
Group 1 (GNI at 100% or more of EU average)	85% to PO1 & PO2 (at least 60% to PO1)	
Group 2 (GNI at 75-100% of EU average)	45%	30%
Group 3 (GNI below 100% of EU average)	35%	30%

**Figure 6.3:** Classification of MS for ERDF programmes under the ‘Investment for Jobs and Growth’ goal (Article 3(3-4), ERDF and CF Regulation)

Additionally, an overall 6% of national ERDF resources are required to be allocated to PO5 (urban, rural and coastal development).<sup>115</sup> By contrast, the ERDF does not specify minimum allocations to PO4 (‘A more social Europe: implementing the European Pillar of Social Rights’), under which the ERDF’s SO on promoting the socioeconomic integration of migrants is included.

The EC’s rationale for specifying thematic concentration in this way is that PO1, PO2, and – to a lesser extent – PO5, have been shown by evaluation and impact assessment to be ‘the policy objectives which...have the highest added value’ and make ‘the greatest contribution to EU priorities’.<sup>116</sup> PO4, including its objective relating to migrant integration, can therefore be said to be of limited strategic importance relative to other ERDF priorities.

<sup>115</sup> Article 9(2) ERDF Regulation

<sup>116</sup> ERDF Regulation, preamble p8

## COMPARISON WITH THE CURRENT AMIF

### a. Allocations in the MFF

In terms of the initial allocations at the start of the programming period, the proposed AMF increases the percentage of overall MFF resources allocated to the current AMIF by 0.8%.<sup>117</sup> However, as the EC's interim evaluation of the current AMIF indicates that the total budget allocated for 2014-20 has increased to just under €6.9bn (0.6% of the total MFF 2014-20 envelope),<sup>118</sup> **allocations for the proposed AMF in fact increase the share of MFF 2021-27 resources allocated to the current AMIF by 0.2%.**<sup>119</sup>

### b. Budget allocation to the Fund

Given the increase in the total budget allocated to the AMIF for 2014-20, from an initial €3.1bn to just under €6.9bn,<sup>120</sup> **the financial envelope for the proposed AMF (€10.42bn) increases that of the current AMIF by €3.54bn (51%).**

### c. Resources for shared management

The percentage share of the AMF financial envelope allocated to MS via shared management has decreased significantly compared to the current AMIF: from 88% for AMIF at the outset of the 2014-20 programming period, to 60% in the proposed AMF. However, the actual budget allocated to MS programmes has increased by 56% (from €2.75bn to €6.25bn).<sup>121</sup>

The EC interim evaluation of the current AMIF notes that 78% (€5.4bn) of current AMIF resources have been allocated to MS via shared management, 10% less than the allocation percentage originally envisioned. The proposed AMF therefore increases the allocation to MS programmes by just under 14% in relation to the current programming period.<sup>122</sup>

### d. More flexibility for emergency assistance

During 2014-17, AMIF emergency assistance was implemented in 7 MS via direct management,<sup>123</sup> with allocations higher than those for AMIF National Programmes in three of these MS.<sup>124</sup> The inclusion of emergency assistance in the Thematic Facility of the proposed AMF would enable MS to implement emergency assistance measures via National Programmes as an implementation option alongside direct and indirect management. The proposed AMF thus provides more flexibility in the use of emergency assistance than the current AMIF.

<sup>117</sup> The current AMIF's initial financial envelope was €3.1bn

<sup>118</sup> DG Migration and Home Affairs (June 2018) *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee Of The Regions on interim evaluation of the Asylum, Migration and Integration Fund and the Internal Security Fund* (hereafter *AMIF Interim Evaluation*) p3

<sup>119</sup> This calculation uses the 2014 prices for both the initial AMIF envelope of €3.1bn and total MFF envelope of €1087bn for 2014-20

<sup>120</sup> DG Migration and Home Affairs (June 2018) *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of The Regions on interim evaluation of the Asylum, Migration and Integration Fund and the Internal Security Fund* (hereafter *AMIF Interim Evaluation*) p3

<sup>121</sup> The EC interim evaluation indicates that 78% (€5.4bn) of current AMIF resources were finally allocated to MS via shared management (*AMIF Interim Evaluation*, p3)

<sup>122</sup> It should be noted that the UK's notification of its intention to leave the European Union in 2019 means that 26 rather than 27 MS will be participating in the proposed AMF, thus increasing available resources per MS during 2021-27.

<sup>123</sup> *AMIF Interim Evaluation*, p11

<sup>124</sup> ECRE/UNHCR (2018) *Follow the Money: Assessing the Use of EU Asylum, Migration & Integration Fund (AMIF) at the national level*, p16

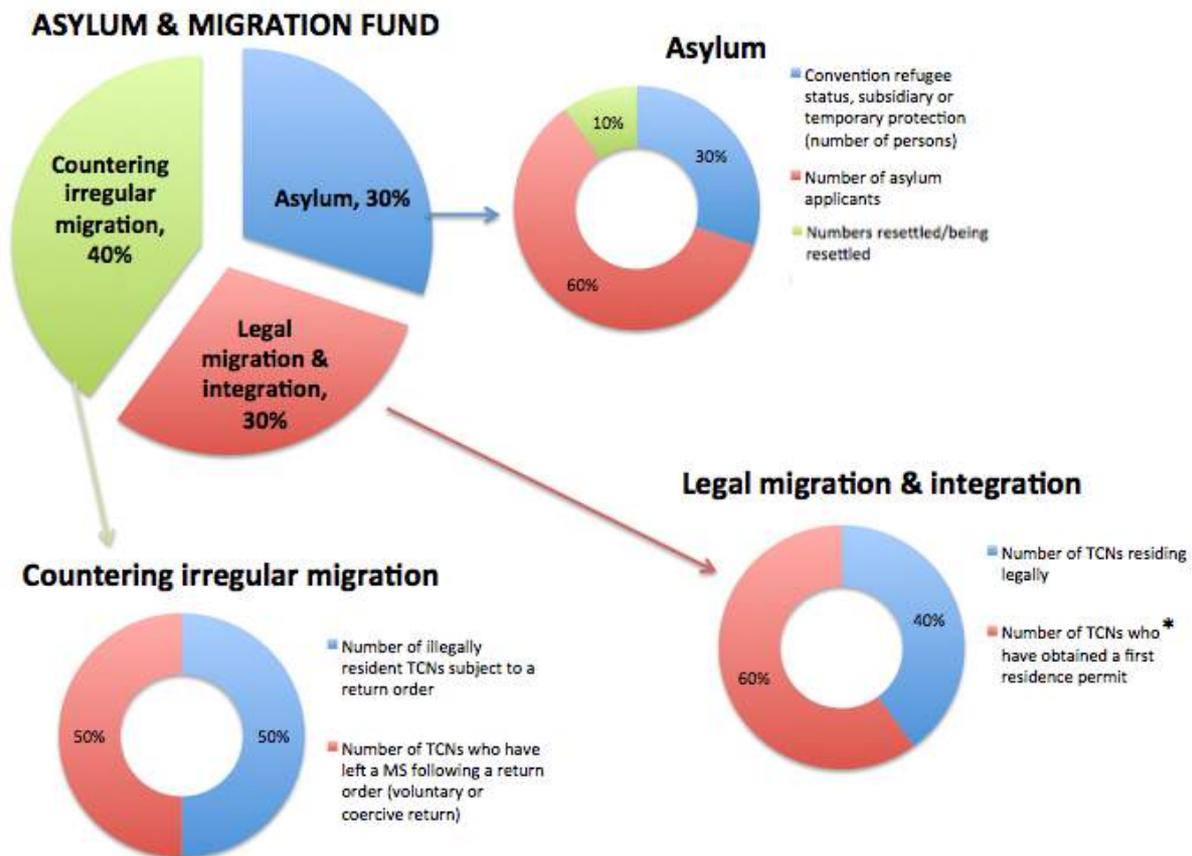
## 7. ALLOCATION OF FUNDING TO MEMBER STATES

### OVERVIEW OF THE NEW PROPOSALS

#### a. Asylum & Migration Fund (AMF)

€6.25bn of the proposed AMF's resources are allocated to MS via shared management, and 83.3% (€5.21bn) of this amount is allocated to MS programmes at the start of the programming period.<sup>125</sup> All MS receive a fixed amount of €5m (€0.13bn), and the remainder of the initial amount (€5.08bn) is allocated using a distribution key.

As displayed below, the key first allocates specific shares of the €5.08bn to each of the three SOs of the AMF: 'countering irregular migration' (40%/€2.03bn), 'asylum' (30%/€1.52bn), and 'legal migration and integration' (30%/€1.52bn).<sup>126</sup> The EC does not provide a specific rationale for the higher weighting of 40% for the 'countering irregular migration' priority. The key determines financial allocations for MS from each of these three amounts, calculated by weighing specific statistical information for each MS:



\* does not include TCNs issued with a work permit valid for less than 12 months OR admitted for the purposes of studies, pupil exchange, voluntary service or scientific research (Annex I 3(c), AMF Regulation)

Figure 7.1: Methodology for distributing the shared management resources of the AMF to MS (Annex I, AMF Regulation)

<sup>125</sup> Article 11(1), AMF Regulation

<sup>126</sup> Annex I(1) AMF Regulation

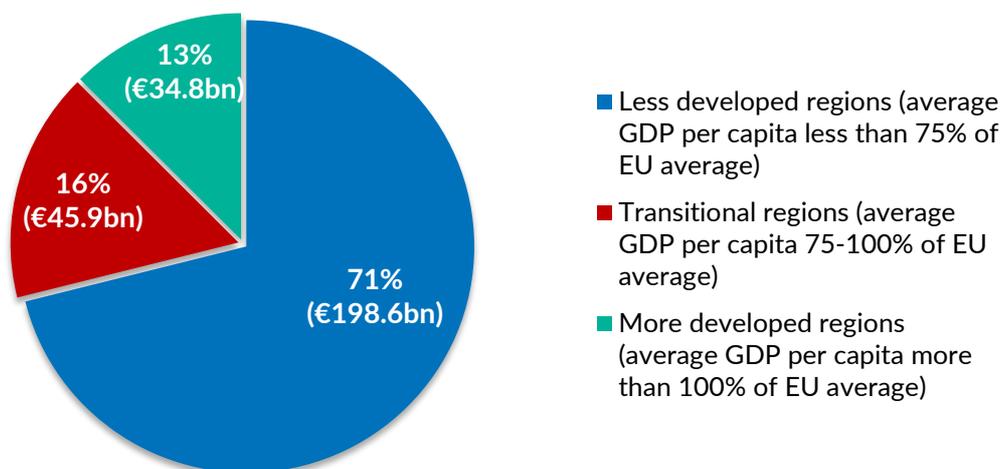
The statistical data for each MS that has been included in the distribution key covers the three years preceding the date on which the AMF will become applicable, utilising the latest annual statistics produced by the EC (Eurostat).<sup>127</sup>

The remaining 16.7% (€1.04bn) of AMF shared management funds is distributed to MS in the context of a mid-term review to take place in 2024. MS allocations would be determined here via a reapplication of the distribution key, with the allocated amounts to be used in MS programmes for 2025-27.<sup>128</sup> Allocation of funds to MS at the mid-term review stage is conditional on the rate of implementation of AMF national programmes, with MS required to have submitted payment applications equivalent to 10% of their AMF allocation for 2021-24 in order to receive further funding.<sup>129</sup>

## b. European Regional Development Fund (ERDF) and European Social Fund+ (ESF+)

The financial framework for ERDF and ESF+ resources for the 'Investment in Jobs and Growth' goal is set out in the proposed CPR. The methodology for allocating resources to MS uses an amended version of the 'Berlin formula' used to allocate funds to MS for the current programming period. This new methodology ('Berlin+') retains the older Berlin formula's different allocation calculation methods for three different categories of regions<sup>130</sup> within MS ('less developed', 'transitional', and 'more developed'), and adds new criteria applicable to all regions.<sup>131</sup>

The total amount under the 'Investment in Jobs and Growth' goal to be allocated per type of region is €279.4bn, of which the majority is allocated to 'less developed' regions:



**Figure 7.2:** Allocation of shared management resources per type of region under the 'Investment for Jobs and Growth' goal (Article 102(2) & 104(1), CPR)

The EC has produced a list of regions within MS as well as their classification into one of the three groupings, which will be valid throughout the 2021-27 programming period.<sup>132</sup>

In addition to allocations based on the classification of regions, 'Berlin+' uses new criteria, applicable to all regions, relating to youth (un-)employment, education levels, climate change, and migration from outside the

<sup>127</sup> Annex I(5), AMF Regulation

<sup>128</sup> Article 11(1) & 14(1), AMF Regulation

<sup>129</sup> Article 14(2) AMF Regulation

<sup>130</sup> 'Regions' here are 'NUTS level 2 regions', the statistical category of region commonly used by Eurostat and other EU bodies

<sup>131</sup> Article 102(1-2) & Annex XXII, CPR

<sup>132</sup> Article 102(4), CPR

EU. This approach mainly allocates annual 'premiums' (lump sums) to regions per person fulfilling specific criteria (such as the number of unemployed youth), using different calculation methods per each of the three regional classification groups. For migration, regions in all three groupings receive €400 per person 'applied to the population share of the region of net migration from outside the EU'.<sup>133</sup>

The proposed allocation methodology is applied by the EC at the start of the programming period. Annual MS allocations are reviewed in 2024 by reapplying the same allocation methodology, and adjusting MS allocations for the period 2025-27 as required.<sup>134</sup>

The proposed CPR sets out global MS allocations for 2021-27 (combined allocations for the ERDF, ESF+, CF, territorial cooperation and additional provisions) calculated using the 'Berlin+' formula. Although Fund-specific allocations are not provided, this calculation provides a useful overview of the proposed distribution of Regional Development & Cohesion resources across MS:

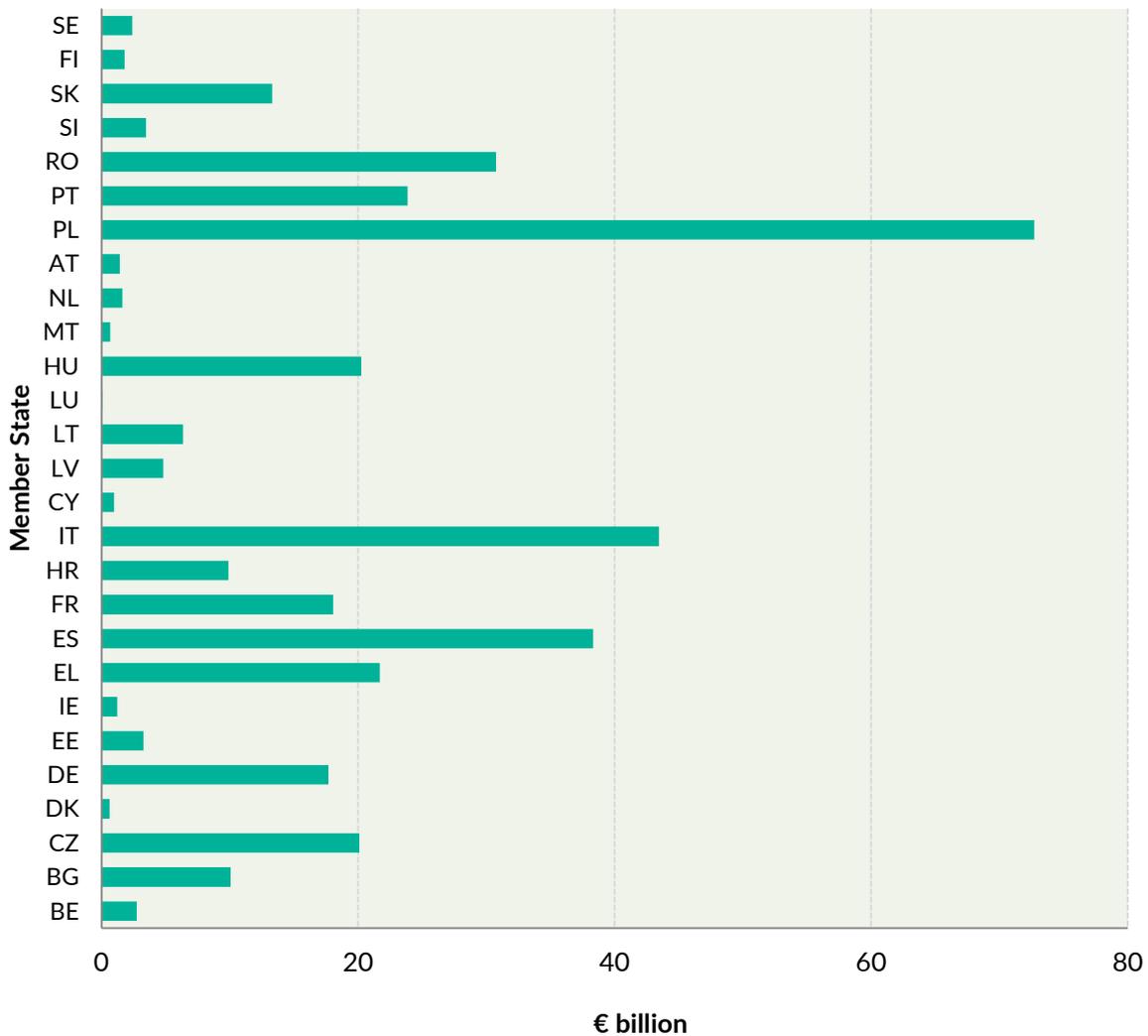


Figure 7.3: Global allocations to MS of Regional Development and Cohesion resources under shared management during 2021-27 (Annex XXII, CPR)

## COMPARISON WITH THE CURRENT AMIF

<sup>133</sup> Annex XXII (1-6), CPR

<sup>134</sup> Article 104(2), CPR

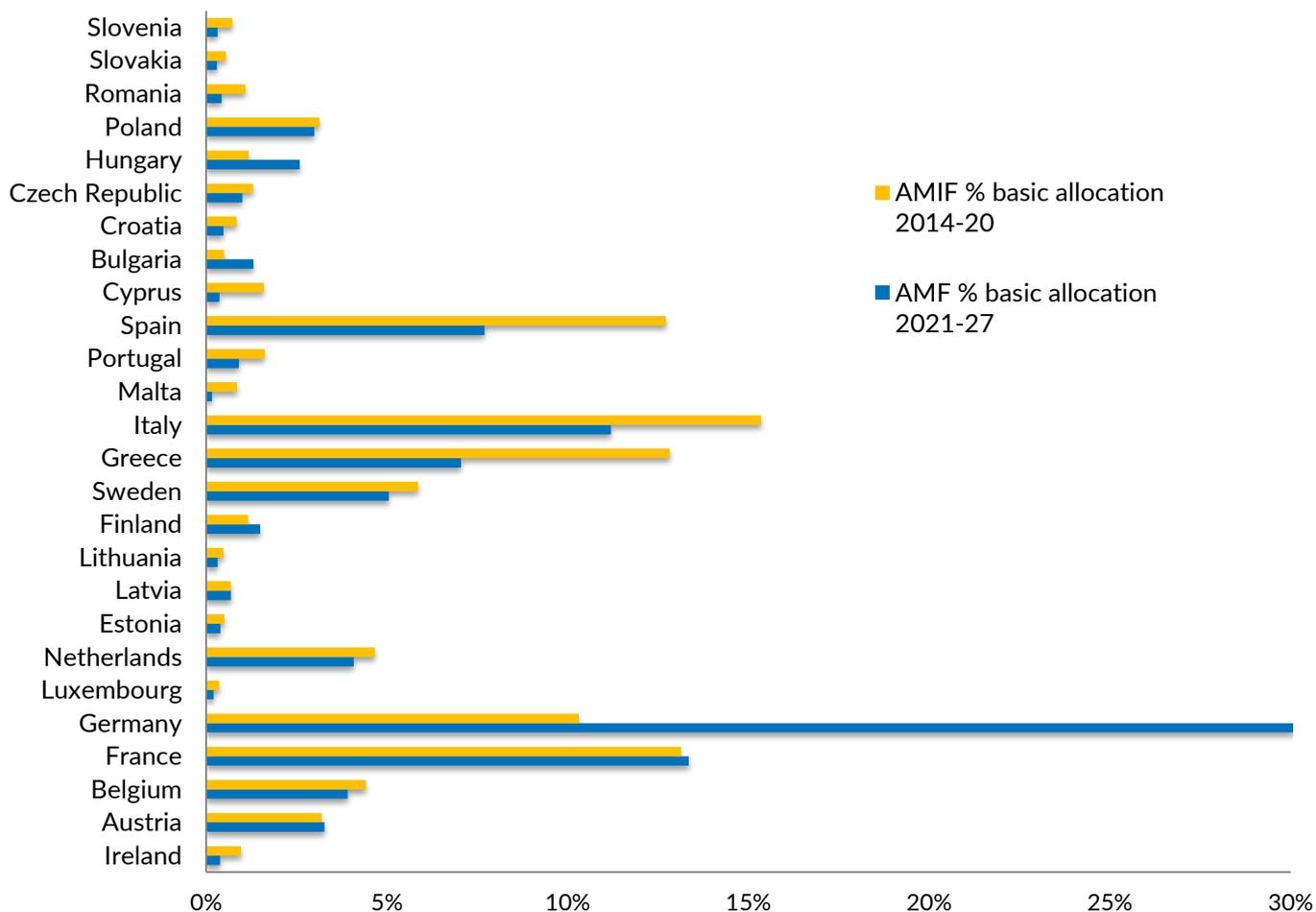


Figure 7.4: Simulation of initial MS allocations of shared management resources, AMIF 2014-20 and proposed AMF<sup>135</sup>

### a. Allocations to Member States

As seen above, when the distribution key set out in the proposed AMF is applied using data for the three-year period from 2015-17, some significant differences can be noted in the distribution of funding across MS in the current AMIF and proposed AMF:

- The percentage share of the AMF shared management funds allocated to Germany almost triples, from 10.31% to 30.08%.
- The percentage shares of AMF shared management funds allocated to Bulgaria (0.49% to 1.31%) and Hungary (1.17% to 2.59%) have increased fairly significantly, with smaller increases also witnessed for France (13.14% to 13.35%) and Finland (1.16% to 1.49%).
- The percentage shares of AMF shared management funds allocated to the remaining 22 MS are reduced. MS where reductions of more than 1% are Spain (12.72% to 7.7%), Greece (12.83% to 7.05%), Italy (15.35% to 11.19%), and Cyprus (1.6% to 0.36%).

<sup>135</sup> Asylum allocation: persons granted refugee status 2015, 2016, 2017; persons granted subsidiary/temporary protection 2015, 2016, 2017; number of asylum applications: 2015-17; number of resettled persons 2015, 2016, 2017 (no data available for number of persons being resettled, as specified in the AMF distribution key).  
 Integration & legal migration allocation: total number of legally residing TCNs 2015-2017 (data filtered to include permits of 12 months or longer duration and exclude permits related to education); number of TCNs obtaining a first residence permit (data filtered to exclude students or permits of less than 12 months duration) 2015-17.  
 Countering irregular migration allocation: number of TCNs subject to a return decision 2015-2017; number of TCNs who have left the territory as a result of an order to leave (voluntary or forced) 2015-2017.

The two MS with the highest % allocations under the proposed AMF (Germany and France, accounting for 43.4% of the total AMF initial allocation envelope) could be argued to be significantly better positioned to meet migratory challenges than other MS for which allocation shares have been reduced. However, as the distribution key does not assess the existing capacities and resources of MS in managing migration, or the current economic and/or social challenges MS face in relation to their general populations, the relative 'starting points' of MS are not included in the key's assessment of the need for AMF funding across MS.

## ADDITIONAL ANALYSIS

### a. Allocations to MS: overrepresentations of single priorities

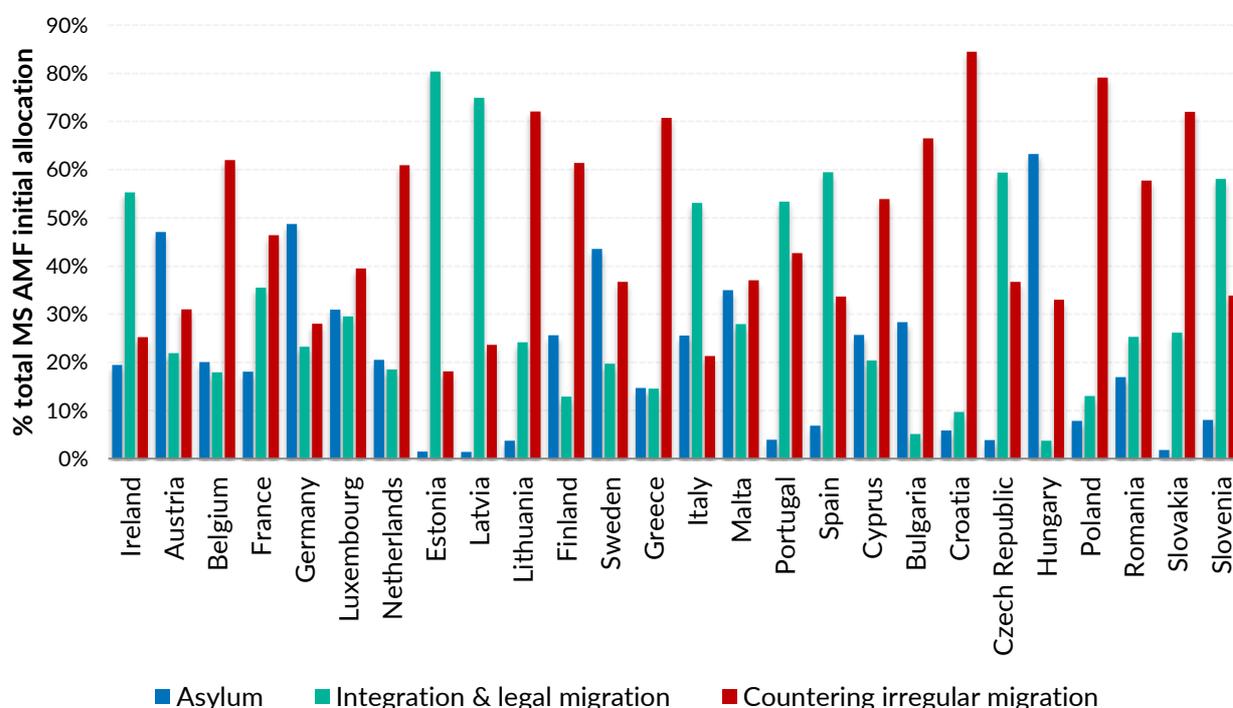


Figure 7.5: Proportions of simulated initial AMF allocations for MS (2021-27) per Specific Objective (sources: see figure 7.4)

As seen previously, the proposed AMF distribution key results in basic allocations for some MS that draw heavily on a single priority. The **asylum priority** accounts for the major part of financial allocations for Hungary (63%), Germany (49%), Austria (47%) and Sweden (44%). However, the distribution key has been applied here using the data from the 2015-17 period, the first two years of which witnessed spikes in the number of asylum claims in these MS. Application of the key for the 2018-20 period may therefore reduce the proportion of AMF funds allocated to these MS based on asylum data.

MS for which the **integration priority** accounts for over 50% of total AMF financial allocations are Estonia (80%), Latvia (75%), Spain (59%), Czech Republic (59%), Slovenia (58%), Ireland (55%), Italy (53%) and Portugal (53%).

The **countering irregular migration priority** accounts for the major part of financial allocations for Croatia (84%), Poland (79%), Lithuania (72%), Slovakia (72%), Belgium (62%), Bulgaria (67%), The Netherlands (61%), Finland (61%), Romania (58%) and Cyprus (54%).

## b. Rewarding low asylum recognition rates through AMF budget allocations to MS

While the majority of the statistical evidence on which the AMF's proposed distribution key is based on assesses the needs in individual MS, the indicators used to calculate allocations under the countering irregular migration priority are more measures of the extent to which return is prioritised in practice by MS ('number of TCNs subject to a return decision') and of MS performance in relation to returns ('number of TCNs who have left the territory as a result of an order to leave').

In terms of financial allocations resulting from the use of these indicators, Greece, Bulgaria, Croatia, Hungary, Poland, Slovakia and Slovenia are being effectively financially rewarded for their asylum recognition rates<sup>136</sup> being far lower than the EU average, which in turn leads to larger populations being eligible to undergo return procedures:

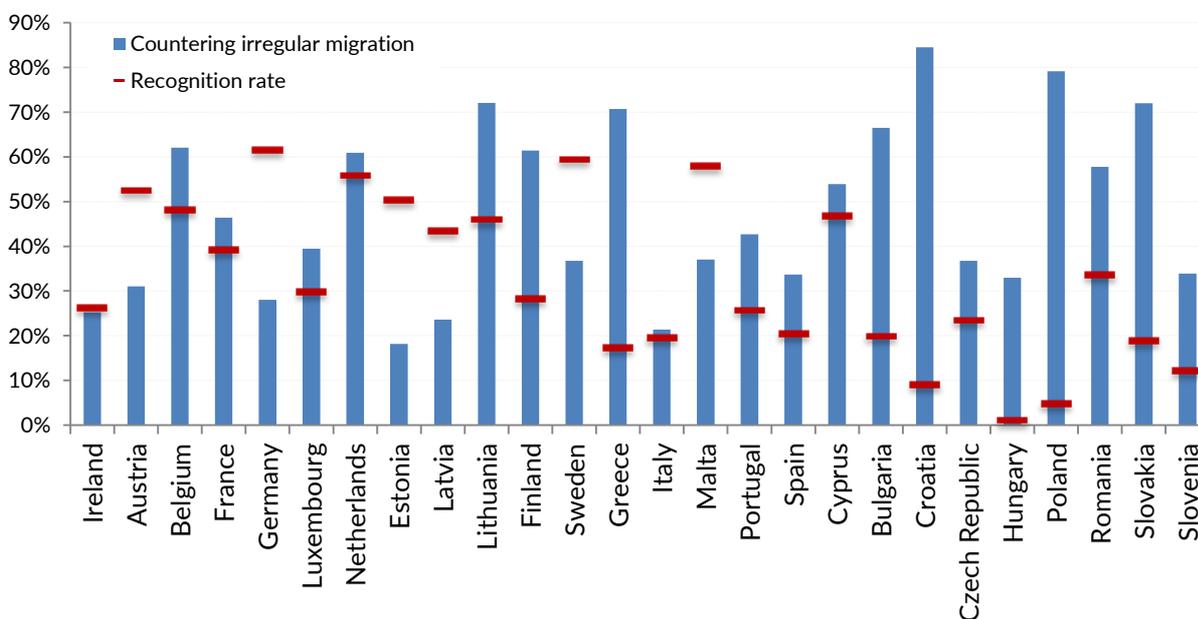


Figure 7.6: % MS AMF allocations 2021-27 ('countering irregular migration' priority) and MS asylum recognition rates (2015-17)

<sup>136</sup> Asylum recognition rates are expressed here as the number of persons granted refugee status or temporary/subsidiary protection in a specific year as a percentage of the number of asylum claims in the same year. The calculation is indicative only, as the granting of status in any one year does not necessarily relate to the specific asylum claims made in that same year.

## 8. PROGRAMMING

### OVERVIEW OF THE NEW PROPOSALS

MS are required to prepare and submit for approval to the **EC Partnership Agreements** (PAs) and **National Programmes** (NPs) for shared management funds, covering the implementation period 1 January 2021-31 December 2027.<sup>137</sup> PAs must be submitted to the EC prior to or at the same time as the first NP.<sup>138</sup>

Common programming provisions for shared management funds are set out in the proposed CPR, with some additional provisions for AMF programming included in the Fund-specific Regulation.

#### a. Partnership Agreements

The PA is a '*strategic document guiding the negotiations between the Commission and the Member State concerned on the design of programmes*'.<sup>139</sup> The PA covers all shared management funds in the same document, and sets out '*arrangements for using the Funds in an effective and efficient way*' during 2021-27.<sup>140</sup> A standard PA template is provided in the CPR.<sup>141</sup>

The required content of the PAs covers:

- Policy Objectives (POs)<sup>142</sup> selected by the MS, indicating through which of the Funds they will be pursued, with a given justification.
- For each PO:
  - i) A summary of the policy choices and the main results expected for each of the Funds.
  - ii) '*Coordination, demarcation and complementarities*' between the Funds.
  - iii) Complementarities between the Funds and other Union instruments.
    - Preliminary financial allocations from each Fund per PO.
    - Breakdown of financial resources by category of region, and any proposal to transfer these resources between categories of region (ESF+, ERDF and Cohesions Fund only)
    - A list of planned programmes under the Funds, with preliminary financial allocations and the details of national contributions.
    - Summary of planned MS actions to '*reinforce its administrative capacity*' to implement the Funds.<sup>143</sup>

When approved by the EC, the PA cannot be amended.

#### b. National Programmes

National Programmes '*set out a strategy for the programme's contribution to the policy objectives and the communication of its results*'.<sup>144</sup>

MS are required to prepare separate NPs for each shared management Fund, using one of two standard templates annexed to the proposed CPR:<sup>145</sup>

- Annex V: shared management funds allocated under the ERDF ('Investment for Jobs and the 'growth' goal), ESF+, the CF and the EMFF (hereafter 'CFs NP')

<sup>137</sup> Article 16(1) CPR

<sup>138</sup> Article 7(2) CPR

<sup>139</sup> Recital 15 CPR

<sup>140</sup> Article 7(1) CPR

<sup>141</sup> Annex II CPR

<sup>142</sup> 'Policy Objectives' should be understood as 'Specific Objectives' in relation to the AMF (as in heading 1.1 'Selection of policy objectives' in the Partnership Agreement template included as Annex II to the CPR)

<sup>143</sup> Article 8 CPR

<sup>144</sup> Article 17(1) CPR

<sup>145</sup> Article 16(3) CPR

- Annex VI: shared management funds under the AMF, Internal Security Fund (ISF) and Border Management and Visa Instrument (BMVI) (hereafter referred to as the 'AMF NP').

CFs NPs must 'consist of priorities', each of which must correspond to a specific PO (or to 'technical assistance') and consist of 'one or more specific objectives'. More than one priority may correspond to the same PO.

AMF NPs 'shall consist of specific objectives'.<sup>146</sup> Priorities for AMF NPs should be 'consistent with, and respond to, Union priorities and challenges in the area of migration management...(and be) fully in line with the relevant Union acquis'.<sup>147</sup> MS should ensure that implementation measures included in the proposed Regulation are 'adequately addressed' in NP priorities,<sup>148</sup> and should particularly 'pursue the actions eligible for higher co-financing as listed in Annex IV'<sup>149</sup> (see 'Financial Implementation', below).

The common and specific inclusions for CFs and AMF NPs are set out in figure 8.1, below:

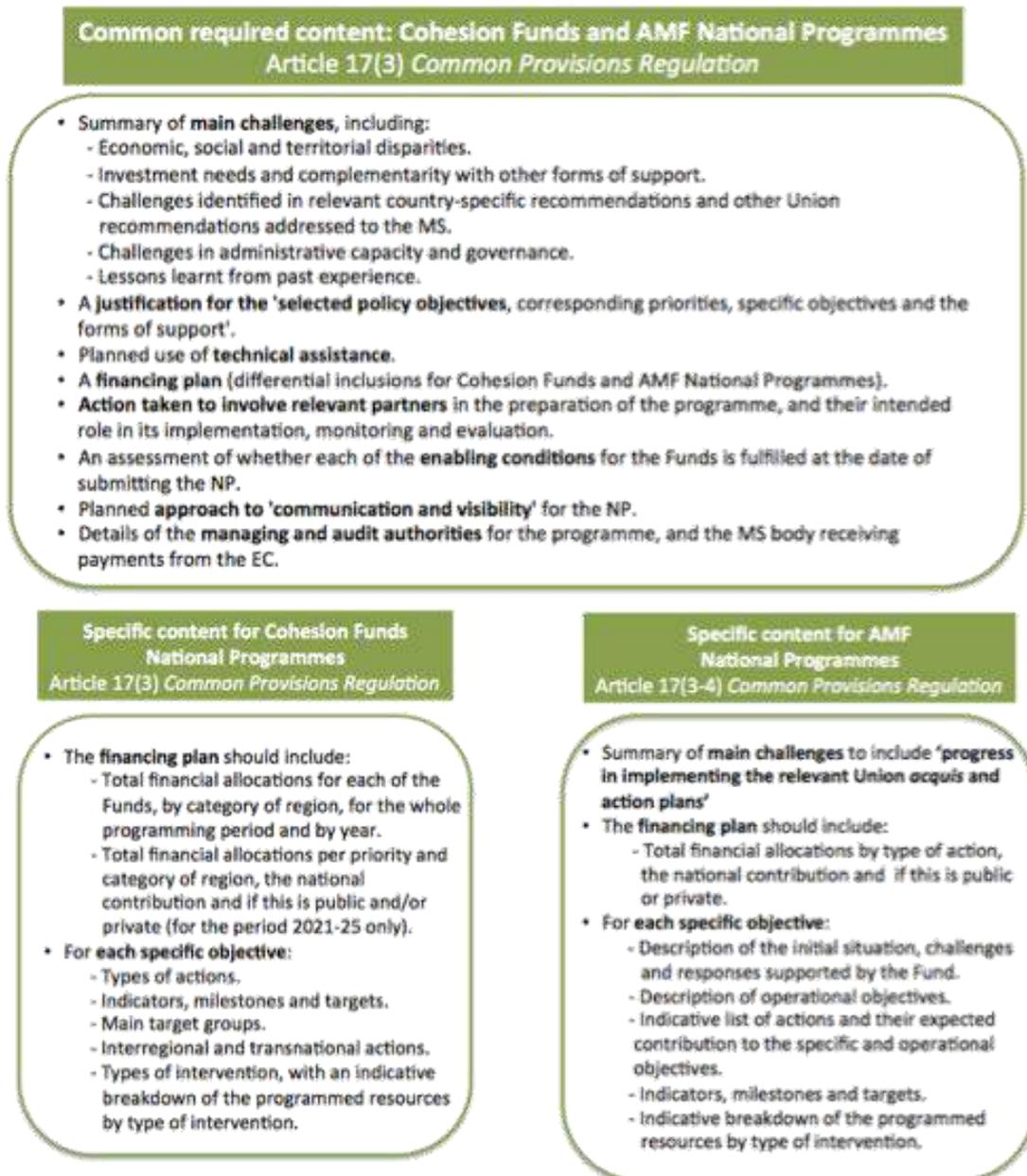


Figure 8.1: Common and specific content of National Programmes, proposed ESF+/ERDF and AMF (sources included)

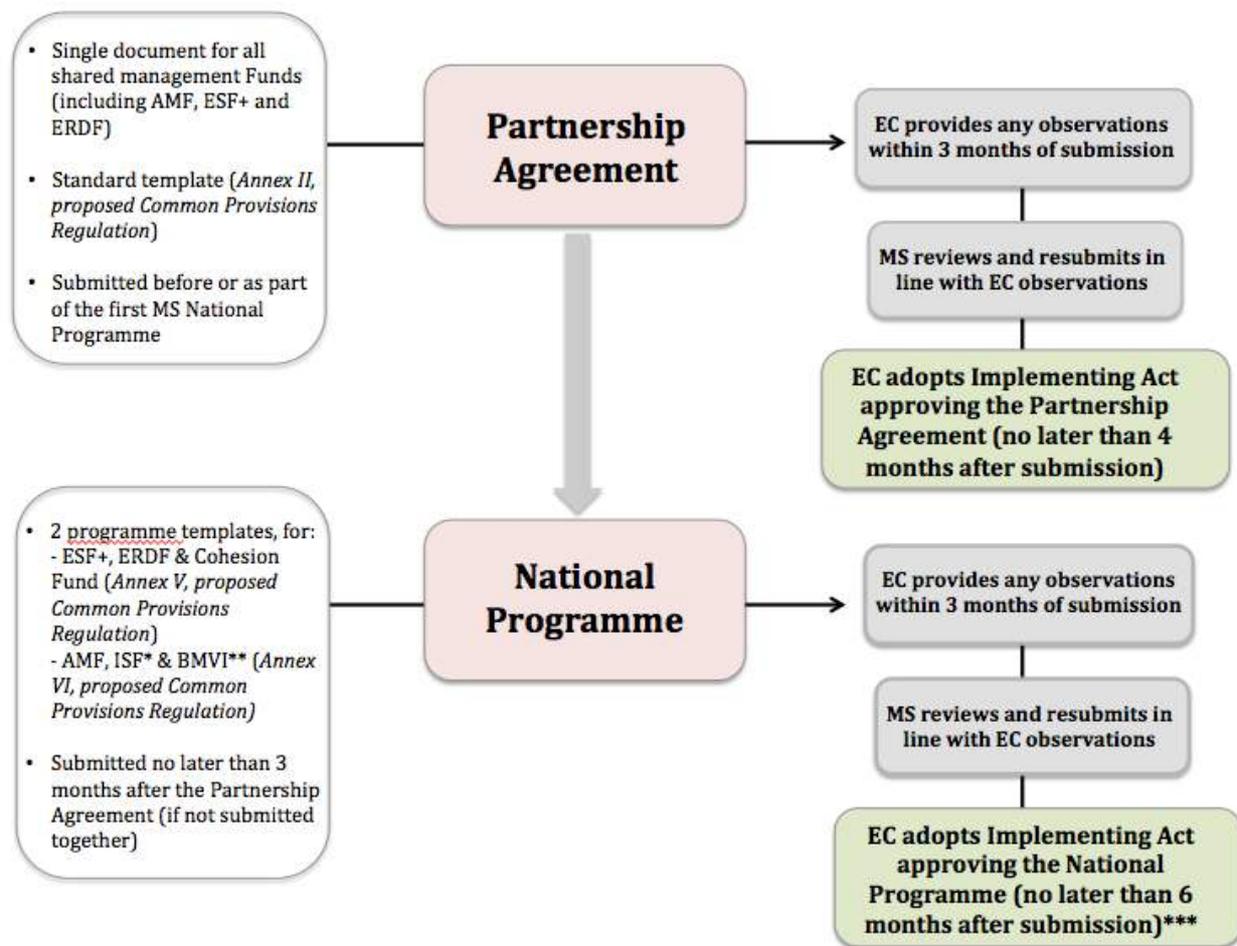
<sup>146</sup> Article 17(2) CPR

<sup>147</sup> Article 13(1) AMF Regulation

<sup>148</sup> Article 13(2) AMF Regulation

<sup>149</sup> Article 13(7) AMF Regulation

## c. Approval of programming documents



\* Internal Security Fund

\*\* Border Management & Visa Instrument

\*\*\* Where Partnership Agreements are submitted as part of the first NP, the EC's Implementing Act for the approval of both documents will be adopted no later than six months following their submission

Figure 8.2: Process for approving Partnership Agreement and National Programme documents (Article 9 & 18 CPR)

Within the process set out above, the EC assesses the PAs and NPs submitted by MS with reference to the following criteria:

- Compliance with the CPR and the Fund-specific Rules.
- Relevant country-specific recommendations (European Semester process).
- Consistency with the Partnership Agreement (NPs only).

## d. Amending National Programmes

MS may request an amendment to their NPs, and must submit such requests to the EC with an amended programme that sets out 'the expected impact of that amendment on the achievement of the objectives'. The EC shall assess the amendment on its own terms and in relation to its compliance with the CPR and the Fund-specific Rules.<sup>150</sup>

The EC will make any observations on the requested amendment within three months of its submission, following which the MS must review and resubmit the amended programme in light of these observations. The EC must approve a request for the amendment of the programme no later than six months following its submission. During the programming period MS can transfer up to 5% of the allocation to a particular priority

<sup>150</sup> Article 19(1-2) CPR

and no more than 3% of the total programme budget to another priority within the same Fund/programme.<sup>151</sup>

### e. Visibility of co-financing commitments

In NPs for both AMF and the CFs, MS are required to present the details regarding anticipated national co-financing contributions, as well as if they will come from public (made by '*national, regional or local public authorities*'<sup>152</sup>) or private sources. NPs will therefore include both a universal public co-financing contribution, and a public co-financing contribution per specific objective (AMF) and priority (ESF+ and ERDF).

## COMPARISON WITH THE CURRENT AMIF

### a. Dialogue between the EC and MS

The current AMIF requires MS and the EC to '*engage in a policy dialogue and thereby establish a coherent strategy for each individual Member State*' prior to the preparation of NPs.<sup>153</sup> The proposed AMF makes no reference to a similar policy dialogue process, other than to reference '*policy dialogue with MS*' in the tasks of EC staff assigned to support AMF programming and implementation.<sup>154</sup>

Dialogue intended for the preparation of PAs is thus implied, but the lack of clarity in the proposed AMF means that specific provisions in the current AMIF – such as the requirement for the EC to share the general outcomes of the policy dialogue with the European Parliament<sup>155</sup> – are no longer included.

### b. A new role for the decentralised agencies (AMF National Programmes)

In a marked change from the current AMIF, the proposed AMF makes a provision for oversight of national programmes by the European Union Agency for Asylum (EUAA) and the European Border and Coast Guard Agency (Frontex).

Their proposed role in the AMF programming will consist of:

- The EC ensuring that they are '*associated to the process of developing the programmes at an early stage, as regards the areas of their competence*'.
- The EC consulting both agencies on draft MS AMF NPs, to '*ensure consistency and complementarity of the actions of the agencies and those of MS*'.
- Ensuring any recommendations of the EUAA's monitoring exercises<sup>156</sup> in a specific MS are incorporated into national programmes: the MS concerned will examine such recommendations together with the EC and the two decentralised agencies relevant to their areas of competence, to then '*implement the recommendations through its programme*' (including by amending programmes and the reallocation of financial resources).<sup>157</sup>

### c. Flexibility of programmes in relation to changing needs

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<sup>151</sup> Article 19(2-5) CPR

<sup>152</sup> Recital 27 CPR

<sup>153</sup> Recital 10 AMIF Regulation 514/2014

<sup>154</sup> 3.2.2.1 'Legislative & Financial Statement' AMF Regulation

<sup>155</sup> Article (13)4 AMIF Regulation 514/2014

<sup>156</sup> EUAA monitoring exercises may examine the overall implementation of and compliance with the CEAS in a particular MS (including reception capacities, asylum systems and emergency preparedness), or thematic aspects of the asylum system in all MS. Monitoring exercises are programmed on a multiannual basis, and as such take place in all MS (Article 13-14 Proposal for a Regulation Of The European Parliament And Of The Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010)

<sup>157</sup> Article 13(2-6) AMF Regulation

The proposed Funds provide flexibility to the amendment of NPs in response to changing needs, but do not make clear how EC decisions to approve amendments will be justified or made transparent.

As noted above, the PA cannot be amended following its adoption. However, as the PA is intended to be the vehicle for identifying national challenges and the priorities selected to address them, major amendments to NPs in response to changing circumstances should logically require a revision of the PA. The current AMIF provides room for a repeat policy dialogue at the mid-term review stage of the Fund 'if deemed appropriate by a Member State and by the Commission',<sup>158</sup> and a similar provision for a mid-term stage review of the PA could be introduced into the current AMF for programmes that have significantly amended their financial allocations between priorities.

#### d. Visibility of co-financing commitments

Under the current AMIF, some potential civil society beneficiary organisations reported being effectively excluded from specific calls due to prohibitive co-financing requirements, in some cases including no public co-financing contributions at all.<sup>159</sup> Although the information on public/private co-financing required to be included in NPs under the proposed AMF NP is quite general, it may nonetheless assist potential beneficiary organisations in advocating for the inclusion of (higher) public co-financing contributions for actions under specific objectives.

## ADDITIONAL ANALYSIS

### a. Assessing needs and challenges for MS programming

The PA forms the strategic basis for MS programming for shared management funds throughout 2021-27. While MS are required to justify the selection of particular POs (ESF+ and ERDF) and SOs (AMF) for their programme within the PA, the PA does not require MS to provide a standalone assessment of the needs and challenges or present a baseline situation for the Funds' implementation, as specified for the preparation of NPs under the current AMIF.<sup>160</sup>

Section 1 of the AMF NP template requires MS to communicate '*how the programme will address the main challenges identified in the Partnership Agreement*'.<sup>161</sup> The AMF NP might be referring here to any challenges outlined in the PA by means of justification for the selection of POs/SOs, but the PA does not provide an overall picture of the needs and challenges in the MS that can be referred to in the AMF NP.

Additionally, the AMF NP asks MS to provide a summary of national challenges '*based on local, regional and national needs assessments and/or strategies*'.<sup>162</sup> This guidance on how to identify national challenges relevant to the implementation of the AMF is not present in the PA, and the overall approach that MS should use in this context therefore lacks clarity.

The current AMIF requires that needs and challenges included in AMIF NPs should reflect '*the state of play (in the MS) as of December 2013*',<sup>163</sup> and the guidance from the EC for MS' preparation of AMIF NPs specifies

<sup>158</sup> Article 13(4) AMIF Regulation 514/2014

<sup>159</sup> Follow the Money 1, p41-2

<sup>160</sup> Annex to Commission Implementing Regulation (EU) No 802/2014 of 24 July 2014 establishing models for national programmes and establishing the terms and conditions of the electronic data exchange system between the Commission and Member States pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management (hereafter Implementing Regulation 802/2014)

<sup>161</sup> Annex VI CPR

<sup>162</sup> Annex VI CPR

<sup>163</sup> Annex to Implementing Regulation 802/2014

that an assessment of needs *'should, where possible, be supported with statistical data'*.<sup>164</sup> Neither of these current AMIF requirements are reflected in the proposed AMF.

Neither the PA nor MCs require MS to draw on evidence or data produced by non-governmental actors – for example civil society actors, international organisations or academic research bodies – when justifying policy selection (PA) or identifying relevant national challenges (NP).

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<sup>164</sup> Directorate General for Home Affairs (March 2014) *Manual to assist Member States in Programming for the Asylum, Migration and Integration and Internal Security Funds of the Multiannual Financial Framework period 2014-20*, p12

## 9. FINANCIAL IMPLEMENTATION

### OVERVIEW OF THE NEW PROPOSALS

#### a. Financial allocations with MS NPs

##### i. Asylum & Migration Fund (AMF)

The proposed AMF does not require MS to allocate minimum percentages of national AMF resources to any of the Fund's three SOs.

MS can allocate a maximum of 10% of shared management AMF funds to 'operating support', which may be used to '*support the public authorities responsible for accomplishing the tasks and services which constitute a public service for the Union*'.<sup>165</sup>

Operating support can only be used for SOs 1 (asylum) and 3 (countering irregular migration - in particular '*ensuring effectiveness of return and readmission in third countries*'). Operating support covers:

- Staff costs.
- Service costs '*such as maintenance or replacement of equipment*'.
- Service costs '*such as maintenance and repair of infrastructure*'.<sup>166</sup>

No specific justification is offered for the non-availability of operating support for AMF SO2 (integration) of the proposed AMF.

In line with an increased oversight role for decentralised agencies in AMF national programming (see 'Programming', above), the EC will together with the European Union Agency for Asylum (EUAA) and the European Border and Coast Guard Agency (Frontex) assess the '*baseline situation*' in MS intending to use operating support.<sup>167</sup>

Operating support is distinct from '*technical assistance at the initiative of Member States*', which covers actions '*necessary for the effective administration and use of the Funds*' and must be included as a distinct priority per each Fund within NPs.<sup>168</sup>

##### ii. European Social Fund+ (ESF+)

As with 'Budgets', above, **MS are required to allocate 25% of their ESF+ resources (€25bn) to the 'social inclusion policy area'**, covering SOs 7-11 under PO4 ('*A more social Europe: implementing the European Pillar of Social Rights*'), including the specific SO on '*promoting socioeconomic integration of third country nationals*'.<sup>169</sup> MS are also required to allocate at least 2% of their national ESF+ resources to SO11 ('*addressing material deprivation*').<sup>170</sup> The proposed ESF+ does not specify other SOs to which minimum percentages of national resources should be allocated.

Additionally, MS with a rate of young people not in education, employment or training (NEET) above the 2019 Union average must allocate 10% of ESF+ resources at national level to actions '*targeted actions and structural reforms to support youth employment*'.<sup>171</sup>

##### iii. European Regional Development Fund (ERDF)

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<sup>165</sup> Art 18(1-2) AMF Regulation

<sup>166</sup> Annex VII AMF Regulation. The EC can amend the actions defined for 'operating support' through the adoption of delegated acts (Article 18(2) AMF Regulation)

<sup>167</sup> Article 18(4) AMF Regulation

<sup>168</sup> Article 30(1) CPR

<sup>169</sup> Article 7(3) ESF+ Regulation

<sup>170</sup> Article 7(4) ESF+ Regulation

<sup>171</sup> Article 7(5) ESF+ Regulation

As in 'Budgets', above, the proposed ERDF specifies minimum allocations per category of region for shared management funds for:

- PO1 'a smarter Europe': 35-60% across types of regions.
- PO2 'a greener and low carbon Europe': 25-30% across types of regions.

This results in an overall allocation of total ESF+ shared management funds of 60-90%. A further 6% of MS ERDF resources must be allocated to actions under PO5 ('sustainable urban development'), leaving 4-34% available for POs 3 and 4.

The proposed ERDF does not specify the allocations for actions supporting PO4, under which the SO promoting the socioeconomic integration of migrants is included.

## b. Co-financing

### i. Asylum & Migration Fund (AMF)

The proposed AMF includes a number of different co-financing provisions for specific types of actions supported by shared management resources. In general, **the Union co-financing contribution for AMF actions is set at a maximum of 75%**.<sup>172</sup> The maximum contribution for AMF 'operating support' is 100%.

However, the proposed AMF introduces the use of higher co-financing rates as a means of encouraging MS to include specific types of action within their programming. **The following actions under the proposed AMF are eligible for a Union co-financing contribution of a maximum of 90%:**

- Integration measures implemented by local/regional authorities and civil society organisations.
- Actions to develop and implement effective alternatives to detention.
- Assisted Voluntary Return and Reintegration (AVRR) programmes and related activities.
- Measures targeting vulnerable persons and applicants for international protection with special reception and/or procedural needs, in particular those that target effective protection for unaccompanied children.<sup>173</sup>

The first of the above provisions is included to *reflect 'the crucial role played by local and regional authorities and civil society organisations in the field of integration' and 'facilitate the access of these entities to funding at Union level'*.<sup>174</sup> The EC can adopt delegated acts changing the actions eligible for higher co-financing rates at any point during the programming period.<sup>175</sup>

Different co-financing provisions are included for actions supported by the Thematic Facility, which may be carried out under shared, direct or indirect management: for projects implemented under specific actions the maximum Union contribution is 90%, and for emergency assistance 100%.

### ii. European Social Fund+ (ESF+) & European Regional Development Fund (ERDF)

For the proposed ESF+ and ERDF, the proposed CPR *'returns co-financing rates for these three Funds to pre-financial crisis levels' as 'high EU co-financing rates are no longer necessary'*. Lower rates are intended to *'promote ownership...increase the overall cohesion policy budget' and 'add financial flexibility'* for MS to set co-financing rates at the programme and priority levels.<sup>176</sup>

The CPR sets out maximum rates of co-financing per each type of region at the priority level, with final co-financing arrangements agreed upon per each individual MS NP.<sup>177</sup>

The maximum co-financing rates per region type for national actions under the *'Investment for Jobs and Growth'* goal are:

- Less developed regions: 70%
- Transition regions: 55%

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<sup>172</sup> Article 12(1 & 4) AMF Regulation

<sup>173</sup> Article 12(3) and Annex IV AMF Regulation

<sup>174</sup> Recital 17 AMF Regulation

<sup>175</sup> Article 13(7) AMF Regulation

<sup>176</sup> CPR, preamble p11

<sup>177</sup> Article 106(1-2) CPR

- More developed regions: 40%<sup>178</sup>

Union contributions to national actions supported by the proposed ESF+ can increase by a maximum of 95% (to a maximum of 5% of the national ESF+ allocation), for:

- '*Priorities supporting innovative actions*', including those delivered by partnerships involving public authorities, the private sector and civil society.
- MS '*upscaling*' of innovative approaches developed under the current ESF Employment component or other Union funds.<sup>179</sup>

### c. Simplified cost options

The CPR sets out a selection of simplified cost options (SCOs) for use by MS when making grants to beneficiary organisations under AMF and CF NPs. These SCOs are budget calculation methods for use in determining the grant amounts for individual actions using unit costs, flat rate financing and lump sums.<sup>180</sup> Details of the SCOs and calculation methods that the MS plan to use must be included in AMF and CF NPs.<sup>181</sup>

MS use of SCOs is obligatory for actions with a total budget of €200,000 or less, and Member States should '*increasingly make use of simplified cost options*' for actions with total budgets above this threshold.<sup>182</sup> Where SCOs are not used, MS can instead take advantage of a reimbursement of actual costs incurred by beneficiaries in the implementation of individual actions.<sup>183</sup>

The amounts for unit costs, flat rates, and lump sums are calculated using one of three approaches set out in the CPR:

- A calculation method based on objective data: including statistical data, expert judgement, and historical financial data on beneficiaries.
- A draft budget agreed on a case-by-case basis.
- Rules for corresponding unit costs, flat rates and lump sums used in EU policies or MS grant schemes for similar types of operations.<sup>184</sup>

The CPR also sets out obligatory calculation methods for MS using flat rate financing for indirect costs:

- Up to 7% of the total eligible direct costs or up to 15% of total eligible staff costs (MS not required to calculate the applicable rate).
- 25% of the eligible direct costs (MS required to calculate the applicable rate using one of the methods set out above).<sup>185</sup>

In regards to staff costs, MS can set a flat rate of 20% of total eligible costs (excluding staff costs) without a need for calculation. Alternatively, the proposed CPR sets out two approaches to calculating hourly rates for direct staff costs, both of which are based on '*gross employment costs*'.

The CPR also specifies that costs for staff working part-time on a project can be calculated '*as a fixed percentage of the gross employment costs*' and that there is '*no obligation to establish a separate working time registration system*' in these cases.<sup>186</sup>

### d. Joint programming

<sup>178</sup> Article 106(3) CPR

<sup>179</sup> Article 13 ESF+ Regulation

<sup>180</sup> SCOs can be used in combination provided that each 'covers different categories of costs...are used for different projects forming a part of an operation or for successive phases of an operation' (Article 48(1), CPR)

<sup>181</sup> Article 88(2) and Annex V and VI CPR

<sup>182</sup> The calculation of the total budget includes the Union contribution and co-financing contributions, whether public or private contributions (Recital 34, CPR)

<sup>183</sup> Article 48 (1)a CPR

<sup>184</sup> Article 48(2) CPR

<sup>185</sup> Article 49 CPR

<sup>186</sup> Article 50 (5) CPR

MS can request a transfer of up to 5 % of financial allocations from any of the shared management Funds to any other. The EC can object to such transfers if they would '*undermine the achievement of the objectives of the Fund from which resources are being transferred*'.<sup>187</sup>

The ERDF and ESF+ may, together with the CF, provide joint support for actions under the '*Investment for Jobs and Growth*' goal. ERDF and ESF+ resources can also be used to finance actions that are eligible for support from the other, albeit limited to 10% of their total resources per priority of a NP and where '*such costs are necessary for the implementation*'.<sup>188</sup>

Any action receiving a contribution from the proposed AMF can receive contributions from any other shared management Fund, provided that those contributions follow the rules of the Fund from which they are sourced and do not cover the same costs.<sup>189</sup>

Any shared management Fund can support technical assistance actions eligible under any of the other Funds,<sup>190</sup> and '*the integration of accounting functions*' is – maintained for programmes supported by the AMF, ISF and BMVI – should '*be an option for the other Funds*',<sup>191</sup> with the possibility of determining contributions from each Fund on a pro-rata basis. This provision enables the implementation of streamlined joint ESF+ and/or ERDF and AMF integration actions accessible to final beneficiaries regardless of their legal status or length of residence in a particular MS.

Actions that have been assessed under a call for proposals issued by the proposed AMF (under shared, direct or indirect management), have been determined to meet the minimum requirements of that call, but have not been awarded funding '*due to budgetary constraints*', may receive support from the ESF+ and/or ERDF provided the proposal meets the objectives of those Funds.<sup>192</sup>

## e. Payments to Member States

There are three types of payments of EU contributions to MS implementing NPs for shared management:

- Pre-financing payments.
- Interim payments.
- Payments on the balance of accounts for an accounting year.<sup>193</sup>

MS receive six annual pre-financing payments during the 2021-26 period (paid before 1 July each year), set at 0.5% of the total EU contribution for all shared management Fund programmes.<sup>194</sup>

The accounting year for all programmes is 1 July to 30 June.<sup>195</sup> MS submit a maximum of four payment applications per programme/Fund per year,<sup>196</sup> and the EC will make the corresponding interim payments no later than 60 days after these applications have been submitted.<sup>197</sup> The interim payments consist of 90% of the payment application amount, with the remaining 10% reimbursed in the final balance of account payment.<sup>198</sup> MS must additionally provide forecasts for the amounts for which payment applications will be submitted for the current and subsequent calendar years, by 31 January and 31 July each year.<sup>199</sup>

The EC can interrupt this payment deadline for up to six months if it finds evidence of a deficiency in the payment application, or notes a need for '*additional verification*' where a deficiency is suspected. Suspensions

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<sup>187</sup> Article 21 CPR

<sup>188</sup> Article 20 CPR

<sup>189</sup> Article 27(1) AMF Regulation

<sup>190</sup> Article 30(2) CPR

<sup>191</sup> Recital 47 CPR

<sup>192</sup> Article 27(2) AMF Regulation

<sup>193</sup> Article 83 CPR

<sup>194</sup> Article 83 CPR

<sup>195</sup> The first accounting year runs from the start date of the programme until 30 June 2022, and the final accounting year from 1 July 2029 to 30 June 2030 (Recital 28 CPR)

<sup>196</sup> The deadlines for payment applications to be submitted are 30 April, 31 July, 31 October and 26 December each year (Article 85(1) CPR)

<sup>197</sup> Article 87(1) CPR

<sup>198</sup> Article 87(2) CPR

<sup>199</sup> Article 68(1)g CPR

apply only to the part of expenditure in question, and MS are notified of the suspension and requested to take action '*to remedy the situation*'. MS can request that the suspension period is extended for a further three months.<sup>200</sup>

The EC can suspend all or part of payments to MS where:

- MS do not adequately address the reasons for a payment suspension within the required time limits;
- further payment applications are based on an irregularity that has not been corrected by the MS; and/or
- there is an EC reasoned opinion that '*puts at risk the legality and regularity of expenditure*'.<sup>201</sup>

For the ESF+ and ERDF, the EC may additionally suspend payments on the basis of an MS' failure to ensure '*sound economic governance*', meaning that a relevant country-specific recommendation or Council recommendations for individual MS have not been adequately addressed in NPs. This provision does not apply to the proposed AMF.<sup>202</sup>

## f. Payments linked to enabling conditions

The EC can also suspend payments '*related to the specific objective concerned*' whenever it considers that one or more of the relevant enabling conditions (see 'Context for the new proposals', above) are no longer being fulfilled.

The EC provides its observations in this regard to the relevant MS, which has one month to respond. Expenditures related to the specific objective concerned cannot be included in payment applications as long as the EC considers the enabling condition(s) in question to remain unfulfilled.<sup>203</sup>

# COMPARISON WITH THE CURRENT AMIF

## a. Minimum allocations

The current AMIF specifies a minimum allocation of 40% to the asylum (20%) and integration (20%) priorities within MS NPs,<sup>204</sup> albeit without a corresponding requirement to spend according to these allocated proportions.

By contrast, under the proposed AMF **MS are not required to allocate minimum percentages of national resources to any of the Fund's three SOs**. The EC's interim evaluation of the AMIF reports this change to be in line with the views of MS that minimum allocations set per SO '*negatively affect efficiency*',<sup>205</sup> but does not offer any specific examples or further detail.

While MS must agree upon AMF NPs with the EC, a process that will include an assessment of budget allocations across SOs, MS are free to allocate national AMF funding across SOs as they choose.

## b. Co-financing

The proposed AMF's provision for higher co-financing rates for integration actions implemented by local authorities and civil society organisations is a welcome recognition of the important role of these bodies in

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<sup>200</sup> Article 90 CPR

<sup>201</sup> Article 91 (1-2) CPR

<sup>202</sup> Article 91(1)e and Article 1(3) CPR

<sup>203</sup> Article 11(6) CPR

<sup>204</sup> Article 15(1)a AMIF Regulation 516/2014

<sup>205</sup> EC AMIF interim evaluation, p16

implementing integration actions, and may encourage MS to support the actions implemented by these actors within their NPs.

However, it is not clear why actions under other priorities do not include a similar provision for the involvement of one or both of these types of beneficiaries, in particular given the strong expertise of civil society organisations in the areas of return and asylum.

When compared to the current AMIF, the proposed reduced co-financing rates in the ESF+ and ERDF present a substantial reduction in EU contributions to integration actions for third-country nationals. This reduction is particularly substantial for regions classified as being in '*transition*' (reduction of 20%) and '*more developed*' (reduction of 35%).

Lowered co-financing rates and the subsequent need for increased MS/external investment may negatively affect the overall induction of ESF+ and ERDF resources by MS. This effect may be more acute for actions related to integration and social inclusion, which by their nature provide less immediately tangible outcomes for MS investment than measures that, for example, assist target beneficiaries closer to the labour market to engage in employment.

### c. Simplified cost options

The obligatory use of SCOs for actions with a total budget of €200,000 or less will significantly reduce the administrative burden on beneficiaries implementing actions of a relatively low financial value, which are often smaller organisations with less of an administrative capacity to manage complex grants.

The provisions on staff cost calculations will enable the full recovery of staff costs for all beneficiaries, and remove complex systems for accounting for staff time spent on different projects that have in some instances hampered implementation under the current AMIF.<sup>206</sup>

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<sup>206</sup> *Follow the Money* p41



## 10. OPERATIONAL IMPLEMENTATION

### OVERVIEW OF THE NEW PROPOSALS

#### a. Eligible beneficiaries

The proposed AMF and ESF+ Regulations list the types of beneficiary organisations eligible for support from the Funds.<sup>207</sup> Both can support:

- Legal entities in a MS, or an overseas country or territory linked to it.
- Third countries listed in the Fund's work programmes.
- Any legal entity established under Union law or any international organisation.<sup>208</sup>

The ESF+ may support:

- Associated countries (third countries party to an agreement with the EU, enabling its participation in the ESF+ Employment & Social Innovation component only).
- Legal entities in non-associated third countries, on an exceptional basis and which should '*in principle bear the cost of their participation*'.<sup>209</sup>

The proposed AMF may support:

- Third countries associated with the Fund.
- Legal entities in third countries, which are exceptionally eligible to participate where this is '*necessary for the achievement of the objectives of a given action*'.
- Legal entities participating in consortia of at least two independent entities, established in different Member States or their overseas territories.<sup>210</sup>

The participation of third countries in the proposed AMF must be set out in a specific agreement that:

- Sets out how a '*fair balance*' between the contributions of the third country in question and the benefits that will accrue to it through the action is ensured.
- Sets out the conditions of participation in the Fund, including the third country's financial contribution to the Fund and their administrative costs.
- Guarantees sound financial management.
- Does not confer to the third country any powers of decision regarding the Fund.<sup>211</sup>

Any MS deciding to implement actions in or with a third country must '*consult with the Commission prior to the start of the project*'.<sup>212</sup>

#### b. Management and control systems

The proposed CPR sets out common management and control arrangements for all shared management Funds.

The specific responsibilities of MS include:

- Establishing legally compliant and effective management and control systems.
- Ensuring the legality and regularity of expenditure.
- At the request of the EC, taking action to ensure the effective function of management and control systems (including audits).

<sup>207</sup> The ERDF/CF Regulation does not include details of eligible beneficiaries.

<sup>208</sup> Article 25 ESF+ Regulation and Article 6 AMF Regulation

<sup>209</sup> Article 25 ESF+ Regulation

<sup>210</sup> Article 6 AMF Regulation

<sup>211</sup> Article 5 AMF Regulation

<sup>212</sup> Article 13(8) AMF Regulation

- Ensuring the quality and reliability of monitoring systems and data on indicators.
- Systems for keeping and retaining all of the documents required for audits.
- Ensuring the effective examination of complaints regarding the Funds, including examining complaints made directly to the EC and informing the EC of the results.<sup>213</sup>

MS must draw up a description of the management and control system for their NPs using a standard template provided in the proposed CPR, to be submitted to the EC no later than June 23 2023. MS must notify the EC of any subsequent amendments to this description.<sup>214</sup> MS are not required to undertake a designation process to assign functions to particular agencies: the provisions instead 'promote the roll-over of existing systems' as a way of 'facilitating programme launch'.<sup>215</sup>

The EC is responsible for ensuring that management and control systems are legally compliant and effective, including by carrying out both programmed and on-the-spot audits.<sup>216</sup>

The **required elements of national monitoring and control systems** for shared management Funds, and the key tasks of the bodies it includes, are set out below:

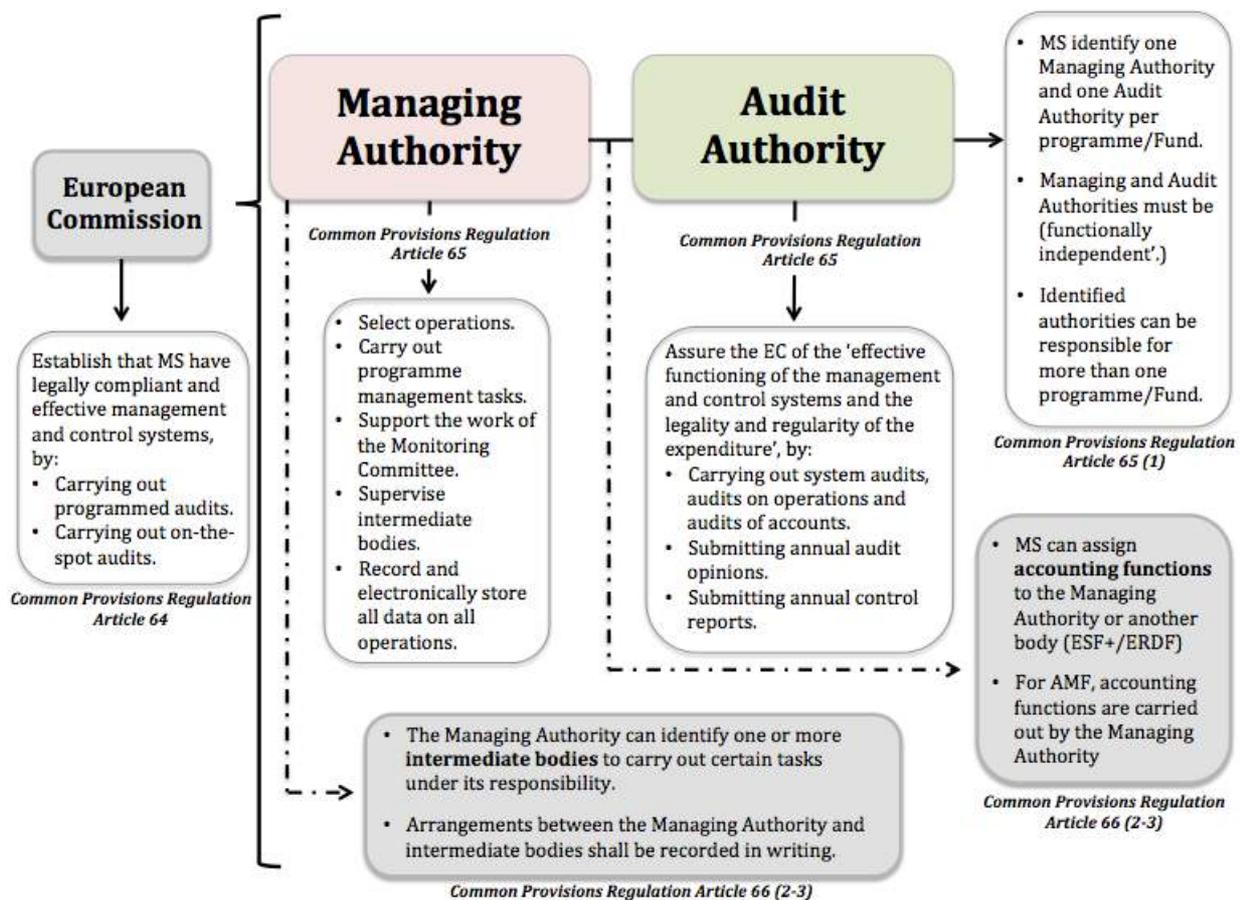


Figure 10.1: Management and control systems, shared management funds (sources noted)

### c. Project selection

<sup>213</sup> Article 63 CPR

<sup>214</sup> Article 63(9) and Annex XIV CPR

<sup>215</sup> CPR preamble p6 & 10

<sup>216</sup> Article 64 CPR

National Managing Authorities are responsible for the selection of projects to be supported under the Funds<sup>217</sup>, and common requirements for doing so under all shared Funds are set out in the CPR.

Criteria and procedures for project selection must:

- Be non-discriminatory and transparent.
- Ensure gender equality.
- Take account of the CFEU, the principle of sustainable development and Union policy on the environment.
- Ensure the prioritisation for support of projects that *will 'maximise the Union contribution to the achievement of the objectives'* of the Fund/programme in question.<sup>218</sup>

The methodology and criteria for project selection, and any subsequent amended versions, must be submitted to the Monitoring Committee (see 'Monitoring, Reporting & Evaluation', below) for approval.<sup>219</sup> MS must additionally provide the draft selection methodology and criteria to the EC upon request, prior to both initial and any subsequent submissions to the Monitoring Committee.<sup>220</sup>

MS must ensure that projects selected for support under shared management Funds NPs:

- Comply with the Fund's requirements and contribute to the achievement of its objectives.
- Are consistent with the fulfilment of enabling conditions.
- Represent 'value for money' (amount of support in relation to results achieved).
- Are not affected by a reasoned opinion of the EC.
- (for infrastructure projects) that beneficiaries have the necessary financial resources to cover operational and maintenance costs, and that appropriate climate proofing and environmental provisions are in place.<sup>221</sup>

Managing Authorities must provide selected beneficiaries with a document 'setting out all the conditions for support for each operation', to include:

- Specific requirements for the services to be delivered.
- A financing plan.
- Time-limit for implementation.
- (where applicable) a method for determining costs and conditions for grant payment.<sup>222</sup>

## d. Payments to beneficiaries

Managing Authorities are responsible for making payments to beneficiary organisations '*no later than 90 days from the date of submission of the payment claim by the beneficiary*'.<sup>223</sup>

## e. Audits

The CPR sets out common audit arrangements for all shared management funds. Audits of various aspects of NPs (namely system audits, audits of operations and audits of accounts) are carried out by both the EC and national Audit Authorities, who must coordinate their respective audit plans.<sup>224</sup>

Standard EC audits take place up to three calendar years following the acceptance of the accounts in which the expenditure concerned was included, except where fraud is suspected. MS will receive a 12-day notice of the EC's 'on-the-spot' audits, in which MS authorities can participate,<sup>225</sup> although the grounds for and frequency of these types of audits are not included in the proposed Regulation.

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<sup>217</sup> Annex X *Common Provisions Regulation*

<sup>218</sup> Article 67(1) *Common Provisions Regulation*

<sup>219</sup> Article 35(2) *Common Provisions Regulation*

<sup>220</sup> Article 67(2) *Common Provisions Regulation*

<sup>221</sup> Article 67(3) *Common Provisions Regulation*

<sup>222</sup> Article 67(4) *Common Provisions Regulation*

<sup>223</sup> Article 68(1)b *Common Provisions Regulation*

<sup>224</sup> Article 64(1) *Common Provisions Regulation*

<sup>225</sup> Article 64(2) *Common Provisions Regulation*

In MS where the EC considers that the '*opinion of the audit authority is reliable*' and the MS concerned '*participates in the enhanced cooperation on the European Public Prosecutor's Office*', The EC's auditing powers can be limited to auditing the work of the Audit Authority.<sup>226</sup>

National Audit Authorities must adopt a strategic approach to their work, by developing a risk-based audit strategy prepared using a standard template provided in the proposed Regulation and submitted to the EC at their request.<sup>227</sup> ESF+, ERDF and CF programmes and operations may be grouped together for the purposes of statistical sampling, although AMF, ISF and BMVI operations are treated separately in this context.<sup>228</sup>

The proposed CPR introduces the implementation of the '*single audit*' principle for shared management funds. The associated provisions reduce the administrative burden for beneficiaries in a number of significant ways:

- The EC and Audit Authority must ensure they do not audit the same parts of the expenditure, meaning that audits will not be carried out for the same operation (or part thereof) by both of these bodies
- When carrying out their audits, the EC and the Audit Authority must first make use of the data stored on MS electronic systems, and only request additional information from implementing organisations where it '*is required to support robust audit conclusions*'.
- Operations with total budgets under specific thresholds for each Fund (€400,000 for the ERDF, €300,000 for the ESF+ and €200,000 for the AMF) cannot be subject to more than one audit per year, by either the Audit Authority or the EC.

## COMPARISON WITH THE CURRENT AMIF

### a. Eligible beneficiaries

As detailed in previous chapters, the eligibility of third countries for direct support from the AMF is an entirely new provision that is not present in the current AMIF. Although the proposed AMF includes several specific conditions for MS to fulfil prior to engaging third countries, this provision represents a significant shift towards the external use of the Fund.

### b. Management and control systems

The current AMIF's provision for joint responsibility of MS and the EC for management and control of NPs<sup>229</sup> is removed, with the majority of the responsibility instead transferred to MS and the specific responsibilities of MS being far more clearly defined. These responsibilities include the examination of complaints, including those made directly to the EC. The proposed Regulation defines complaints as a '*dispute between potential and selected beneficiaries with regard to the proposed or selected operation*' or '*disputes with third parties*' on programme implementation.<sup>230</sup>

While the acknowledgment that complaints can be made by potential/selected beneficiaries directly to the EC is welcome, it is not clear if the definition set out in the new proposals allows for complaints regarding overall MS programme management and implementation.

### c. Project selection

<sup>226</sup> Article 74(2) Common Provisions Regulation

<sup>227</sup> Article 72 Common Provisions Regulation

<sup>228</sup> Article 73(2) Common Provisions Regulation

<sup>229</sup> Article 22 AMIF Regulation 514/2014

<sup>230</sup> Article 63(6) Common Provisions Regulation

The requirement for MS to set up rules and procedures for project selection is maintained from the current AMIF, albeit amended slightly regarding the 'criteria and procedures'.<sup>231</sup> The draft Regulation adds an element of quality control and oversight via both national Monitoring Committees and the EC, and provides more detailed requirements for MS.

#### d. Payments to beneficiaries

While the current AMIF specifies that Responsible Authorities shall ensure payments to beneficiary organisations are made '*as quickly as possible*', the proposed CPR tasks Managing Authorities with making payments of the amounts due to beneficiaries within 90 days.

This represents a significant improvement from current arrangements that will particularly benefit smaller beneficiary organisations with less of a capacity to cover the costs of already implemented operations from their financial reserves.

#### e. Audits

When compared to the current AMIF, the role of the NP Audit Authority has been further defined and streamlined.

The measure restricting audits of operations with relatively small total budgets to one per year, by either the Audit Authority or the EC, is of particular benefit to beneficiary organisations implementing lower value NP actions, which are often smaller organisations with less of an administrative capacity to participate in audit exercises.

#### f. Rollover of management and control systems

The CPR provision enabling MS to continue the same management arrangements for the Funds from the current programming period may well facilitate the quicker establishment and implementation of national programmes, and ensure that the expertise of 2014-20 managing authorities can be put to use in the new programming period.

It is not clear, however, if the EC will make use of experiences from the 2014-20 period in determining if specific MS might consider designating alternative Managing and/or Delegated Authorities, particularly in cases where the management of NPs has been problematic or where an alternative body may be more suited to managing specific programmes or aspects of them.

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<sup>231</sup> Article 24(4) AMIF Regulation 514/2014 and Article 67(1) CPR

## 11. MONITORING, REPORTING & EVALUATION

### OVERVIEW OF THE NEW PROPOSALS

#### a. Performance frameworks

The proposed CPR requires MS to establish a performance framework that enables the '*monitoring, reporting on and evaluation*' of the implementation of all shared management Funds, and contributes to measuring their overall performance.<sup>232</sup>

Performance frameworks must include:

- Output and result indicators.<sup>233</sup>
- Milestones to be achieved by the end of 2024 (established for each specific objective, for output indicators).
- Targets to be achieved by the end of 2029 (established for each specific objective, for output and result indicators).<sup>234</sup>

Output and result indicators for the proposed AMF, ESF+<sup>235</sup> and ERDF are provided in the Fund-specific Regulations. MS are responsible for setting milestones and targets for each objective included in Fund NPs. The methodologies utilised in the calculation of milestones and targets must be shared with the EC on request, and must include:

- Criteria applied by MS to select indicators.
- Data used, quality assurance measures and calculation methods.
- Factors that may influence the achievement of the milestones and targets, and how they were taken into account.<sup>236</sup>

The proposed AMF and ESF+ Regulations allow for '*proportionate reporting requirements (to) be imposed on recipients of Union funds and, where relevant, Member States*'.<sup>237</sup>

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<sup>232</sup> Article 12(1) CPR

<sup>233</sup> 'Output indicators' are indicators that measure the specific deliverables of an action, and 'result indicators' are those that measure the short-term effects of the action supported by one or more of the Funds (Article 2 (12-13) CPR)

<sup>234</sup> Article 12 CPR

<sup>235</sup> The ESF+ Regulation uses two separate sets of output and result indicators: for the general ESF+ shared management component and ESF+ actions addressing material deprivation, respectively (Annex I & II ESF+ Regulation)

<sup>236</sup> Article 13(1) CPR

<sup>237</sup> Article 28(4) AMF Regulation and Article 33(2) ESF+ Regulation

## b. Performance reporting

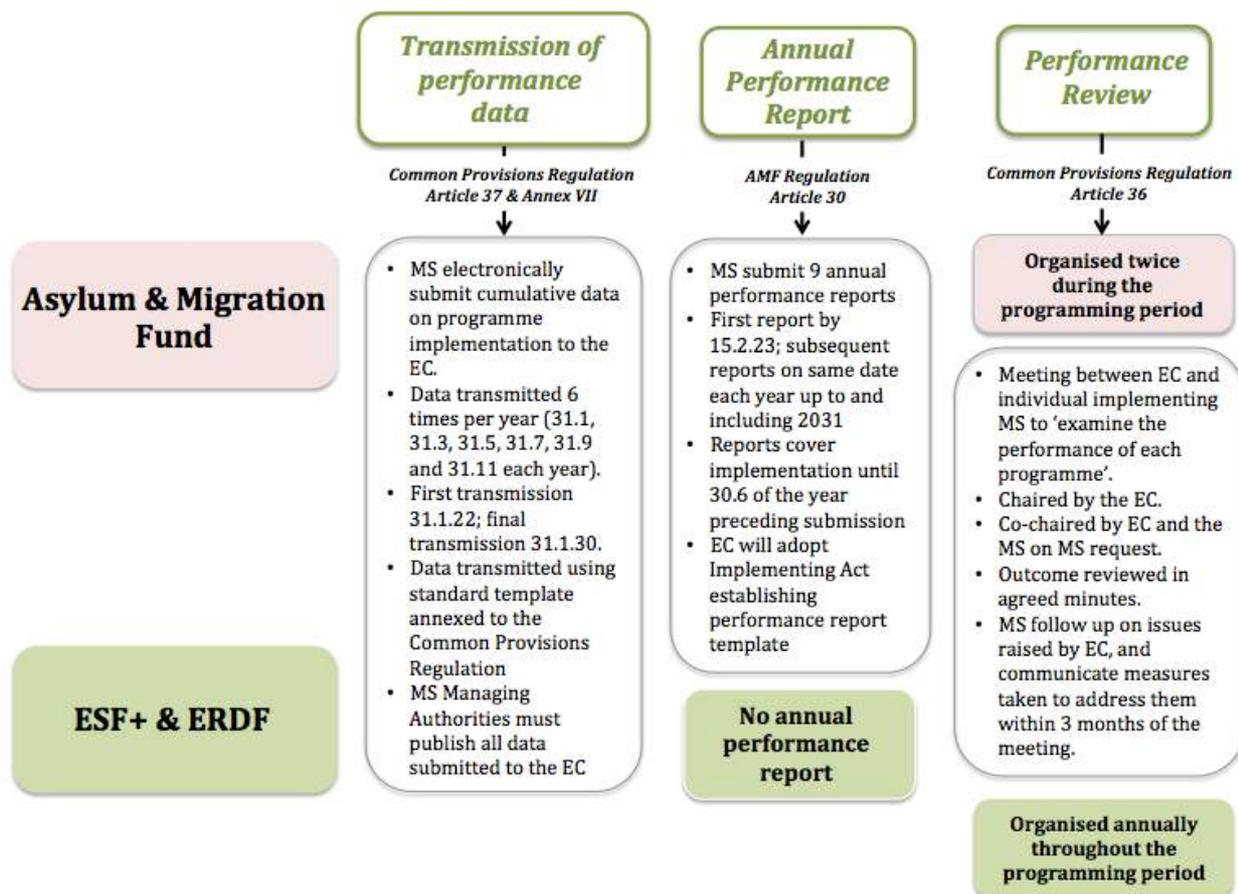


Figure 11.1: Performance reporting framework, shared management funds (sources noted)

As above, **MS must transmit the performance data for all shared management Fund NPs to the EC six times per year**, and must 'ensure that all official exchanges of information' with the EC are carried out using an electronic data exchange system.<sup>238</sup>

All Funds will be subject to **performance reviews**, which will take place on an annual basis for the ESF+ and ERDF, and twice during the AMF's programming period. The EC intends for these annual reviews to be 'an occasion for a policy dialogue on key issues of programme implementation and performance' for all Funds.<sup>239</sup>

For AMF NPs, MS must submit nine **annual performance reports** over the course of the programming period. By contrast, annual implementation reports for ESF+ and ERDF NPs have been replaced by the annual performance reviews,<sup>240</sup> with a single **final performance report** to be submitted by MS by 15 February 2031.<sup>241</sup>

The AMF annual performance reports, a final template for which will be adopted by the EC at a later date, must focus on the following quantitative aspects of programme implementation:

- By type of intervention:
  - Number of selected operations.
  - Total eligible cost.
  - Contribution from the Funds.

<sup>238</sup> Article 63(8) and Annex VIII CPR

<sup>239</sup> CPR preamble p8

<sup>240</sup> Recital 27 CPR

<sup>241</sup> Article 38(1) CPR

- Total eligible expenditure declared by the beneficiaries.
- Values of output and result indicators for individual operations.<sup>242</sup>

**Final performance reports for ESF+ and ERDF** NPs, for which the EC will adopt a standard template at a later date, and will more generally '*assess the achievement of programme objectives*' over the programming period.<sup>243</sup>

The proposed CPR sets out details for the EC's approval of the final ESF+ and ERDF performance reports: the EC has five months to provide observations to submitting MS, and MS provide additional required information and/or details on the measures taken in response to these observations. Furthermore, the EC must inform MS when the final report is accepted.<sup>244</sup> No corresponding process for EC observations, MS responses, and final EC approval of AMF annual performance reports is included in either the proposed Common Provisions Regulation or AMF Regulation.

### c. Monitoring Committees

Common rules and requirements for the monitoring committees (MCs) for all shared management Funds are set out in the proposed CPR.

The EC's stated purpose in the new proposals is to '*give a more prominent role*' to MCs in '*supervising the programme performance and all the factors influencing this*'.<sup>245</sup> MS must establish MCs within three months of the date of a NP being accepted by the EC, and MCs must meet a minimum of at least once per year.<sup>246</sup>

The proposed Regulation states that MCs should '*examine*':

- Implementation progress, including the achievement of milestones and targets.
- Issues affecting programme performance and measures taken to address them.
- Contribution of the programme to addressing relevant country-specific recommendations.
- Progress in carrying out and implementing follow-up to evaluations.
- Ongoing fulfilment of enabling conditions.

The Regulation introduces a new institutional oversight role for MCs, which must approve the following core NP approaches and outputs:

- Methodology and criteria used for the selection of operations, including any subsequent changes they undergo.
- Annual performance reports (AMF) and final performance reports (ESF+ and ERDF).
- Evaluation plans and any subsequent amendments they receive.
- Any proposal by the Managing Authority for an amendment to the NP.

The proposed CPR introduces a broad provision for transparency in the implementation of NPs via MCs, by requiring MS to publish '*all data and information*' shared with MCs.<sup>247</sup>

### d. Mid-term review

MS must conduct mid-term reviews on the national implementation of the AMF, ESF+ and ERDF in 2024. Requirements for this mid-term review of the ESF+ and ERDF are set out in the proposed CPR, and the mid-term review of the AMF in the Fund-specific Regulation.

Mid-term reviews for the ESF+ and the ERDF are carried out in support of a reprogramming exercise, necessitated by a recalculation of global funding to MS under the '*Investment for Jobs and Growth*' goal.

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<sup>242</sup> Article 30(2) AMF Regulation

<sup>243</sup> Article 38(2) CPR

<sup>244</sup> Article 38 CPR

<sup>245</sup> CPR preamble p8

<sup>246</sup> Article 33(1) CPR

<sup>247</sup> Article 33(4) CPR

As set out in 'Allocations to Member States', above, in 2024 the EC will reapply the allocation key used for the initial allocations and amend the Implementing Act by setting out the global allocations per MS. By March 31 2025, MS must submit requests for programming amendments, justified on the basis of a mid-term review per programme covering:

- Challenges in relevant country-specific recommendations adopted in 2024.
- The socioeconomic situation of the MS and/or region concerned.
- Progress in achieving milestones.
- The revised global financial allocations per MS calculated by the Commission in 2024.<sup>248</sup>

Revised programmes cover the period 2026-27 and must include:

- Allocation of financial resources per priority, per year.
- Revised and/or new targets.
- Revised financial allocations resulting from the EC's recalculation of global resources.<sup>249</sup>

The mid-term review of the AMF does not involve those MS conducting a specific review of programme implementation up to 2024. It instead involves the reapplication of the AMF shared management funding distribution key by the EC, to determine allocations of the 16.7% (€1.04bn) of AMF shared management funds not allocated to MS at the outset of the programming period (see 'Allocations to Member States', above).

Payments are conditional on a minimum rate of implementation by MS during 2021-24, in that MS must have submitted payment applications equivalent to 10% of their AMF allocation for 2021-24 by the time of the reallocation calculation.<sup>250</sup> Allocated amounts to be used in MS programmes for 2025-27,<sup>251</sup> And allocations from the AMF's Thematic Framework will also be linked to the mid-term review process, by taking into account '*progress made in achieving milestones*' included in performance frameworks developed by MS, and less specific '*identified implementation shortcomings*'.<sup>252</sup>

## e. Evaluation

The proposed CPR sets out requirements for both MS and the EC to carry out evaluations of the proposed AMF, ESF+ and ERDF. These evaluations will assess the '*effectiveness, efficiency, relevance, coherence and EU added value*' of the Funds' implementation, with the aim of '*improv(ing) the quality of the design and the implementation of programmes*'.<sup>253</sup>

MS Managing Authorities are responsible for drawing up evaluation plans, and ensuring the necessary procedures for producing and collecting the required data. Evaluation plans can cover more than one programme, and must be submitted to MCs for approval no later than one year after the programme has begun. MS must '*entrust evaluations to functionally independent experts*', and are required to publish all evaluation outcomes.<sup>254</sup>

MS are required to carry out one evaluation per programme to assess each Fund's impact by 30 June 2029. For the proposed AMF, MS evaluation plans must also include a mid-term evaluation, to be completed by 31 March 2024.<sup>255</sup>

The EC must carry out mid-term evaluations of all Funds by end-2024, and a retrospective evaluation by 31 December 2031.<sup>256</sup> No standard templates or additional evaluation guidance are provided in the new legislative proposals.

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<sup>248</sup> Article 14(1) CPR

<sup>249</sup> Article 14(2) CPR

<sup>250</sup> Article 14(2) AMF Regulation

<sup>251</sup> Article 11(1) & 14(1), AMF Regulation

<sup>252</sup> Article 14 AMF Regulation

<sup>253</sup> Article 39(1) CPR

<sup>254</sup> Article 39(2-7) CPR

<sup>255</sup> Article 39(2 & 5) CPR

<sup>256</sup> Article 40 CPR

## COMPARISON WITH THE CURRENT AMIF

### a. Performance reporting

The quantitative focus of performance reports under the proposed AMF contrasts with the requirements for annual and final implementation reports under the current AMIF, which must include further qualitative information such as updates on MC decision-making, information and communication activities, and the implementation of the Partnership Principle.<sup>257</sup>

### b. Monitoring Committees

The CPR significantly expands the role of MCs from that previously in the current AMIF, from '*monitor(ing) and assist(ing) in reviewing the implementation*' of NPs in the AMIF<sup>258</sup> to '*supervising the programme performance and all the factors influencing this*'<sup>259</sup> in the proposed AMF. The proposed CPR accordingly includes more detail both on the function and composition of MCs, and their role in approving the core elements of NPs.

The nature of the relationship between the Managing Authority and MC is amended from that included in the current AMIF.<sup>260</sup> Currently, the Responsible Authority<sup>261</sup> for the AMIF must '*ensure the proper functioning*' of the MC,<sup>262</sup> while the proposed CPR requires the Managing Authority to:

- Provide the MC with '*all information necessary to carry out its tasks*'.
- Ensure '*follow-up of the decisions and recommendations*' of the MC.<sup>263</sup>

In the proposed CPR, the Managing Authority here has a responsibility toward the work of the MC, rather than merely maintaining oversight. Additionally, MCs are enabled to direct the work of Managing Authorities to some degree.

### c. Mid-term review

The mid-term review process of the proposed AMF is distinct from that of the current AMIF, in that it is linked to a recalculation of the financial allocations to MS based on recent data.<sup>264</sup> Any reprogramming under the proposed AMF will therefore be more responsive to actual and current needs at the time of the mid-term review, to the extent that these needs are taken into account in the proposed budgetary distribution key.

### d. Evaluations

The evaluation framework set out in the proposed CPR is structured in much the same way as that of the current AMIF, in that it includes common and result indicators and five key evaluation criteria for use in

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<sup>257</sup> Annex, Commission Implementing Regulation (EU) No 799/2014 of 24 July 2014 establishing models for annual and final implementation reports pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management.

<sup>258</sup> Recital 12 AMIF Regulation 514/2014

<sup>259</sup> CPR preamble p8

<sup>260</sup> Article 35(2) CPR

<sup>261</sup> The 'Responsible Authority' in the current AMIF can be understood as equivalent to the 'Managing Authority' referenced in the new legislative proposals.

<sup>262</sup> Article 4(b) Commission Delegated Regulation (EU) No 1042/2014 of 25 July 2014 supplementing Regulation (EU) No 514/2014 with regard to the designation and management and control responsibilities of Responsible Authorities and with regard to status and obligations of Audit Authorities

<sup>263</sup> Article 69 CPR

<sup>264</sup> Article 14(1) AMF Regulation

assessing impact, in addition to specifying mid-term and final evaluations by MS and the EC. However, it does not include the current AMIF's extensive set of evaluation questions linked to each of the five key evaluation criteria, or its specific questions on sustainability, simplification, and the reduction of administrative impact for beneficiaries.<sup>265</sup> Both MS and the EC are therefore free to determine how these criteria will be addressed in mid-term and final programme evaluations.

## ADDITIONAL ANALYSIS

### a. Use of performance indicators across the Funds

The proposed CPR aims to simplify the arrangements for shared management Funds, such as by establishing a common approach to monitoring and evaluation. However, the Fund-specific Regulations are inconsistent both in their use of the different types of indicators defined in the CPR, and in their required reporting arrangements.

The proposed AMF and ERDF include output and result indicators linked to specific objectives,<sup>266</sup> while indicators set out in the proposed ESF+ Regulation are thematic (reported for '*operations targeting people*', '*entities*' and '*participants*'). Additionally, the ESF+ Regulation splits result indicators into two categories: '*immediate result indicators*' (capturing results within four weeks of a participant leaving an operation) and '*longer term result indicators*' (capturing results six months after the participant's departure date).<sup>267</sup>

Output and result indicators are designed for use by MS for reporting on programme implementation to the EC.<sup>268</sup> The proposed AMF and ERDF also include core performance indicators, linked to specific objectives, to be used by the EC to report the implementation progress for the Funds to the European Parliament (EP) and Council. The ESF+ does not include either core performance indicators, or a specific provision meant to ensure the EC's reporting to the EP and the Council.

### b. Performance management and the Policy Objective of the proposed Asylum and Migration Fund

Performance indicators for the proposed AMF only cover the Fund's three SOs. They do not cover the AMF's overall Policy Objective, despite the inclusion in the proposed Regulation of a number of important implementation measures under the Policy Objective.

This means that key implementation measures, such as those on the '*establishment and development of national strategies*' and '*assistance and support services consistent with status and needs...in particular the vulnerable groups*',<sup>269</sup> do not have corresponding indicators and will not be included in MS performance reports.

### c. Performance reviews

While formalising more regular policy dialogue in itself is a constructive measure, the process, as set out in the new proposals, is fairly non-transparent and MS driven. There is no requirement for the involvement of MCs or broader partners in review discussions – either directly or by determining what issues they will include. Additionally, there is no requirement review outcomes are published.

<sup>265</sup> Annex I Commission Delegated Regulation (EU) 2017/207 of 3 October 2016 on the common monitoring and evaluation framework provided for in Regulation (EU) No 514/2014 of the European Parliament and of the Council 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

<sup>266</sup> Annex VIII AMF Regulation and Annex I ERDF/CF Regulation

<sup>267</sup> Annex I & II ESF+ Regulation

<sup>268</sup> Article 28(1) AMF Regulation and Article 7(3) ERDF/CF Regulation

<sup>269</sup> Annex II AMF Regulation

#### d. Performance reporting

The suggested frequency of performance data transmission is particularly helpful for maintaining EC oversight of the rate of implementation in individual MS, and enabling any corrective measures to be devised and implemented as soon as possible. Additionally, the inclusion of MS forecasts for payment applications for the current and subsequent calendar year for the data transmission will require MS to plan ahead for a reasonable rate of programme implementation.<sup>270</sup>

#### e. Increased transparency via Monitoring Committees

Given the scope of the programming outputs that MCs must approve, the proposed CPR's requirement for MS to publish '*all data and information*' shared with MCs<sup>271</sup> and the general requirement for MS to share other information with the MC as necessary for the completion of its tasks,<sup>272</sup> means the amount of information on NPs available in the public domain will increase.

#### f. Cooperation on integration

While the CPR enables MS to set up a single MC to cover more than one programme, approaches to collaboration between MCs for different programmes – for example on common policy areas such as integration or on joint actions – is not dealt with in the new proposals. The EU Code of Conduct on Partnership<sup>273</sup> provides for MCs to establish Working Groups, which could potentially be vehicles for collaboration on shared policy priorities and joint activities.

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<sup>270</sup> Annex VII, Table 7 CPR

<sup>271</sup> Article 33(4) CPR

<sup>272</sup> Article 69(a) *Common Provisions Regulation*

<sup>273</sup> 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 (hereafter 'ECCP')

## 12. PARTNERSHIP

### OVERVIEW OF THE NEW PROPOSALS

#### a. The partnership principle in shared management funds

The CPR defines partnership in the context of the shared management funds as *'close cooperation between public authorities, economic and social partners and bodies representing civil society at national, regional and local levels throughout the whole programme cycle'*, which consists of *'preparation, implementation, monitoring and evaluation'*.<sup>274</sup>

Of the Fund-specific Regulations, only the proposed ESF+ Regulation further specifies partnership, as the *'participation of social partners and civil society in the implementation of the ESF+ under shared management'*<sup>275</sup> in particular in *'the delivery of employment, education and social inclusion policies'*.<sup>276</sup>

The *'organisation and implementation'* of partnership for all shared management funds is the responsibility of MS,<sup>277</sup> and should be carried out in accordance with the EU Code of Conduct on Partnership<sup>278</sup> (ECCP),<sup>279</sup> a delegated Regulation issued in January 2014.

#### b. Composition of the partnerships

MS are responsible for the selection of their partners, and partnerships must include at the minimum representation from *'urban and other public authorities. economic and social partners... and relevant bodies representing civil society, environmental partners and bodies promoting social inclusion (and) fundamental rights'*.<sup>280</sup> The ECCP additionally specifies the inclusion of *'community-based and voluntary organisations'*.<sup>281</sup> While international organisations are not included as potential partners, neither the ECCP nor the proposed CPR excludes their involvement.

The ECCP requires that partners *'should be the most representative of the relevant stakeholders'*<sup>282</sup> who can *'significantly influence or be significantly affected by implementation of the Partnership Agreement and programmes'*. MS should pay specific attention to including groups *'who may be affected by programmes but who find it difficult to influence them'*, particularly *'the most vulnerable and marginalised communities, which are at highest risk of discrimination or social exclusion'*.<sup>283</sup>

MS are required to put in place transparent procedures for selecting partners, according to their *'different institutional and legal frameworks'*.<sup>284</sup>

#### c. Preparation phase

MS are required to involve partners in the preparation of the PAs and Fund-specific NPs.

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<sup>274</sup> Recital 2 CPR

<sup>275</sup> Recital 26 ESF+ Regulation

<sup>276</sup> Article 8 ESF+ Regulation

<sup>277</sup> Article 6(1) CPR

<sup>278</sup> Article 6(3) CPR

<sup>279</sup> 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 (hereafter 'ECCP')

<sup>280</sup> Article 6(1) CPR

<sup>281</sup> Recital 4 ECCP

<sup>282</sup> Recital 3 and Article 2 ECCP

<sup>283</sup> Recital 4 ECCP

<sup>284</sup> Recital 3 ECCP

The ECCP makes a provision for the selection of different partners for the preparation of PAs and NPs. As PAs provide the strategic base for all shared management funds in a single document, the partners selected for this phase should therefore be those most relevant for *'the planned use of all Funds'*, while for NPs partners should be those most relevant to the specific Fund concerned.<sup>285</sup> In the ECCP, the types of partners to be included in each of these preparatory phases are broadly the same, with an addition for the NPs of partners from the local and regional contexts in which specific Funds are planned to be implemented.

### i. Partnership Agreements

MS must involve partners in the preparation of the following elements of PAs:

- Assessing needs and disparities in relation to the Funds' thematic objectives.
- Selection of thematic objectives, indicative allocation of shared management funds, and expected results.
- Summarising compliance with *'ex ante conditionalities of the programmes'*.
- Arrangements for national mechanisms to ensure coordination between programmes.
- Ensuring an *'integrated approach'* that addresses the needs of those geographical areas most affected by poverty and the target groups most affected by discrimination and exclusion.<sup>286</sup>

### ii. National Programmes

MS must involve partners in the preparation of the following elements of NPs:

- Analysis and identification of needs.
- Definition or selection of priorities and related specific objectives.
- Allocation of funding.
- Definition of specific indicators for programmes.
- Composition of the monitoring committee.

For each programme, the ECCP requires MS to provide information on their actions taken to involve partners in *'the preparation of the programmes and their amendments'*, and the *'planned actions to ensure the participation of the partners in the implementation of the programmes'*.<sup>287</sup> The proposed CPR is slightly broader in its requirement for MS to provide, as specified in the dedicated 'Partnership' section of the NP template<sup>288</sup> annexed to the Regulation, information on *'actions taken to involve the relevant partners...in the preparation of the programme, and the role of those partners in the implementation, monitoring and evaluation of the programme'*.<sup>289</sup>

### iii. Guidance on consultation

The ECCP sets out the *'main principles and good practices concerning timely, meaningful and transparent consultation of the partners'*<sup>290</sup> when preparing both the PAs and NPs for the specific Funds.

MS and their Managing Authorities must consult partners on *'the process and timetable'* for preparing PAs and NPs, and *'keep them fully informed of their content and any changes thereof'*.<sup>291</sup> MS must also take into account:

- Timely disclosure of and easy access to relevant information.
- Sufficient time for partners to analyse and comment on key preparatory documents and on the draft PAs and NPs
- Ensuring channels for partners to ask questions, provide contributions and be informed of the way in which their proposals have been taken into consideration.
- Disseminating the outcomes of consultations.<sup>292</sup>

The ECCP also specifies (Article 10) that MS must take into account the involvement of partners *'that have been involved in the preparation of the programmes'* when formulating MC membership.<sup>293</sup>

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<sup>285</sup> Recital 5 CPR

<sup>286</sup> Article 6 CPR

<sup>287</sup> Article 9 ECCP

<sup>288</sup> The template National Programme is included as Annex VI to the proposed CPR

<sup>289</sup> Article 17(3)(g) CPR

<sup>290</sup> Recital 6 CPR

<sup>291</sup> Article 5(1) ECCP

<sup>292</sup> Article 5(2) ECCP

<sup>293</sup> Article 10 ECCP

MS must formulate rules of procedure for MCs, taking into account the following elements:

- Voting rights.
- Giving notice of meetings and the transmission of meeting documents (to be provided a minimum of 10 working days in advance).
- Arrangements for the publication and accessibility of the preparatory documents submitted to MCs.<sup>294</sup>
- Procedures for adopting, publishing, and accessing the minutes of MC meetings.
- Arrangements for the establishment of Working Groups under MCs.
- Provisions on conflicts of interest involving partners dealing with monitoring, evaluation and Calls for Proposals.
- Conditions, principles and arrangements for reimbursement rules, capacity building opportunities, and the use of technical assistance.<sup>295</sup>

## d. Performance reporting

The ECCP requires MS to involve partners in the preparation of annual performance reports, in particular in *'the assessment of the role of partners in the implementation of the Partnership Agreement... the overview of the opinions given by the partners during the consultation... (and) the description of the way in which the opinions of partners have been taken into account'*.<sup>296</sup>

## e. Evaluation

In terms of evaluation, MS Managing Authorities must involve partners in assessing performance of programmes via MCs, and can establish one or more Working Groups working under the MC for this specific purpose.<sup>297</sup> Managing authorities are also required to consult partners on reports *'summarising the findings of evaluations of the programmes'*, although the ECCP here refers only to reports produced for ESF, ERDF and CF programmes.<sup>298</sup>

## f. Capacity-building for partnership

### i. Role of Member States

MS Managing Authorities can make use of technical assistance in building the institutional and technical capacity of specific partners intended to be involved in the preparation, implementation, monitoring and evaluation of programmes, and that they should examine the need to do so. The ECCP suggests that smaller local authorities, economic and social organisations, and non-governmental organisations might particularly benefit from such support.<sup>299</sup>

The ECCP sets out several methods for providing this support to partners, including dedicated workshops, training sessions, coordination and networking structures, and contributions to the cost of participating in relevant programme meetings.<sup>300</sup>

For the ESF, the ECCP requires that MS dedicate programme resources to building the institutional capacity of *'social partners and non-governmental organisations'* involved in programme activities in less developed and transitional regions.<sup>301</sup>

### ii. Responsibilities of the EC

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<sup>294</sup> The proposed CPR (Article 35) requires 'all data and information shared with Monitoring Committees' to be published on national web portals for shared management funds.

<sup>295</sup> Article 11 ECCP

<sup>296</sup> Article 14 ECCP

<sup>297</sup> Article 16(1) ECCP

<sup>298</sup> Article 16(2) ECCP

<sup>299</sup> Article 17(1) ECCP

<sup>300</sup> Article 17(2) ECCP

<sup>301</sup> Article 17(4) ECCP

The ECCP tasked the EC with establishing a Community of Practice on Partnership covering all European Structural & Investment (ESI) funds. This structure was to be open to interested MS, Managing Authorities and organisations representing partners at the European level, and its main activities were to facilitate the exchange of experience, capacity building, and the dissemination of relevant outcomes.<sup>302</sup> The EC is also responsible for making available examples of good practice on the organization of partnership, drawn from MS programmes.<sup>303</sup>

In 2016, the EC established the [Thematic Network on Partnership](#), along with eight other thematic Networks on other aspects of the ESF, with Estonia and Ireland as its lead Member States. The EC also published a collection of good practices in partnership from MS during the 2007-13 programming period, to accompany the publication of the then new ECCP.<sup>304</sup>

The proposed CPR introduces a new requirement for the EC to consult organisations representing partners at the European level on the implementation of programmes at least once per year.<sup>305</sup>

## ADDITIONAL ANALYSIS

### a. Code of Conduct

Although the ECCP is newly applicable to the proposed AMF and ISF and governs the partnership arrangements for the new reporting and monitoring provisions set out in the proposed new CPR, the EC has not indicated that it will be amended prior to the next programming period. This results in several inconsistencies in terminology and references to specific Funds and programmes between the texts of the ECCP and the proposed CPR, particularly in terms of the involvement of MC in programme reporting and reviews.

### b. Partner involvement in the preparation of PAs and NPs

The ECCP requires MS to 'provide for the Partnership Agreement' information on their partners, how their participation in the preparation of the PA was facilitated, the consultation outcomes, and the added value of the involvement of partners in the final PA document.<sup>306</sup> However, the Partnership Agreement template provided in the proposed CPR<sup>307</sup> does not include a space to enter this information, and neither the ECCP nor the proposed CPR specify by when the MS should provide this information, in what format, to whom, and through which publication channels.

### c. Partner involvement in annual performance reports

The ECCP specifies the involvement of partners in the preparation of annual performance reports.<sup>308</sup> Although this provision would apply to the annual performance reports MS are required to submit for the proposed AMF and ISF, in the proposed ERDF and ESF+ annual implementation reports are replaced by an 'annual structured policy dialogue'.<sup>309</sup> The ECCP does not mention annual policy dialogues, and provides for

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<sup>302</sup> Recital 10 & Article 18(1) ECCP

<sup>303</sup> Recital 12 & Article 18(2) ECCP

<sup>304</sup> European Commission (January 2018) *The European code of conduct on partnership in the framework of the European Structural and Investment Funds*

<sup>305</sup> Article 6(4) CPR

<sup>306</sup> Article 7 ECCP

<sup>307</sup> The template Partnership Agreement is included as Annex II to the proposed CPR

<sup>308</sup> Article 14 ECCP

<sup>309</sup> Recital 27 CPR

much less specific partner input into the formulation of the conclusions of performance reviews in the context of the overall role of MCs in assessing programme performance.<sup>310</sup>

#### d. Consultation

While the CPR introduces a new requirement for the EC to consult organisations representing partners at the European level on the implementation of programmes at least once per year,<sup>311</sup> it does not further define the scope, format, or purpose of this consultation.

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<sup>310</sup> Article 15 *ECCP*

<sup>311</sup> Article 6(4) *CPR*

## 13. COMMUNICATION & TRANSPARENCY

### OVERVIEW OF THE NEW PROPOSALS

#### a. General principles and provisions

The rules and requirements for communicating information relating to the shared management Funds and their implementation are included in the CPR.

The proposed Regulation considers it essential that achievements facilitated by the Union are '*visible on the ground*', and that this visibility is '*based on true, updated and accurate information*'. It tasks '*programme authorities, beneficiaries and stakeholders*' in MS with '*rais(ing) awareness of the achievements of Union funding and inform(ing) the general public accordingly*'.<sup>312</sup>

To make communication requirements enforceable, the proposed Regulation also introduces the possibility of both the EC and MS programme authorities '*apply(ing) remedial measures in cases of non-compliance*'.<sup>313</sup> This is one of only three instances in which remedial measures for non-compliance have been specifically highlighted in the proposed Regulation, together with auditing irregularities and a failure to ensure fulfilment of enabling conditions.

NPs for all shared management funds are required to include details of '*the envisaged approach to communication and visibility for the programme*'.<sup>314</sup> All MS must appoint a Communications Coordinator responsible for coordinating communications and visibility activities across all shared management programmes, who must also involve both EC representatives and programme partners in their work. MS must also appoint a Programme Communications Officer for each specific Fund.<sup>315</sup>

The EC will operate a network involving all of the Communications Coordinators, Programme Communications Officers, and EC representatives, in order to '*exchange information on visibility, transparency and communication activities*'.<sup>316</sup>

MS must ensure that the exchange of information between programme beneficiaries and authorities takes place via an '*electronic data exchange system*', the specification for which is annexed to the CPR.<sup>317</sup> This requirement applies to the proposed AMF only from 1 January 2023.<sup>318</sup>

#### b. Responsibilities of MS

##### i. National websites

MS must ensure '*communication to Union citizens of the role and achievements of the Funds through a single website portal*' by providing access to information regarding all shared management programmes implemented in that MS.<sup>319</sup> Websites must be established within six months of NPs being approved.<sup>320</sup>

The proposed Regulation specifies a number of documents and types of information that must be published on MS websites:

- Summary of planned and published Calls for Proposals.<sup>321</sup>

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<sup>312</sup> Recital 31 CPR

<sup>313</sup> Recital 31 CPR

<sup>314</sup> Article 17(3)i CPR

<sup>315</sup> Article 43(1-2) CPR

<sup>316</sup> Article 43(3) CPR

<sup>317</sup> Annex XII CPR

<sup>318</sup> Article 63(7) CPR

<sup>319</sup> Article 41(b) CPR

<sup>320</sup> Article 44(1) CPR

<sup>321</sup> Article 44(2) CPR

- List of operations selected for support under the Funds.<sup>322</sup>
- Rules and procedures for Monitoring Committee(s).<sup>323</sup>
- Membership of Monitoring Committee(s).<sup>324</sup>
- Performance data transmitted to the EC six times per year.<sup>325</sup>
- Final performance reports (ESF+ and ERDF).<sup>326</sup>
- Evaluations.<sup>327</sup>
- All data and information is shared with Monitoring Committees (including, though not limited to, methodology and criteria for project selection, AMF annual performance reports, evaluation plans, and proposals for the amendment of NPs).<sup>328</sup>

## ii. Calls for Proposals

Information on Calls for Proposals must be included in the summary of planned and published calls a minimum of one month before the call is opened. The summary must include:

- Geographical area covered by the call.
- Policy/specific objective concerned.
- Eligible applicant type(s).
- Total amount of support for the call.
- Start and end date of the call.<sup>329</sup>

## iii. Information on selected operations

MS Managing Authorities must publish a list of operations selected for support by the Funds on their national websites, and must update that list at least every three months.<sup>330</sup> Information on the operations selected for support must include:

- Beneficiary name.
- Project name.
- Project purpose and its achievements.
- Project start date and expected/actual date of completion.
- Total cost of the operation.
- Fund concerned.
- Specific objective concerned.
- Union co-financing rate (to be removed from the website two years following publication).<sup>331</sup>

The list of operations is required to be published in an '*open, machine-readable format*' that enables the data to be '*sorted, searched, extracted, composed and reused*'.<sup>332</sup>

## c. Responsibilities of beneficiaries

Beneficiary organisations must acknowledge the support provided by the Funds by:

- Publishing a short project description 'proportionate to the level of support' on organisational websites and/or social media pages: including their aims and results, in addition to highlighting Union financial support.
- Including a statement highlighting Union financial support on all project documents and materials.
- Displaying plaques and billboards (ERDF projects over €500,000; ESF+ and AMF projects over €100,000).<sup>333</sup>

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<sup>322</sup> Article 44(3) CPR

<sup>323</sup> Article 33(4) CPR

<sup>324</sup> Article 34(1) CPR

<sup>325</sup> Article 37(5) CPR

<sup>326</sup> Article 38(4) CPR

<sup>327</sup> Article 39(7) CPR

<sup>328</sup> Article 35 CPR

<sup>329</sup> Article 44(2) CPR

<sup>330</sup> Article 44(3) CPR

<sup>331</sup> Article 44(3) CPR

<sup>332</sup> Article 44(3) CPR

<sup>333</sup> Article 45(1) CPR

MS can cancel up to 5% of the total support provided to a project where it judges that the beneficiary has not complied with the above requirements.<sup>334</sup>

## COMPARISON WITH THE CURRENT AMIF

### a. Transparency

When compared to the current AMIF, the new proposals make far broader provisions for the transparency of information relating to the national implementation of shared management funds, albeit with some omissions in terms of the publication of core programme documents.

There is no specific requirement to publish NP documents, as is included in the current AMIF.<sup>335</sup> It might reasonably be assumed that Monitoring Committees would be supplied with NP documents, in line with the requirement for MS Managing Authorities to provide 'all information necessary to carry out (their) tasks',<sup>336</sup> and that NP documents would therefore be published as part of the requirements for content hosted on websites as listed above. Applying the same clarity regarding the publication of NP documents as the proposed Regulation affords to other programme documents would, however, be useful in ensuring their uniform availability in all MS.

Additionally, Partnership Agreements, Management Declarations and the outcomes of annual performance reviews are not required to be published or submitted to Monitoring Committees.

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<sup>334</sup> Article 45(3) CPR

<sup>335</sup> Article 53 AMIF Regulation 514/2014

<sup>336</sup> Article 69(a) CPR

### a. National websites

Aside from the time limits for Calls for Proposals (one month before opening) and the lists of selected operations (every three months), the proposed CPR does not specify the time limits for when websites should be updated, either as part of a general cycle or within a minimum period following the amending of specific information, such as the membership of Monitoring Committees for example.

### b. Calls for Proposals

Aside from the basic requirements set out above, the proposed CPR does not make any further provisions for Calls for Proposals, such as, for example, the minimum periods during which calls must remain open for applications, or the availability of technical assistance from MS Managing Authorities. While the criteria and methodologies employed in the selection of projects must be approved by MCs,<sup>337</sup> it is not yet clear if this will include these and other communications and assistance-based aspects of Calls for Proposals.

### c. Selected operations

The list of operations is required to be published in an 'open, machine-readable format' that enables the data to be 'sorted, searched, extracted, composed and reused',<sup>338</sup> an extremely useful provision for making the usage of support from the Funds more transparent at the national level, and comparable across the implementing MS.

However, sources of co-financing contributions and the type of beneficiary organisation – also useful for analysing implementation within and across MS – are not required to be included. There is also no specific justification provided regarding the requirement to remove information on the Union co-financing rate two years following publication.<sup>339</sup>

### d. Remedial measures for non-compliance with the communication requirements by beneficiary organisations

A MS can cancel up to 5% of the total support provided to a project whenever it judges that a beneficiary has not complied with the requirements to publicise Union funding.<sup>340</sup> This provision is not accompanied by a specific process regarding the determination of either MS decision-making on non-compliance, or the redressing of a beneficiary when a substantial portion of an individual project's budget has been cancelled. The new proposals also do not include a corresponding financial correction measure for the EC to make use of in cases of MS non-compliance.

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<sup>337</sup> Article 35(2) CPR

<sup>338</sup> Article 44(3) CPR

<sup>339</sup> Article 44(3)k CPR

<sup>340</sup> Article 45(3) CPR



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