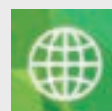


Special Report

**The External Borders
Fund has fostered
financial solidarity
but requires better
measurement of results
and needs to provide
further EU added value**



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Special Report

The External Borders Fund has fostered financial solidarity but requires better measurement of results and needs to provide further EU added value

(pursuant to Article 287(4), second subparagraph, TFEU)

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Annex — Audited projects

Reply of the Commission

annual programme: A Member State's work programme implementing its multiannual programme.

Community actions: EBF co-financed projects which support cooperation between Member States. Project themes are defined in the Commission's annual work programme and call for proposals. Community actions are directly managed by the Commission and implemented by Member States.

DG Home Affairs: The directorate-general (DG) of the European Commission in charge of the policy area known as 'home affairs'.

emergency actions: EBF co-financed projects to support Member States in duly substantiated emergency situations requiring urgent action at external borders. Emergency actions are directly managed by the Commission and implemented by Member States.

EMSA: The European Maritime Safety Agency supports the European Commission and Member States in the development and implementation of EU legislation on maritime safety, pollution by ships and maritime security. It has also been given operational tasks in the field of oil pollution response, vessel monitoring and in long range identification and tracking of vessels.

EU added value: The value which the EBF creates which is additional to that which would otherwise have been created by Member States acting alone. This includes financial solidarity whereby Member States who bear, for the benefit of the EU, a heavier financial burden receive more funding. EU added value is further generated by supporting specific EU priorities, cooperation between Member States or targeting the most urgent problems i.e. the most threatened border areas.

eu-LISA: European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice.

Eurosur: The European Border Surveillance System provides a platform for information exchange and cooperation between Member States' border control authorities, as well as with Frontex.

EUSatCen: The European Union Satellite Centre is an EU agency in the area of defence and security supporting decision-making of the European Union by providing analysis of satellite imagery and other data.

Frontex: European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. Frontex coordinates Member States operations at border areas under significant migratory pressure, performs risk analysis and supports border guard training.

Internal Security Fund (ISF) Borders and Visas: The ISF Borders and Visas was established for the period 2014–20 and incorporates the EBF.

management and control system: Set of procedures and practical arrangements for a Member State to implement the SOLID Funds.

SMART objectives: Objectives which are SMART are specific, measurable, achievable, relevant and timely.

Schengen *acquis*: The common set of Schengen rules to be applied by Schengen states, including control at land, sea and air borders (airports), issuing of visas, police cooperation and protection of personal data.

Schengen area: An area consisting of 26 European countries that have abolished passport and immigration controls at their common borders. It consists of 22 EU Member States and the four member countries of the European Free Trade Association (EFTA).

Schengen Catalogue on External borders control, Return and readmission: Issued by the Council of the European Union, this contains recommendations and best practices in order to assist both Schengen Member States and Schengen Acceding States to apply the Schengen *acquis* correctly.

Schengen evaluations: Verifications carried out by the Council, checking whether the Schengen *acquis* is correctly applied. Following the adoption of Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, the Commission will henceforth take the lead role.

Schengen information system (SIS II): A large-scale IT system that is used by border guards as well as by police, customs, visa and judicial authorities throughout the Schengen area to exchange data such as information on persons who may have been involved in a serious crime or may not have the right to enter or stay in the EU.

SOLID programme: The 'General programme on solidarity and management of migration flows for the period 2007–13', consisting of four funds (European Fund for the Integration of Third-country Nationals, European Refugee Fund, European Return Fund and External Borders Fund). In this report the term 'fund' is used to refer to the External Borders Fund.

specific actions: Based on an annual work programme and directly managed by the Commission, specific actions should contribute to the development of the European integrated border management system by addressing weaknesses at strategic border points identified in a Frontex risk analysis.

visa information system (VIS): A large-scale IT system that allows Schengen states to exchange visa data.

I

The External Borders Fund (EBF) is the main EU financial instrument in support of external border management, amounting to 1,9 billion euro for the 2007–13 period. The EBF's overall aim is to help current and prospective Schengen states to ensure uniform, effective and efficient controls at their common external borders.

II

The Court's audit focused on processes related to the EBF's effectiveness, EU added value and the achievement of the objectives of programmes and projects. It examined the design, programming and implementation, as well as the monitoring and evaluation.

III

The audit showed that the EBF has contributed to external border management and that it has fostered financial solidarity. However, further EU added value was limited and the overall result could not be measured due to weaknesses in the responsible authorities' monitoring and serious deficiencies in the *ex post* evaluations by the Commission and the Member States.

IV

Member States' programmes were not embedded in national strategies for border control and visas and lacked SMART objectives and measurable indicators. Project selection procedures did not ensure that the actual needs of the Member States were met and inadequate procurement procedures in Member States put sound financial management at risk.

V

The audit found serious weaknesses in management of the fund in key Member States (Greece, Spain, Italy and, for the early funding years, Malta). Low implementation in some countries limited the fund's effectiveness. These weaknesses lead to the risk that border management is not adequately strengthened where it is most needed.

VI

The Court focuses its recommendation in four areas.

(a) Ensuring the availability of information on overall results

Member States should set measurable targets for output, outcome and, where possible, impact indicators and indicators should be recorded from the start of the programme using appropriate IT systems. The Commission should ensure that its evaluation report presents stakeholders with an informed and timely analysis of underlying data.

(b) Increasing the EU added value of the fund

The Commission should provide Frontex with relevant, comprehensive and timely information regarding implementation of the EBF, the Internal Security Fund and subsequent instruments. The recording of co-financed assets in Frontex's equipment pool should be made obligatory for those assets which might be useful to its needs. Furthermore, Member States and the Commission should concentrate more on establishing common application centres and other forms of consular cooperation rather than the renovation, adaptation or equipping of consulates.

(c) Embedding the EBF in a national strategy for border management

Member States should develop comprehensive national strategies on border management based on a risk analysis following the common integrated risk analysis model and this should be an *ex ante* condition to receive support from the Internal Security Fund or subsequent instruments.

(d) Strengthening the implementation of the fund

Administrative capacity, including in respect of procurement, should be strengthened, particularly in key Member States.

The External Borders Fund

01

The External Borders Fund (EBF) is the main European Union (EU) financial instrument in support of external border management, amounting to 1,9 billion euro for the 2007–13 period¹. Its overall aim is to help current and prospective Schengen states to ensure uniform, effective and efficient controls at the external borders of the Member States of the European Union.

02

Within the Schengen area, internal controls have been abolished with the consequence that external border security of any one state affects all of the others. Due to the countries' differing geographical situations, the responsibilities for border controls vary considerably. The EBF aims to establish financial solidarity between Member States² by supporting those for which the control of the EU's external borders represents a heavy burden.

03

There are currently 28 Member States implementing the EBF (see **Figure 1**). All EU Member States except for the Ireland, Croatia, and UK participate in the EBF³.

04

The general aims of the EBF are to support:

- (a) the efficient organisation of border controls;
- (b) the efficient management of the flows of persons at the external borders, in conformity with the Schengen *acquis* and the principles of respectful treatment and dignity;
- (c) the uniform application of the relevant EU legislation; and
- (d) the improvement of Member States' consular services in third countries as regards the flows of third-country nationals into the territory of the Member States and the cooperation between Member States in this regard.

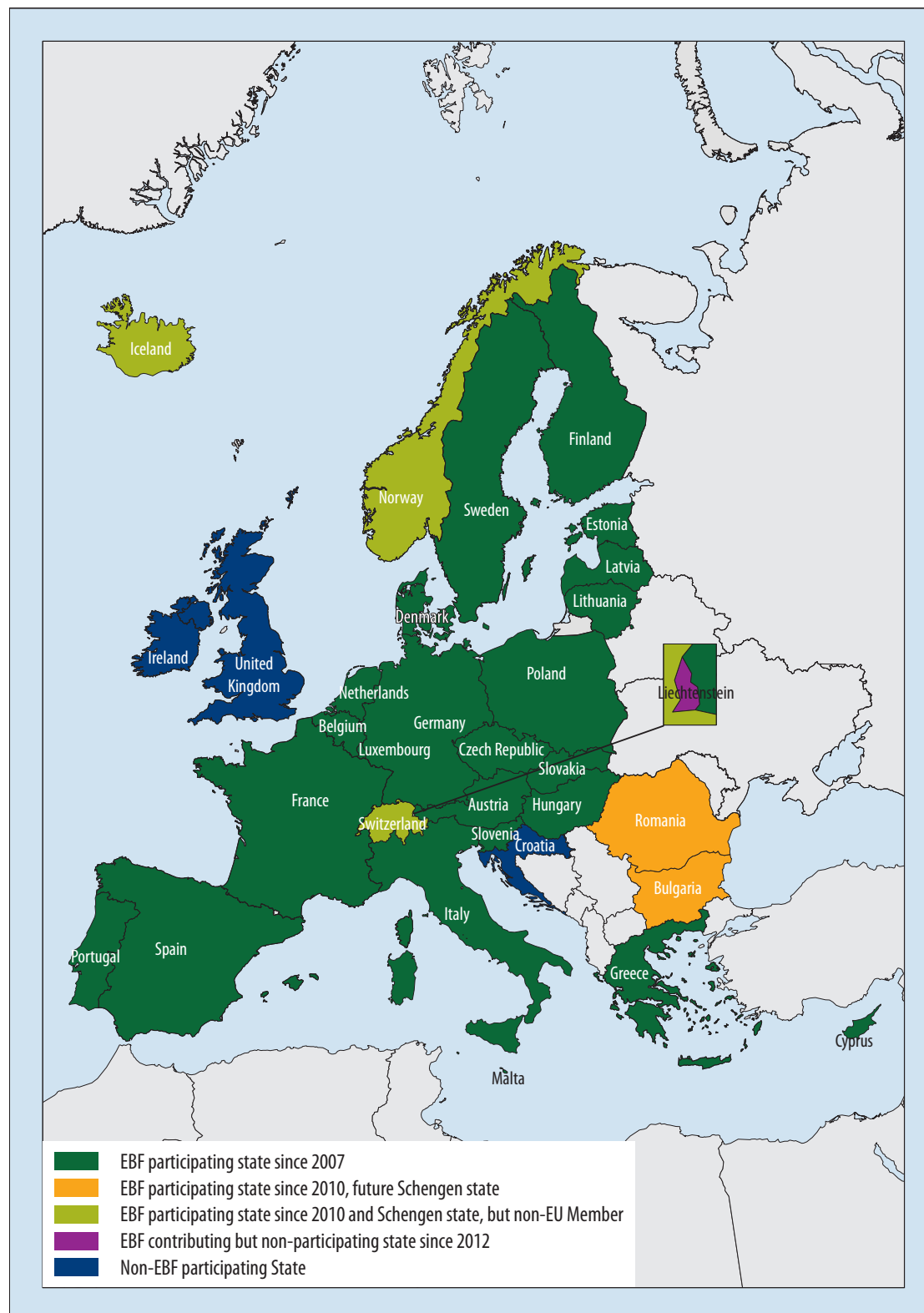
05

The EBF's contribution to external border management is to be achieved by focusing on five priorities (**Figure 2**). These have been defined by the Commission in the 'strategic guidelines'⁴. Member States have to address at least three of them in their EBF multiannual programmes. Within each of the five priorities, the Commission has identified a number of areas with particular importance to the EU ('specific priorities') and for which the Member States can receive a higher EBF co-financing rate (see paragraph 9).

- 1 Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the general programme 'Solidarity and management of migration flows' (OJ L 144, 6.6.2007, p. 22).
- 2 Based on established practice in this area the term 'Member States' in this report is used to mean the countries participating in the EBF, regardless of whether they are EU Member States or associated states.
- 3 Bulgaria and Romania have participated since 2010, as have three associated states (Iceland, Norway and Switzerland). Liechtenstein has paid a contribution to the fund since 2012 but waived the right to participate due to its lack of external borders and consulates.
- 4 Commission Decision 2007/599/EC of 27 August 2007 implementing Decision No 574/2007/EC as regards the adoption of strategic guidelines for 2007 to 2013 (OJ L 233, 5.9.2007, p. 3).

Figure 1

Countries participating in the EBF



Source: European Court of Auditors.

Figure 2

EBF priorities and specific priorities

| Priorities | Specific priorities |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Priority 1 Support for the further gradual establishment of the common integrated border management system as regards the checks on persons at and the surveillance of the external borders | <ul style="list-style-type: none"> • upgrading of the national communication systems to make them interoperable with other Member States • purchase/upgrading of interoperable equipment taking into account the results of the common integrated risk analysis • purchase/upgrading of equipment to contribute to Frontex operations |
| Priority 2 Development and implementation of the national components of a European Surveillance System for the external borders and of a permanent European Patrol Network at the southern maritime borders of the EU | <ul style="list-style-type: none"> • establishing/upgrading a national coordination centre coordinating all national authorities carrying out external border control tasks • establishing/upgrading a single national surveillance system of the external border • purchase/upgrading of equipment for detection, identification and intervention at the borders provided the need has been clearly identified at European level |
| Priority 3 Issuing of visas and tackling of illegal immigration by enhancing Member States' consular and other services in third countries | <ul style="list-style-type: none"> • promoting cooperation between consular services within and between Member States in the visa field • developing and establishing limited representation, co-location or common visa application centres for reception and processing of visa applications |
| Priority 4 Establishing IT systems required to implement the EU border and visa legislation | <ul style="list-style-type: none"> • investments linked to the Schengen Information System (SIS) • investments linked to the Visa Information System (VIS) |
| Priority 5 Effective and efficient application of relevant EU legal instruments in the field of external borders and visas | <ul style="list-style-type: none"> • implementing the common core curriculum for border guards' training at national level • enhancing the quality of the national input into the common integrated risk analysis model |

Source: Based on Commission Decision 2007/599/EC.

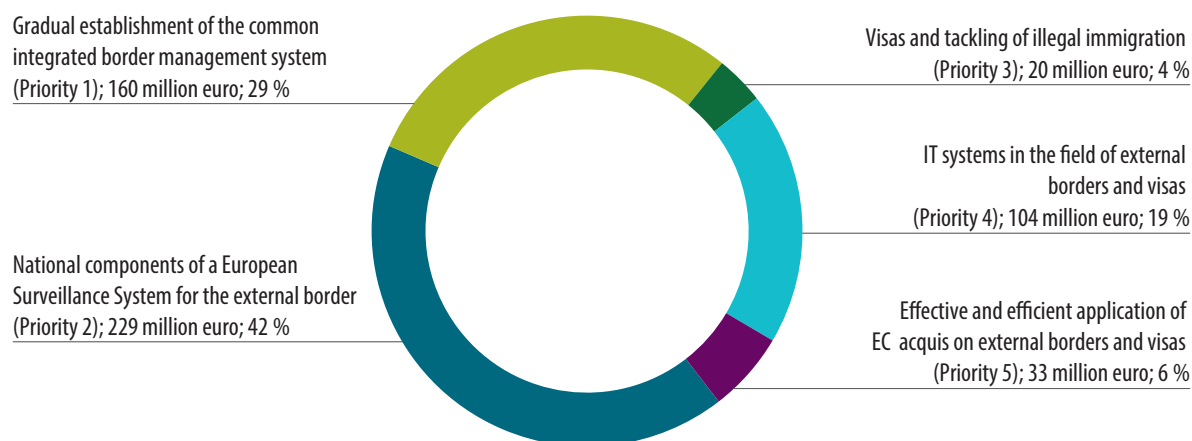
06

Expenditure by priority for 2007–10 is shown in **Figure 3**. Based on the Member States' plans for 2011–13, the allocation for priority 1 is expected to increase to 37 % while the allocation for priority 2 is expected to decrease to 36 %, the other priorities remaining stable.

07

The measures funded by the EBF include investment in infrastructure at border crossing points, purchase of equipment for intervention at borders (such as vehicles, boats and aircraft), cooperation initiatives in the field of consular services, investment in the Schengen information system (SIS) and visa information system (VIS), staff training, pilot projects and studies.

Figure 3

EBF expenditure annual programmes 2007–10 per priority¹

¹ The latest available final expenditure data concern the annual programme 2010. Due to the 2,5 year eligibility period, funds from this annual programme could be spent up until the end of June 2012 and had to be subsequently verified by Member States and the Commission. Reports on later annual programmes have not been finalised yet.

Source: European Commission.

08

Under the EBF 7,3 % has been set aside for Community actions, which mainly support cooperation between Member States, emergency actions (as part of the Community actions) and specific actions which address weaknesses at strategic border points.

09

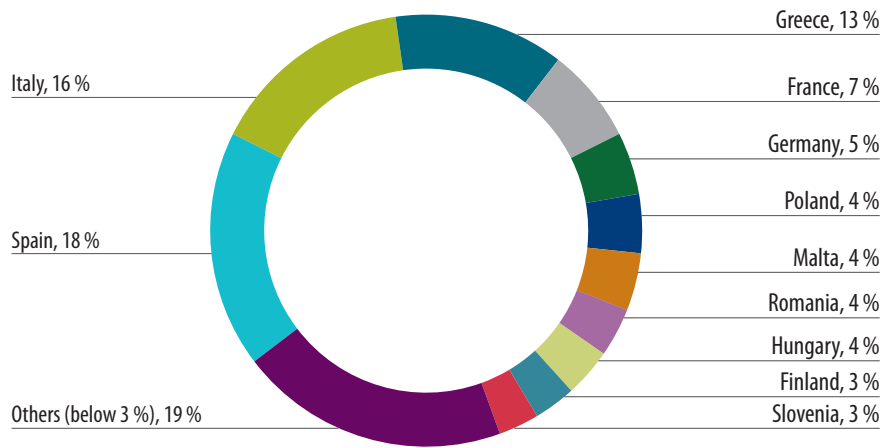
The EBF's basic contribution is 50 % of the total cost of actions or 75 % for actions in Cohesion Fund countries or in 'specific priority' areas, rising to 80 % for specific actions and 90 % for Community and emergency actions.

10

Table 1 shows the allocations to national programmes, per Member State, and to Community, emergency and specific actions. The share of the biggest EBF recipients is illustrated in **Figure 4**.

Figure 4

Member States' share of EBF allocations



Source: European Commission.

Table 1

EBF allocations from 2007 to 2013

| | Allocations 2007–13 in euro | Share of total |
|-----------------------------------------------|-----------------------------|-----------------|
| Spain | 289 394 768 | 17,92 % |
| Italy | 250 178 433 | 15,49 % |
| Greece | 207 816 755 | 12,87 % |
| France | 116 220 276 | 7,20 % |
| Germany | 76 099 991 | 4,71 % |
| Poland | 71 787 665 | 4,45 % |
| Malta | 70 441 716 | 4,36 % |
| Romania ¹ | 59 467 068 | 3,68 % |
| Hungary | 59 295 401 | 3,67 % |
| Finland | 51 264 631 | 3,18 % |
| Slovenia | 49 532 286 | 3,07 % |
| Bulgaria ¹ | 38 131 686 | 2,36 % |
| Netherlands | 38 035 209 | 2,36 % |
| Lithuania ² | 31 674 480 | 1,96 % |
| Cyprus | 30 017 404 | 1,86 % |
| Estonia | 27 129 191 | 1,68 % |
| Portugal | 23 948 902 | 1,48 % |
| Belgium | 19 944 180 | 1,24 % |
| Switzerland ¹ | 17 677 832 | 1,09 % |
| Latvia | 16 830 844 | 1,04 % |
| Czech Republic | 15 853 542 | 0,98 % |
| Austria | 13 875 936 | 0,86 % |
| Norway ¹ | 11 479 299 | 0,71 % |
| Sweden | 10 887 663 | 0,67 % |
| Slovakia | 8 675 910 | 0,54 % |
| Denmark | 7 874 409 | 0,49 % |
| Luxembourg | 598 220 | 0,04 % |
| Iceland ¹ | 444 240 | 0,03 % |
| Total | 1 614 577 936 | 100,00 % |
| Community/emergency actions | 91 214 322 | |
| Specific actions | 45 000 000 | |
| Special transit scheme Lithuania ² | 108 000 000 | |
| Commission technical assistance | 2 794 774 | |
| EBF total | 1 861 587 032 | |

1 Bulgaria, Iceland, Norway, Romania and Switzerland have participated in the EBF since 2010.

2 The allocation shown for Lithuania does not include the special transit scheme (STS). The STS is related to fees foregone and additional costs incurred due to the crossing of citizens of Russia to and from Kaliningrad region and amounts to 15 million euro annually for 2007–10 and 16 million euro for 2011–13.

Source: European Commission.

The EBF in context

11

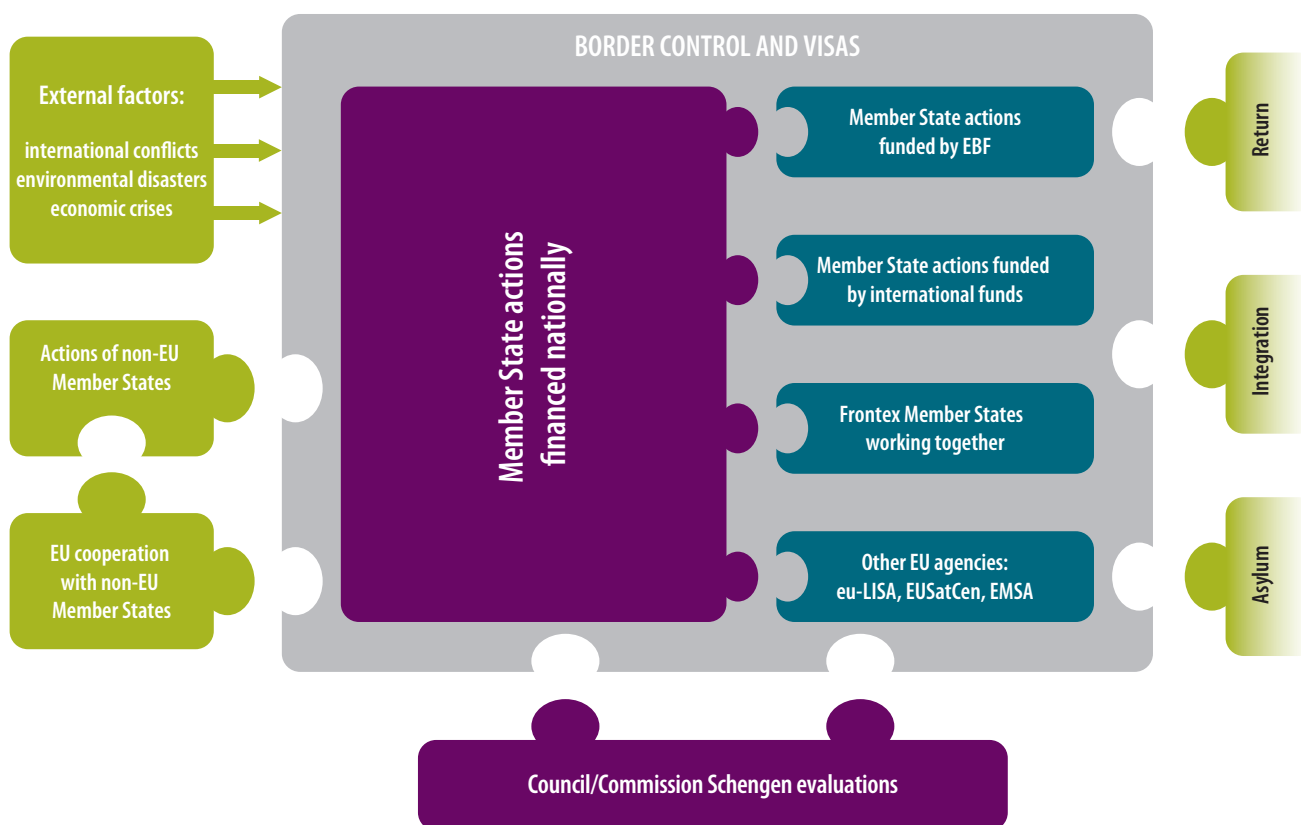
Most expenditure related to external border management is funded nationally⁵. Member States are responsible for the management of their external borders, applying the common rules established in the Schengen *acquis*.

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) coordinates cooperation between Member States and provides risk analyses and training. Thus the EBF is one piece of the jigsaw in the area of external border management (see **Figure 5**).

- 5 Complete and reliable information on Member States' national expenditure on external border management is not available.

Figure 5

Stakeholders and influences in the area of border management and visas



Source: ECA.

12

The EBF is part of the 'General programme on solidarity and management of migration flows for the period 2007–13' (SOLID programme) managed by DG Home Affairs. The SOLID programme is designed to improve the management of migratory flows at EU level and to help share the financial burden resulting from the integrated management of common external borders and implementation of common policies on immigration and asylum⁶.

13

External factors, such as the recent upheavals in north Africa, together with ongoing political and economic crises in other parts of the world, have resulted in massive migrant streams which have put considerable pressure on the EU's external borders. Search and rescue operations are not among the EBF's priorities, however in the course of border surveillance patrols EBF co-financed equipment can be (and has been) used for saving lives at sea.

Roles and responsibilities

14

The EBF is mainly implemented through shared management⁷. According to this principle, the Member States are responsible for the implementation (operational and financial) of the funded actions while the Commission remains responsible for overall budget execution. The Commission adopts strategic guidelines setting out the EU programming framework. Each participating Member State prepares a multiannual programme applying these strategic guidelines on the basis of its own needs.

15

The multiannual programme is implemented through annual programmes. Both are subject to the Commission's approval. Member States submit final reports after the completion of each annual programme.

16

The Commission is also responsible for ensuring that the Member States have set up adequate management and control systems, that appropriate information, publicity and follow-up is provided for the funded projects and that actions are consistent with, and complementary to, other relevant Union policies and initiatives.

6 Other elements of the SOLID programme are the European Refugee Fund (ERF); the European Fund for the integration of third-country nationals (EIF) and the European Return Fund. The EIF and ERF featured in the Court's Special Report No 22/2012 'Do the European Integration Fund and European Refugee Fund contribute effectively to the integration of third-country nationals?' (<http://eca.europa.eu>).

7 7,3% of the fund has been managed directly by the Commission. The directly managed parts of the EBF include the Community actions, (including emergency actions) and specific actions.

17

Member States' implementation is monitored by the Commission through desk reviews of management and control systems descriptions and of progress and final reports and by audit and monitoring visits.

18

At Member State level, the management and control system comprises the following⁸.

- (a) The responsible authority (RA), responsible for managing and implementing the multiannual programme. In particular, it submits multiannual and annual programmes to the Commission, selects operations and verifies the eligibility of the expenditure claimed by the final beneficiaries⁹.
- (b) The audit authority (AA) performs audits to verify the functioning of the management and control systems¹⁰.
- (c) The certifying authority (CA) certifies that the expenditure declared complies with the applicable rules¹¹.

19

The national co-financing can be subject to national control and audit depending on the Member State's administrative procedures.

- 8 The Court's Special Report No 22/2012 found that the three-authorities structure led to disproportionate administrative burden. For the 2014–20 justice and home affairs funds the Commission proposed to abolish the certifying authority.
- 9 Articles 28 and 29 of Decision No 574/2007/EC.
- 10 Article 32 of Decision No 574/2007/EC.
- 11 Article 31 of Decision No 574/2007/EC.

Audit scope and approach

16

20

The main audit question was to assess whether the EBF has contributed effectively to external border management. This has been broken down into the following sub-questions.

- (a) Have the programmes and projects effectively supported the EBF's priorities in external border management?
- (b) Has the EBF provided financial solidarity between Member States and addressed the fund's specific priorities, and thereby delivered EU added value?
- (c) Have the EBF's programming and implementation procedures contributed to the fund's effectiveness?
- (d) Are the Member States and the Commission using monitoring and evaluation appropriately to improve the effectiveness of the EBF?

21

The audit covered:

- (a) the shared management parts of the EBF managed and implemented by Member States; and
- (b) the Community actions (including emergency actions) and specific actions directly managed by the Commission and implemented by Member States.

22

The audit focused on processes related to the EBF's effectiveness, EU added value and the achievement of the objectives of projects and programmes. It sought to examine the design, programming and implementation as well as the monitoring and evaluation of EBF-funded measures. The audit did not perform a detailed analysis of the management and control systems in the Member States¹², nor did it undertake a direct measurement of impact achieved through EBF-funded measures, but based its assessment on monitoring and evaluation data from Member States and the Commission.

23

The audit was based on;

- (a) a documentary review of the multi-annual and annual programmes' final reports (covering the 2007–10 programmes) and contributions to the evaluations of five selected Member States¹³, Commission reports on the allocation of resources, the Commission's intermediate report on results achieved and its draft *ex post* evaluation; Council documents and selected Frontex studies and documents;
- (b) interviews and the collection of information on the spot at the level of the Commission, the responsible authorities and final beneficiaries in the five selected Member States; interviews were also conducted with other stakeholders, such as the Council in the case of the Schengen evaluations¹⁴, Frontex and the EU Agency for Fundamental Rights;

12 The management and control system of SOLID funds featured in Special Report No 22/2012.

13 Greece, Spain, Italy, Malta and Poland. The selection of Member States was based on the EBF allocation; a risk assessment based on information from Commission audits and monitoring reports as well as information from Frontex; and the need for a balance between the main external border risk areas in the Mediterranean and the eastern border, since around 60% of the EBF goes to the southern border (Mediterranean and Spain's Canary Islands) and approximately 25% to the eastern border. Together the selected Member States represent 55% of the total EBF allocation.

14 The Schengen evaluations are verifications that the Schengen rules are correctly applied by current and future Schengen states. The Schengen evaluations were carried out by the Council as an intergovernmental process. Based on the adoption of Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a standing committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27), the Commission will take the lead role.

Audit scope and approach

- (c) on-the-spot visits to 31 completed projects in the selected Member States based on a judgmental (non-random) sample (see **Annex**) covering annual programmes from 2007 to 2010;
- (d) a desk review of seven completed projects¹⁵ directly managed by the Commission based on a judgmental (non-random) sample covering annual work programmes from 2007 to 2011 (see **Annex**);
- (e) a separate audit¹⁶ that took place in one of the selected Member States (Spain) that touched on the EBF.

24

The audit was carried out against the background of the Commission's proposals for the 2014–20 funding period, which will create the Internal Security Fund as a successor to the EBF¹⁷, providing for financial support for the management of external borders and visas. The proposals will involve changes in both content and the management and control system. Where relevant, these proposals were taken into account in this audit.

15 Three emergency action projects, two other Community action projects, two specific action projects.

16 In the framework of the Court's 2013 statement of assurance.

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

25

The Court presents its main audit findings in four sections. The first section shows that the EBF has contributed to external border management but the overall result could not be measured. The second section focuses on the EBF fostering financial solidarity and its EU added value. Programming and implementation are discussed in the third section. Finally, monitoring and evaluation are dealt with in the fourth section.

The EBF has contributed to external border management, but the overall result could not be measured and low implementation in some Member States limits impact

Programmes and projects geared towards the EBF's priorities but the overall result could not be measured

26

Multiannual programmes and annual programmes in the five selected Member States were generally in line with, and contributed to, all five EBF priorities (**Figure 2**). However, given the weaknesses in the monitoring in these Member States and serious deficiencies in the *ex post* evaluations (see paragraphs 71 to 73) at both Member State and Commission level, it was not possible for the Court to make an adequate assessment of the fund's overall achievements.

27

Most audited projects supported the achievement of the EBF's priorities. Out of 31 projects audited on the spot (see **Annex**) in the five selected Member States, five supported the EBF priorities only partially (because they included project expenditure which was ineligible¹⁸ or relevance of that expenditure to the EBF could not be determined)¹⁹. One further project's²⁰ contribution to achieving the priorities went against the EBF's aims²¹ by not complying with the principle of respectful treatment and dignity (see paragraph 60).

28

Most projects achieved their intended output but measurable targets and indicators were not set (see paragraphs 52 to 54) and reports did not adequately demonstrate the outcome and impact achieved (see **Figure 6** for examples of output, outcome and impact indicators).

18 A proposal for fuel vouchers was accepted by the Commission although contrary to the guidelines issued to Member States at the time. These guidelines were amended retrospectively in 2012.

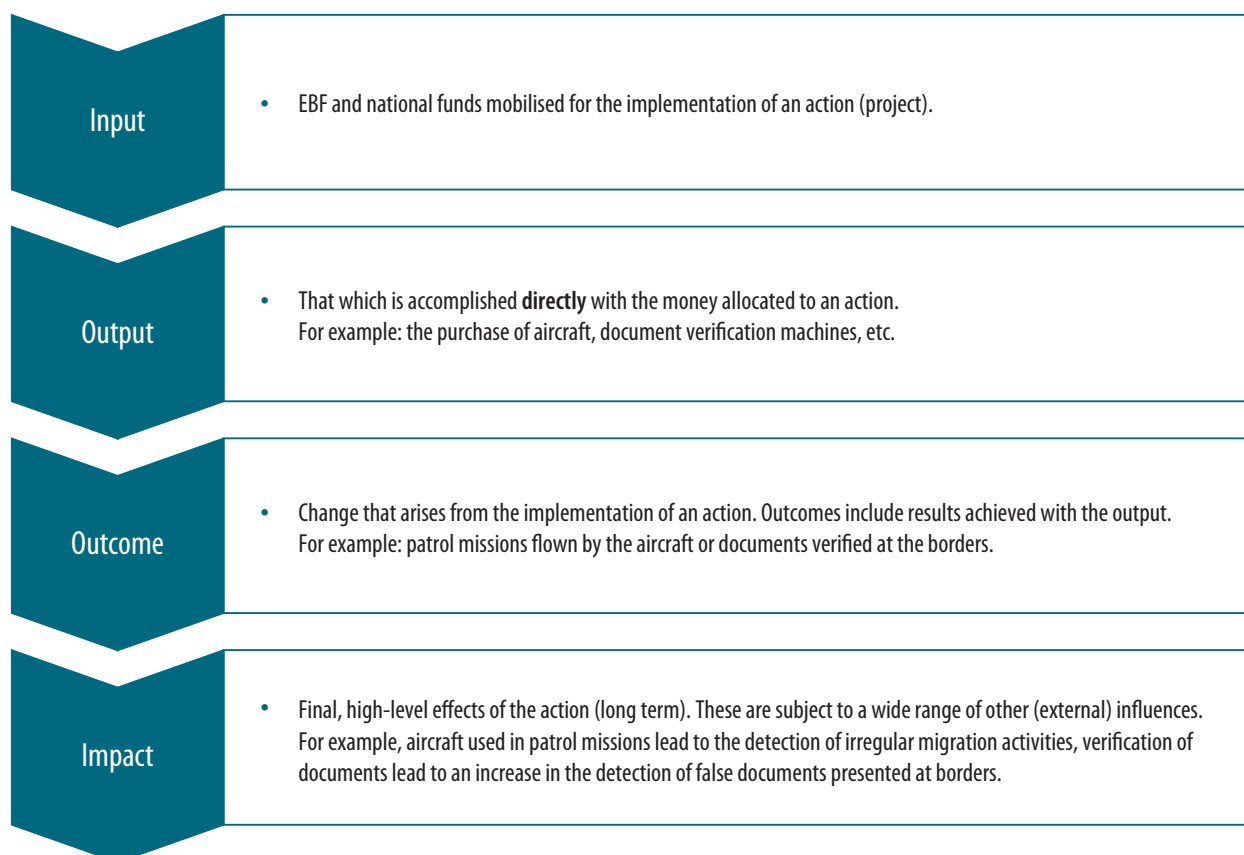
19 Member States' projects Nos 2, 9, 19, 21, 22 in the **Annex**.

20 Member States' project No 25 in the **Annex**.

21 Article 3(1)(b) of Decision No 574/2007/EC.

Figure 6

Examples of output, outcome and impact indicators



Source: ECA examples, based on the Commission's model whereby results are referred to as outcomes.

Low implementation in some Member States

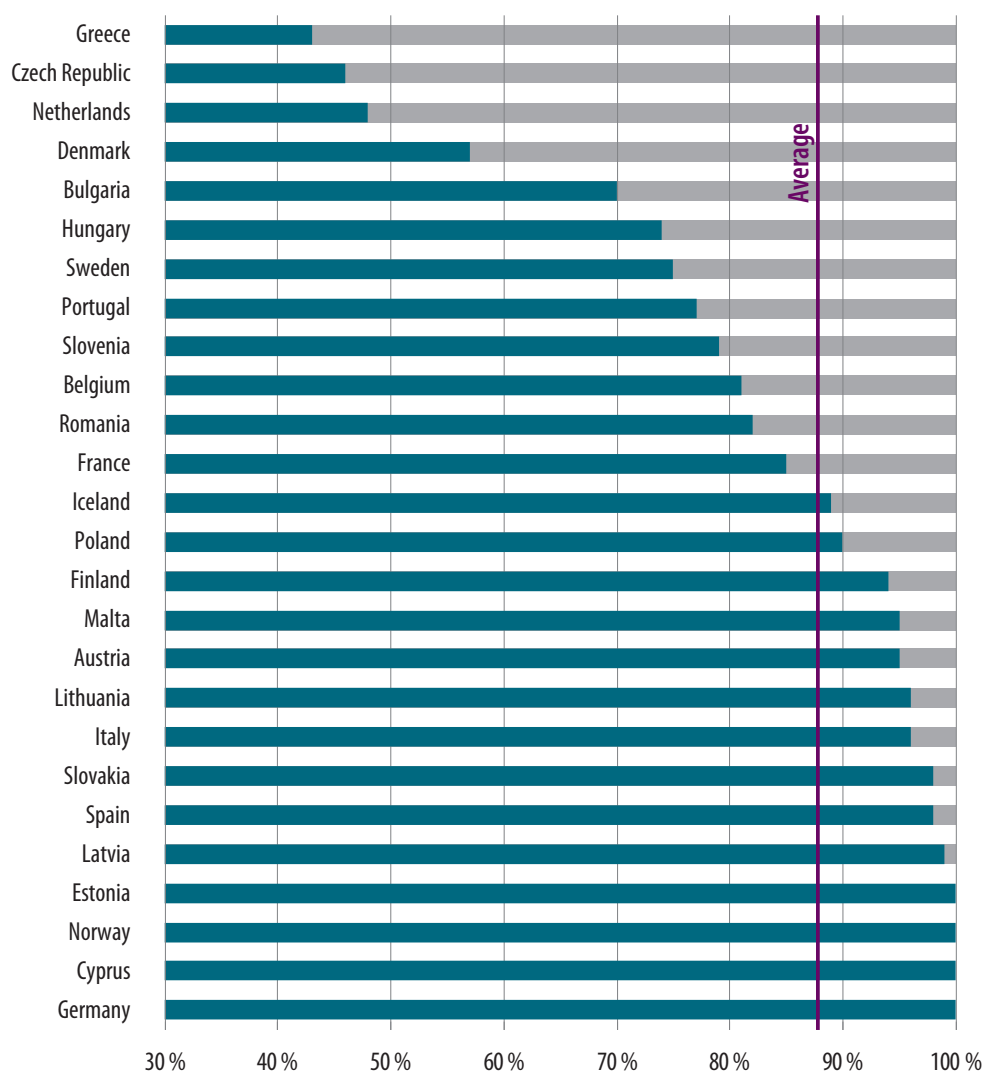
29

The average implementation rate of the EBF national programmes 2007–10 was 87,6 %. However problems existed in a small number of Member States (**Figure 7**). In particular this is the case in Greece where planning and implementation failed to the extent that only 43 % of its EBF allocation was implemented²².

22 According to the final reports of Greece's annual programmes.

Figure 7

EBF implementation rate 2007–10



Source: Calculation made by the Commission in the framework of the *ex post* evaluation on both closed programmes and, where programmes were not closed, on estimations by Member States. Bulgaria, Iceland, Norway and Romania provided data only for 2010 annual programmes. Denmark and Poland did not provide data on 2010 programme implementation. The implementation rates for Cyprus and the Czech Republic were not final. Denmark did not provide implementation rates for total budget. No data for Luxembourg and Switzerland. The Greek figure is based on the final reports of its annual programmes.

Whilst the EBF has fostered financial solidarity, further EU added value has been limited

30

The Court sought to establish whether the EBF's aim of fostering financial solidarity was achieved. It also sought evidence that the EBF delivered further EU added value, notably by targeting the specific priorities (see **Figure 2**), supporting cooperation between Member States or by being directed at the most urgent problems.

31

The EBF allocations clearly helped to spread the Member States' financial burden caused by the introduction of the Union's integrated management of common external borders. Member States having a higher relative burden

receive higher EBF aid (see **Figure 4**). However, the Court found that the EBF's further EU added value was limited due to:

- (a) a partially ineffective system for reinforcing specific priorities;
- (b) little support of operational cooperation between Member States;
- (c) ill-designed mechanisms for responding to specific weaknesses at strategic border points and partially effective mechanisms to respond to emergencies; and
- (d) the support of programmes and projects which would have been financed nationally in any case, lacking a proper needs assessment or containing significant ineligible costs in some of the projects audited.

Photo 1

Three EBF co-financed class 300 all-weather vessels of the Italian Coast Guard operating from Lampedusa, Italy



Source: ECA.

Partially ineffective system for reinforcing specific priorities

32

The Commission has drawn up strategic guidelines to define priorities, complemented by specific priorities for implementing the EBF in the Member States which have EU added value and to provide incentives therefor. Projects supporting specific priorities such as SIS, VIS (**Box 1**), consular cooperation and Eurosur were eligible for a higher co-financing rate. However, this incentive (75 % instead of the standard 50 %) is ineffective in the 15 Cohesion Fund countries²³ (which account for approximately 60 % of EBF allocation) because they receive 75 % co-financing anyway. Some Member States (Spain and Malta) confirmed that specific priorities were not a factor in designing their programmes.

33

In addition, three out of 12 specific priorities had not been clearly formulated by the Commission²⁴ or lacked

practicality, further limiting their ability to deliver EU added value. Since the 2011 annual programmes, the Commission has tried to focus EBF funding on specific priorities but, due to a lack of monitoring, there is no evidence that this has increased their use.

34

However, due to the lack of a system for monitoring the use of specific priorities and a reliable and adequate *ex post* evaluation at Commission level, the full extent of support for actions with 'high' EU added value could not be determined by the Court.

Little support of operational cooperation between Member States

35

In two specific areas where the EBF was intended to support cooperation between Member States, namely consular cooperation and Frontex operations, limited results were achieved.

23 Four of the five Member States selected for the Court's audit are Cohesion Fund countries.

24 For example a specific priority on the purchase of equipment stated that the need for such equipment had to be 'clearly identified at European level'. However the Court found that the meaning of this requirement was not clear to the Commission or Member States.

Box 1

EBF contribution to SIS II and VIS

Despite the lack of monitoring the Court found evidence of the EBF's contribution to the specific priorities establishing the SIS II and VIS IT systems. During its on-the-spot visits to such projects the Court found that EBF support was deemed to be crucial to the development of the national systems²⁵. However, the delays and changes in IT systems at EU level²⁶ impacted on the EBF's efficiency and effectiveness since amendments had to be carried out and equipment purchased could not be used²⁷.

25 Of the estimated 330 million euro cost of developing national systems, the EBF contributed 95 million euro.

26 Court of Auditors Special Report No 3/2014 'Lessons from the European Commission's development of the second generation Schengen information system (SIS II)' (<http://eca.europa.eu>).

27 For example, 110 handheld devices (50 personal digital assistants (PDAs) financed out of AP 2007 and 60 out of 2008) could not be used by police patrols to connect to SIS II because the planned security solution was not practicable and SIS II was not ready. In 2014 the Maltese authorities were working on resolving this problem.

36

The goal of the EBF (within its priority 3) to fund the development of consular cooperation, and common application centres in particular, has only been achieved to a limited extent despite the 90 % co-financing rates available under Community actions. Only two common applications centres were funded (see **Box 2** for one example) and only one Member State (France) planned a consular cooperation project through other forms of cooperation (such as colocation or outsourcing). Instead, Member States used the EBF to renovate, adapt and equip their own national consulates — sometimes in the same countries. The use of the EBF in such a manner failed to exploit economies of scale and benefit from cooperation between Member States to improve visa application procedures and prevent visa fraud.

37

The second area of cooperation where the EBF had only a limited impact is the support of operations coordinated by Frontex through the increase in the number of assets at its disposal.

The strategic guidelines contain a specific priority which was designed to reinforce Frontex's operational capacity. However, as with other specific priorities, the incentive mechanism had little effect (see paragraph 32) and its results have not been measured.

38

The Court verified whether EBF co-financed assets were recorded in the Frontex equipment pool. This would support Frontex in its planning and implementation of (joint) operations (**Box 3**). Even though many EBF co-financed assets would be suitable for Frontex missions, there is no legal obligation to record EBF co-financed equipment in the equipment pool. The Court found that only two out of a sample of 16 aircraft and patrol vessels were so recorded. This limits Frontex's ability to plan and implement (joint) operations.

Box 2

'Maison Schengen' common applications centre in Kinshasa, Democratic Republic of the Congo

Financed by two Community action projects (2007 and 2009, total EBF funding 845 704 euro), the Belgian–Portuguese initiative's aim was to create the first Schengen common visa application centre. Each participating Member State remains responsible for the back-office processing. However, the application processes are centralised, allowing multiple Member States to pool and share resources. This centralisation supports better, more efficient and more humane reception of visa applicants and the fight against 'visa shopping'²⁸ and fraud. At the end of 2013, the centre represented 17 Schengen states.

28 The practice of submitting further visa applications to other EU Member States when a first application has been rejected.

Example of good practice putting assets at the disposal of Frontex operations

The two assets in the Court's sample registered in Frontex' equipment pool were aircraft of the Armed Forces of Malta.

Despite facing regular migration pressure itself, Malta made one of its EBF-procured surveillance aircraft available for 90 hours for a specific Frontex joint operation in Spain in October 2012.

Photo 2
Fixed-wing maritime patrol aircraft co-financed by the EBF to enhance the border control capabilities of the Armed Forces of Malta



© Armed Forces of Malta.

39

Moreover, in spite of the Commission's legal obligation and Frontex's requests, Frontex did not receive any information from the Commission on the implementation of the fund (such as assets purchased) until June 2013, thereby further limiting its planning and operational ability and its checks to prevent double-financing of operational costs.

40

For the period 2014–20, the Commission has proposed to incentivise only two priorities of national programmes, by increasing EU co-financing to 90 % and by providing additional funding.

Specific actions are abolished. The priorities to be incentivised are the ones where the Court found limited EU added value, namely consular cooperation and the fund's contribution to Frontex operations. While the enhanced involvement of Frontex is planned in the fund's management, comprehensive information exchange between the agency and the Commission in both shared and direct management-programme implementation is not envisaged. In addition, there is still no general obligation that EBF-funded assets should be entered into the Frontex technical equipment pool.

EBF mechanism to address specific weaknesses at strategic border points and emergency mechanism were partially effective

41

One element of the EBF's potential EU added value is its ability to be directed at the most urgent problems, which are typically the most threatened border areas or general emergency situations. In order to judge the effectiveness of the EBF's mechanism to respond to emergencies and to address specific weaknesses at strategic border points, the Court examined the relevant funding streams of the EBF. The audit showed that the specific actions were used as a simple 'top-up' for the

Member States' annual programmes. The Member States and the Commission failed to ensure coordination between these different parts of the EBF, resulting in the loss of an overview of which project is funded, where and why.

42

Furthermore, the Court found that part of the emergency actions were used for non-emergency situations or were poorly managed (see **Box 4**).

Box 4

Partially effective system of funding for emergencies at the external borders

Case 1: Supporting actions which were not emergencies

The 2011 emergency actions were entirely used for eight projects totalling about 7,5 million euro to support Member States in their final stages of SIS II development, even though that project had begun in 2001. Moreover, in one case the expenditure had already been financed by the Member State.

Case 2: Example of poor management of emergency projects

The 2010 emergency actions consisted of three projects granted to Italy for about 4 million euro to deal with the migration inflow due to the Arab Spring, of which the Court audited two. One of these projects was to fund internal transportation of migrants²⁹. Its application did not contain any reference to the number of migrants that could be transported, making assessment of value for money impossible. The actual number of migrants transported was not reported and was only submitted after a specific request from the Commission, without information on the transportation time targets set or any other details which would enable the project to be evaluated. In addition, only half of the project budget was implemented and no reasons for this were given in the project's final report. The other audited project³⁰ also suffered from a lack of quantifiable targets and appropriate reporting.

29 Project No 3 ('Internal transportation of migrants (Shifts)').

30 Project No 2 ('Reinforcement of transportation means to patrol the border crossing points area and the area close to the CIE (Recars)') under emergency actions, see **Annex**.

43

Under the EBF 10 million euro was available annually for projects addressing specific weaknesses at strategic border points. These specific actions were not included in the Commission's EBF proposal but inserted by the Council. The procedure to select the projects was lengthy and the implementation period (6 months) was far too short for projects involving procurement of specialised equipment

such as helicopters, resulting in a low implementation rate. Greece, for example, despite its needs, was not able to implement nine out of 11 approved projects under 2008–10 specific action programmes. Of the two Italian specific action projects audited in detail, the Court found that some elements were used outside the border areas and others were completely outside the EBF's scope (see **Box 5**).

Box 5

Specific actions used outside the border area

The Court examined one project from the 2009 specific actions and one from 2010. Both were implemented by the Italian Ministry of the Interior, the end user of the equipment being the police.

2009 specific actions: Six months' rental of vehicles to be used at the Italian southern maritime borders

The project responded to the call for tenders which specified the territorial scope as 'the maritime border of Italy (Mediterranean Sea and Sicilian Sea)'. The grant application stated that the project would 'increase the effectiveness of surveillance activity in the ports area and coastline of the central Mediterranean region'. However all 137 cars were delivered to CIEs (identification and expulsion centres) located as far north as Turin, Milan and Bologna and were not involved in surveillance of the external border. The Commission nevertheless approved the costs (final grant amount 950 688 euro).

2010 specific actions: Border patrolling

The project planned to purchase police vehicles (the application is inconsistent as to how many cars should be purchased and their use) for patrolling the maritime borders in the south of Italy and especially the south-western coastline. However the vehicles were used close to the CIEs³¹ and CARAs (asylum and refugee centres). In the evaluation of the final report the Commission noted that the allocation of 22 of 43 vehicles purchased under the project was not in line with the territorial scope of the call for proposals as they were used (as above) in/around CIEs and CARAs. The related costs (337 405 euro) were subsequently considered ineligible by the Commission (final grant amount 560 259 euro out of 1 192 559 euro approved).

31 CIEs and CARAs are located throughout Italy, both in coastal areas and inland.

44

Given these inherent design restrictions in the legislation and the implementation problems, the Commission took the decision not to carry out any specific actions in 2013.

Support for projects which would have been financed nationally in any case, lacking a proper needs assessment or containing significant ineligible costs

45

The Court found that, in two of the five Member States in the Court's sample (Greece and Spain), many projects had already been financed, or would have been financed, nationally in any case at the time they were included in the annual programmes. This was also the case for one of the three audited emergency actions, where the project application already stated that the Member State had set the budget aside to fully finance it. Although the fund's rules allow this practice and it increases the implementation rate, the replacement of national expenditure of a Member State by EU funds would put at risk any EU added value. In the cases identified above there was no EU added value.

46

In three Member States in the Court's sample (Greece, Italy and Poland) the EU added value of certain projects could not be established due to the lack of an adequate assessment of the needs the projects aimed to address. In two Member States (Greece and Italy), the fund had limited EU added value since some projects consisted of operating support such as fuel and consumables for equipment rather than building the Member States' capacity in external border management. While support for such costs is permitted and might be justified in emergency situations, the fund is intended to support principally the building of capacity³², e.g. through infrastructure or procurement of equipment, not to finance running costs.

47

The EU added value of the EBF is further limited by the high amount of ineligible costs in some of the projects audited, resulting from expenses that are not in line with the fund's priorities or from equipment not working or operating as or where it should. In most cases found by the Court, these irregularities were not detected by the national management and control systems in place (for examples relative to paragraphs 45 to 47 see **Box 6**).

32 See Articles 3 and 4 of Decision No 574/2007/EC and Commission note to the SOLID Committee 18 October 2010.

Examples of projects with low or unknown EU added value

Funding projects already financed

A Greek project to procure 75 police patrol and passenger vehicles was included in a revision to Greece's 2009 annual programme in March 2011, after the vehicles had been acquired and financed from the national budget.

Lack of needs assessment and ineligible costs

In Italy, the Court audited a project (2010 annual programme) procuring 355 operational vehicles for the Guardia di Finanza for their tasks on the detection and identification of immigrants at sea borders. The final beneficiary could not fully demonstrate how the number of vehicles needed was determined or on what basis they had been allocated to the different units. The numbers bought under the project increased primarily due to extra funds being available. The Court found cars are also used for 'regular' police work.

In view of the lack of a needs assessment for the 355 vehicles and the fact that Italy purchased a total of 1 084 vehicles under the 2007–10 annual programmes, there is a risk that EBF financing is spent on projects not responding to EBF priorities and that urgent needs are not met.

In another Italian project which was set up to extend software and fibre-optic cable infrastructure between police offices in central and northern Italy the Court was provided with contradictory information by the Italian authorities on the costs of the overall investment and on how the eligible costs were calculated. As a result it was unable to determine the extent to which the 22 million euro declared as eligible costs (to be co-financed 50 % by the EBF) in the 2007 annual programme was related to the EBF.

Similar problems were found in Malta for a 2007 annual programme project totalling approximately 540 000 euro where the Member State was not able to demonstrate why certain costs (mainly relating to building works) were apportioned to the project.

Observations

Photo 3

A police patrol vehicle in Greece co-financed by EBF



Source: ECA.

Strategic and operational weaknesses in EBF programming and implementation at Member State and Commission level

48

The Court assessed key processes for the fund's effectiveness, namely programming and project selection, and found that programmes are not embedded in national strategies and lack SMART objectives and measurable indicators. Programming requirements lead to an excessive administrative burden. In certain Member States, project selection procedures did not adequately ensure that the Member States' needs were met. In addition, the audit found weaknesses in procurement procedures, putting financial management at risk.

Programmes not embedded in national strategies for border control and visas ...

49

In the selected Member States, the Court examined whether the multi-annual programme and the annual programmes were based on a national strategy for border management and visa matters and if they were coordinated with national, other EU and international funds. According to the third version of the Schengen catalogue on external borders control, return and readmission such a strategy 'should clearly delegate tasks' and include 'the assessments of the working environment, risks and threats, analyses of resources needed, as well as action and development plans'. Only when such a comprehensive assessment exists can maximum efficiency and effectiveness be obtained from the EBF. The Court also analysed, on the basis of the Schengen evaluations, whether such a national strategy was based on the common integrated risk analysis model (CIRAM)³³ assessing relative risks posed by different threats for border and visa management.

50

In four out of the five Member States in the Court's sample (that is, except Poland) the Court found that the multiannual programme and, as a result, the annual programmes are not embedded in a comprehensive strategy, simply because no such strategy exists. While there were many individual strategy papers, these

often remained confined to a single authority. Although the multiannual programmes were obliged to contain a section on complementarity between national and EBF funding, the Court found that explanations were incomplete or non-existent. In all five Member States a common integrated risk analysis is only in the development stage or is not used at all. This lack of a comprehensive view based on a risk analysis means that neither the Commission nor Member States can objectively determine whether the measures financed by the EBF fit into the general strategy of the Member States or target actual needs, and why they were selected to be financed by the EBF.

51

In three Member States (Spain, Malta and Poland) the Court found evidence that the EBF was not appropriately coordinated with other EU funds³⁴ or with other international funds³⁵. This risks a loss in efficiency and effectiveness for the funds involved since they could each be targeting similar actions.

... lacking SMART objectives and measurable indicators

52

The Court examined whether multiannual and annual programmes and projects included SMART objectives and indicators which are relevant, measurable and paired with a target value.

33 Risk analysis model developed by Frontex and Member States, used by Frontex and recommended for Member States' use.

34 For example the European Regional Development Fund (ERDF).

35 For example US support for border management projects.

53

The five Member States in the Court's sample did not include SMART objectives and measurable indicators in their multiannual and annual programmes or projects. Most programme and project descriptions lacked target values. In addition, in Greece targets for the 2008, 2009 and 2010 annual programmes were only set after the projects had been implemented, thereby making them redundant. An analysis of 2012 annual programmes showed improvements in the formulation of indicators for three Member States, but for two of these no progress was made on establishing targets for indicators.

54

Although it can be difficult to establish outcome and impact indicators for border management and visas, the Commission has shown in guidance notes that it is possible. Due to the absence of obligatory common indicators, Member States used differing sets of indicators, not only between programmes but also for similar measures, making proper evaluation impossible. Despite the low quality of the objectives and indicators in the Member States' programmes, the Commission nevertheless approved them, in view of the need to implement the fund (see **Box 7**).

Box 7

Examples of vague and inappropriate indicators

One project consisted of the procurement of two medium-sized vessels for sea patrols and was funded by the Spanish 2008 annual programme. Similar to other audited projects in Spain³⁶, the Court found indicators which were not relevant, not recorded and/or set without appropriate consultation with the final beneficiary by the responsible authority.

The 'expected results' of the project were very vague and mostly without explanation as to how they could be measured e.g. 'enhanced efficacy and efficiency of the resources dedicated to sea patrol missions', 'better security conditions on missions' and 'greater border security'. The only measurable expected result was a 'reduction in the number of vessels illegally reaching Spanish-European coasts'. However, the difficulty with this indicator is that the causal link between action and results needs to be carefully examined.

36 Member States' projects Nos 7, 8, 9, 11 and 12 in the **Annex**.

55

The Commission has already reacted to some of the weaknesses caused by the lack of common indicators by proposing obligatory common indicators for the funding period 2014–20. Member States will have to develop programme-specific indicators.

Annual programming requirements leading to an excessive administrative burden and implementation difficulties

56

While the intention was tighter supervision of the programmes put in place by the responsible authorities, the requirement to produce annual programmes in addition to multiannual programmes led to an excessive administrative burden at both Member State and Commission level as well as significant delays. The initial submission of poor quality programmes by the Member States — frequently not respecting the requirements set out in the legal bases — caused delays in approval of annual programmes. The time lag between the first submission and the final version of annual programmes averaged 6½ months. As a result, the implementation time for projects was often severely reduced.

57

The EBF's annual programmes also did not fit well with the lengthy procurement procedures needed for sophisticated equipment. As a result, projects were delayed or could not be financed by the fund. In recognition of the abovementioned difficulties, only multiannual programmes will be established in the 2014–20 funding period.

Some Member States' project selection procedures did not ensure that their actual needs are met

58

The Court examined the procedure used by Member States to select projects. Serious weaknesses in the project selection procedures were found in Italy and, for the early years only, in Malta, putting into question whether the most relevant projects were selected.

59

In Italy, allocation of funds between public entities and subsequent project selection had several flaws. Due to a complete lack of audit trail, the Court could not verify on what basis the allocation between final beneficiaries was decided for the 2007 and 2008 annual programmes. For later years, the reasons given by the responsible authority for the distribution of the allocation were either misleading or not subsequently applied to the distribution of the resources. As a result, the increasingly high allocation for the Ministry of the Interior — Department of Public Security — Central Directorate for Immigration and Border Police — the body in which the responsible authority is housed — to the detriment of other bodies such as the Coast Guard could not be justified. The same ministry was also the only Italian body to have benefited from emergency and specific actions between 2007 and 2012, even though several other forces (under different ministries) are involved in Italy's border management. The exclusion or marginalisation of the other authorities risks that their needs are not met.

60

The selection and subsequent funding of a temporary detention centre in Greece did not comply with the principle of respectful treatment and dignity (see **Box 8**).

Box 8

Funding for a detention centre in Greece

The Court examined the rental costs of a temporary detention centre at Pagani (also known as the Mytilini Special Facility for Irregular Migrants) on the island of Lesbos. The project was implemented by the responsible authority (Ministry of Public Order and Citizen Protection).

The responsible authority included the project in a late revision to the 2008 annual programme, for 'hosting of migrants in hotels and rooms'. However, what was actually financed was the rent of the Pagani centre from 1 January 2008 to 30 June 2010 at a total cost of 267 405 euro.

The centre was repeatedly criticised by human rights organisations for its poor conditions. Originally a storage site for goods, it was converted to accommodate 300 persons. In 2008, there were 720 migrants detained in the facility. Conditions were described as 'abominable' and 'a health hazard for staff and detainees alike'³⁷. In October 2009, upon visiting the centre, UNHCR called for the centre to be shut down. Between late October 2009 and June 2010 the centre was gradually deactivated.

At the time of the decision to fund the project, the unacceptable conditions were widely known. The Greek authorities, however, provided a misleading project description to the Commission, which, upon analysis of the final report, now plans to deduct the expenditure from the final payment.

³⁷ Report to the government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 to 29 September 2008 (CPT/INF (2009)20).

Inadequate procurement procedures in Member States putting sound financial management at risk

61

The Court audited the procurement procedures in 11 projects. In eight of these the procedures did not satisfy

the relevant legal provisions or were conducted in a way which did not ensure that value for money was achieved. One procurement procedure, the acquisition of patrol dogs in Greece, failed completely due to an inadequate procedure. Although the 40 vehicles were delivered in May 2012, the dogs had not been procured as at June 2014.

62

The main weakness was the fact that three Member States did not adequately justify their use of the exception clause for defence and security procurements. For example, under its 2007 annual programme, Spain procured two fixed-wing aircraft for maritime patrols and the fight against irregular immigration at a cost of 50 million euro. The Spanish authorities declared the procurement to be 'secret' and used the negotiated procedure without prior publication, inviting only one supplier. Less restrictive procedures could have been used without compromising security. In other Member States similar procurements were made using open tendering.

63

Other weaknesses in procurement procedures were the subsequent use of the same supplier without adequate competition and a lack of capacity and knowledge of public administration.

64

The responsible authorities' verification of procurement procedures in four out of the five Member States (all except Poland) was inadequate or non-existent despite large parts of EBF being spent using procurement.

65

As a result, there is a risk that high-value actions in certain programmes of the EBF, such as the procurement of aircraft and vessels, may not provide value for money.

Weaknesses in responsible authorities' monitoring and serious deficiencies in the *ex post* evaluations by the Commission and Member States do not allow an adequate assessment of the fund's overall achievements

66

The Court sought to determine whether Member States and the Commission use monitoring and evaluation to assess and improve the effectiveness of the EBF. It found that monitoring and evaluation were seriously constrained by the lack of SMART objectives and measurable indicators, that there is a lack of adequate monitoring and reporting of projects at Member State level and that evaluation is delayed and suffers from serious deficiencies.

Observations

Lack of adequate monitoring and reporting of projects by Member States

67

In all of the Member States in the Court's sample, the responsible authority did not carry out sufficient and/or adequate monitoring which would have enabled it to follow the implementation of projects and determine deviations from set objectives. Where they existed, monitoring

reports lacked important information such as results achieved against indicators or targets set or significant changes in the project execution stage. In Greece, there was no monitoring during project implementation for 2007–09 because projects were generally introduced into the annual programme after they had been carried out. Although some on-the-spot checks were carried out, no checklists were available to show that qualitative aspects of funded projects were verified.

Photo 4

An EBF co-financed cabin on the Spanish–Moroccan border in El Tarajal, Ceuta



Source: ECA.

68

In all five Member States, both at project level and for annual programmes, the final reports did not report satisfactorily on indicators or targets achieved. In three Member States there were several inconsistencies and errors in the final reports impacting on the reliability of the data. Spain did not require final project reports until the 2010 annual programme and only started monitoring during implementation from the 2009 annual programme. At the time of the audit (February 2014), Greece still did not require final project reports, which seriously restricts the information available on the project results achieved. Italy's responsible authority has announced its intention to introduce monitoring visits as a result of the Court's audit.

69

None of the Member States in the Court's sample had set up an appropriate IT system from the start of the fund to record indicators. While three Member States (Spain, Italy and Malta) have started developing an IT system that supports the RA management in the second half of the funding period, only the Italian system has a function that allows indicators and their values to be recorded. The Commission's guidance did not explain the benefits of such IT systems and opportunities for exchange of best practices were lost.

70

The reporting by Member States on Community actions and specific actions shows a similar lack of information on results achieved, often failing to include even the most basic information.

Delays and serious deficiencies in the *ex post* evaluations at both Member State and Commission level

71

The Commission, in partnership with the Member States, is responsible for evaluating the fund in order to assess the relevance, effectiveness and impact of its actions. The first of the two *ex post* evaluations, covering 2007–10, was due to be delivered by the Commission to the European Parliament and other institutions by 31 December 2012.

72

The Court analysed the contributions of the Member States in the Court's sample to this evaluation and found a series of omissions, errors and inaccuracies in all five national evaluation reports. As a result, the reliability of the overall *ex post* evaluation report is significantly reduced. Part of the reason for the limited amount of quantified information provided by the Member States was that the type of data to be reported was only established by the Commission in 2011. By this point all actions for inclusion in the evaluation had started and most had finished, and consequently Member States' were unable to adapt indicators to be collected. This led to a general weakness in the quality of quantitative information presented in the evaluation, as well as inefficiency and additional work in compiling data retroactively.

73

In analysing the Commission's *ex post* evaluation report, the Court found summaries of a large amount of both qualitative and quantitative information which had been collected from the Member States. However, the presentation of the data is descriptive in nature, without analysis of their significance. For example, data are presented without any useful baseline or benchmark information or in a format which does not offer additional understanding (e.g. 'number of systems acquired or upgraded'). Furthermore, the evaluation omits to deal with Community actions, emergency actions and specific actions, thereby further diminishing its value. Consequently, the *ex post* evaluation cannot be considered a useful or reliable report to assess the effective impact of the EBF.

74

Despite an extended deadline, only eight out of the 28 Member States sent their contribution to the Commission on time, thereby encroaching upon the time available for the Commission and its external contractor to work with the data. Delays also occurred at Commission level. At the time of the conclusion of the Court's audit work (March 2014), and more than 1 year after the deadline, the report had not yet been adopted by the Commission, limiting the availability of information for EBF stakeholders.

75

The audit showed that the EBF has contributed to external border management and fostered financial solidarity. However its further EU added value was limited, overall results could not be measured due to weaknesses in the responsible authorities' monitoring and there were serious deficiencies in the *ex post* evaluations by the Commission and the Member States. Crucially, the audit found serious weaknesses in the management of the fund in key Member States, i.e. in Greece, Spain, Italy and, for the early funding years, Malta. These weaknesses carry the risk that border management is not adequately strengthened where it is most needed.

The EBF has contributed to external border management, but the overall result could not be measured due to the lack of SMART objectives and serious deficiencies in evaluation

76

The Court found that it was not able to assess the extent to which the EBF has supported the fund's priorities. Member States' programmes lacked SMART objectives and measurable indicators which, together with the lack of common indicators, made proper evaluation by the Commission impossible. Despite the low quality of the objectives and indicators, the Commission approved the Member States' programmes in view of the need to implement the fund (see paragraphs 53 to 54).

77

Responsible authorities did not or only insufficiently monitored the achievement of results. Monitoring and final reports lacked relevant information on effectiveness and/or information was unreliable. None of the Member States in the Court's sample had an IT system to collect monitoring data from the start. Only Italy was developing such a system for future use (see paragraph 72). The Member States' contributions to the *ex post* evaluation and the Commission's report suffered delays and had serious deficiencies (see paragraph 73).

78

The Commission has proposed obligatory common indicators for the 2014–20 funding period and Member States will have to develop their own programme-specific indicators.

Recommendation 1

The Commission should:

- ensure that all indicators to be used are relevant, measurable and, where possible, paired with a target value;
- ensure that indicators are collected from the start and, where not already in place, that IT systems are developed;

Conclusions and recommendations

- provide clear guidelines to Member States so that they have a common understanding of obligatory indicators so that aggregation for monitoring and evaluation purposes will be possible;
- deliver its evaluation report on time and present stakeholders with an analysis of underlying data.

Recommendation 2

Member States should:

- have appropriate expertise available in the administration for the design and application of SMART objectives and measurable indicators;
- set targets for output, outcome and, where possible, impact indicators;
- collect actual values of indicators from the start of the programme using appropriate IT systems and ensure that information is reliable;
- apply their experience with similar IT systems gained in the Structural Funds field.

The EBF has fostered financial solidarity but further EU added value has been limited

79

The Court found that the EBF helped to spread the Member States' financial burden arising from the integrated management of external borders but that further EU added value of the fund was limited:

- (a) in consular cooperation;
- (b) in support of Frontex operations;
- (c) on emergency actions and specific actions;
- (d) by funding actions which were or would have been financed nationally.

The fund's full potential was not exploited due to weaknesses in the design of the incentive system.

80

For the period 2014–20, the Commission has proposed to incentivise consular cooperation and the fund's contribution to Frontex operations. While the enhanced involvement of Frontex is planned in the fund's management, comprehensive information exchange between the Agency and the Commission in both shared and direct management programme implementation is not envisaged. In addition, there is still no general obligation that EBF/ISF funded assets which would be of use to Frontex should be entered into the Frontex technical equipment pool.

Recommendation 3

To support consular cooperation:

- the Member States and Commission should concentrate more on establishing common application centres and other forms of consular cooperation rather than the renovation, adaptation or equipping of consulates.

Recommendation 4

To support the work of Frontex:

- the legislator should consider making the entering of relevant ISF co-financed assets into Frontex's technical equipment pool obligatory;
- the Commission should provide Frontex with relevant, comprehensive and timely information regarding EBF/ISF implementation in the Member States, such as programmes, annual implementation reports and evaluations, as well as information on directly managed programmes and projects. Information should take into account the option of 'operating support' introduced with the new 2014–20 framework and a robust system to avoid double funding needs to be put in place.

Strategic weaknesses in EBF programming

81

The audit found that four out of five Member States do not programme the EBF as part of their comprehensive national strategy on border and visa management. In all Member States in the Court's sample a common integrated risk analysis is only under development or is not used at all.

Recommendation 5

The national EBF programmes should be based on a comprehensive strategy for border management, with Member States basing their strategy on a risk analysis using the CIRAM.

Recommendation 6

The legislator should consider making compliance with Schengen catalogue recommendations on strategy and risk analysis an *ex ante* condition for receiving future ISF support.

Conclusions and recommendations

Weaknesses in EBF implementation

82

In the three principal recipient Member States (Greece, Spain and Italy) the Court found recurrent deficiencies in EBF planning, implementation, monitoring and evaluation, impacting on the effectiveness of the EBF.

83

In the Member States in the Court's sample (apart from Poland) the Court found inadequate procurement procedures which put the sound financial management of the fund at risk.

Recommendation 7

Administrative capacity needs to be strengthened, for example through focused training by the Commission or through sharing best practices between Member States.

Recommendation 8

Member States should strengthen administrative capacity in procurement and carry out the procurement of EBF/ ISF assets through the most transparent procedures available.

This Report was adopted by Chamber IV, headed by Mr Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 24 June 2014.

For the Court of Auditors



Vítor Manuel da SILVA CALDEIRA
President

Audited projects

| | Final beneficiary | Project name | Annual programme | Total final EBF expenditure in euro ¹ |
|--------------|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------------|
| Malta | | | | |
| 1 | Malta Police — Police Immigration Section | Strengthening of Immigration Police capacity for border surveillance and patrols The aim of this project was to enhance the operational capabilities and surveillance possibilities of the Immigration Police, particularly in combating the phenomenon of illegal immigration by providing the necessary equipment. | 2007 | 491 567 |
| 2 | VISET Malta plc | Bringing the sea passenger terminals in line with the Schengen <i>acquis</i> requirements (VISET) The project's objective was to bring the passenger handling facilities at the Port of Valletta in line with the Schengen <i>acquis</i> requirements and best practices. | 2007 | 540 234 |
| 3 | Ministry of Foreign Affairs | Setting up a new high-risk/high-volume mission and its preparation for capturing biometrics The aim of this project was to fully refurbish the recently acquired premises housing the new consular section in Moscow. The refurbishment project was intended to include the necessary security features and enable the mission to prepare itself for eventual biometric capture. | 2007 | 285 335 |
| 4 | Armed Forces of Malta | Procurement of inshore patrol vessels for the Armed Forces of Malta The project provided the Armed Forces of Malta with replacement inshore patrol craft in order to have enhanced presence at sea and more rapid intervention capabilities. | 2008 | 7 200 000 |
| 5 | Malta Police | Migration from SIS1 to SIS2 and from SIReNE1 to SIReNE2 The overall objective was to finalise the final chapter of the integration of the Schengen information system II with national police systems. | 2008 | 2 037 810 |
| 6 | Armed Forces of Malta | Enhancing the border control capabilities of the Armed Forces of Malta — Procurement of a fixed-wing maritime patrol aircraft The aim of this project was to enhance the border control capabilities with the procurement of a fixed-wing maritime patrol aircraft. | 2009 | 7 269 636 |

¹ The figures shown for Greece are those verified and reported by the RA. They have not been approved by the Commission yet.

| | Final beneficiary | Project name | Annual programme | Total final EBF expenditure in euro ¹ |
|--------------|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------------|
| Spain | | | | |
| 7 | Ministry of the Interior: DG for Infrastructures and Material for Security | Technical support for the Schengen information system Specialised technical support for the Schengen information system, for the correction, perfection and evolution of this system. | 2010 | 129 129 |
| 8 | Ministry of the Interior: National Police Corps, part of the Directorate-General for National Police and Guardia Civil | Acquisition of operational equipment for external border control The purpose of the action was to provide the border crossing points with state-of-the-art equipment (such as equipment for document inspection or UV lamps) in order to increase the quality and efficiency of border control. | 2007 | 274 885 |
| 9 | Ministry of the Interior: Directorate-General for Infrastructures and Material for Security (DGIMS) | Acquisition of two medium-sized vessels for sea patrol (20 metre) This acquisition aimed to enhance the surveillance and intervention capacity of the Guardia Civil Maritime Service at sea, permitting the Maritime Service to successfully complete its missions, especially the fight against illegal immigration, by allowing swift action within territorial waters. These patrol vessels were planned to be used in the Mediterranean coastal area. | 2008 | 2 143 680 |
| 10 | Ministry of the Interior: Directorate-General for Infrastructures and Material for Security (DGIMS) | Work and refurbishment of the cabin filters of the border crossing in El Tarajal in the city of Ceuta Works and refurbishment supporting National Police Corps officers' work on access and exit control of the persons in the national territory. | 2010 | 36 426 |
| 11 | Ministry of the Interior: Directorate-General for Infrastructures and Material for Security (DGIMS) | Refurbishing, upgrading and reconstruction works in the border perimeter between Spain and Morocco (Ceuta and Melilla) This project supported the funding of CCTV camera equipment, border-drainage facilities, turnstiles in Ceuta and also a watchtower in Melilla. | 2010 | 164 386 |
| 12 | Ministry of the Interior: Directorate-General of the Police and Civil Guard, area Civil Guard | Upgrading for the two aircraft for maritime patrol and fight against irregular immigration, bound for the Air Service of the Guardia Civil (bought under the EBF annual programme 2007) The purchase of the two aircraft was co-financed under the EBF 2007 annual programme and had an overall contract value of 50 million euro. This purchase was also included in the Court's audit of the subsequent upgrade project. According to the annual programme 2010, 'the aircraft, due to numerous surveillance hours, need an upgrade for them to be able to perform surveillance activities, such as structural upgrade works and the acquisition of basic spare parts'. | 2010 | 6 398 873 |
| 13 | General Services Directorate Ministry of Foreign Affairs | Refurbishment and adaptation of consulates The project concerns the adaptation, expansion, redesign and relocation of consulates to ensure that they are properly furnished, that the employees are safe and that the visa applications process is efficient. | 2010 | 835 695 |

1 The figures shown for Greece are those verified and reported by the RA. They have not been approved by the Commission yet.

| | Final beneficiary | Project name | Annual programme | Total final EBF expenditure in euro ¹ |
|---------------|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------------|
| Poland | | | | |
| 14 | Ministry of Foreign Affairs | Providing consular offices with equipment and software for biometric data collection The purpose of the project was to provide consular offices with equipment and software for biometric data collection (e.g. fingerprint scanners). The project was financed out of two annual programmes. | 2007 and 2008 | 389 604 |
| 15 | Polish Border Guard | Raising the qualifications of personnel who carry out border protection operations using aircraft Provision of specialised aircraft training courses for Border Guard pilots and mechanics to operate particular types of aircraft (Sokol and Kania helicopters, Skytruck aeroplane), including night-vision goggle training and training as instructors. The project was financed out of three annual programmes. | 2007–10 | 803 034 |
| 16 | Polish Border Guard | Provision of the Border Guard with specialised means of transport The project consisted of the acquisition of vehicles for the Border Guard services and was financed out of two annual programmes. | 2008 and 2009 | 3 571 588 |
| 17 | Podkarpace Voivodship | Reconstruction of building for detailed control at the entry to the country in the road border crossing Medyka–Szegine Enlargement of building for controlling vehicles at Medyka–Szegine border crossing point with Ukraine, increasing number of vehicle inspection bays from one to four and providing new equipment for inspection. | 2009 | 645 113 |
| 18 | Polish Border Guard | Extension and maintenance of teleinformation platform of the Border Guard to implement SIS II and VIS The project consisted of four subprojects, as follows. (1) Development and maintenance of a system for the replication and reproduction of data — phase 1. (2) Modernisation and maintenance of a system for recording conversations. (3) Modernisation and maintenance of a hardware and software platform for support system requirements. (4) Purchase of computer workstations for the needs of the Border Guard Central Database. | 2010 | 1 078 749 |

¹ The figures shown for Greece are those verified and reported by the RA. They have not been approved by the Commission yet.

| | Final beneficiary | Project name | Annual programme | Total final EBF expenditure in euro ¹ |
|--------------|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------------|
| Italy | | | | |
| 19 | Ministry of the Interior (Polizia di Stato) | Strengthening the transfer network infrastructure and extending SIA and VISA procedure to the benefit of the immigration offices and Border Police offices operating in central and northern Italian regions The action was aimed at the planning, supply and implementation of a telecommunication system for the extension of the optical fibre network by the additional circa 2 600 km necessary to link Border Police offices, Questure and police stations and enhancement and extension of the anti-immigration information system (SIA) in central and northern Italy. | 2007 | 11 023 303 |
| 20 | Corps of the Port Captaincies (Coast Guard) | Acquire four offshore patrol vessels This action is a continuation of a project from the 2007 annual programme. Both projects cover the purchase of four automatically self-righting and unsinkable class 300 all-weather vessels. The four patrol vessels operate in the territorial waters around Sicily and Sardinia. | 2008 | 3 866 000 |
| 21 | Ministry of the Interior (Polizia di Stato) | Purchase fuel vouchers needed to support additional activities for prevention and control closely related to the current immigration emergency in southern Italy Purchasing fuel vouchers for diesel and petrol fuel intended for cars of the border police. The fuel allows the cars to do extra patrols in reaction to the flow of migrants from north Africa (Arab Spring/regime changes in countries such as Libya and Tunisia). | 2009 | 572 312 |
| 22 | Guardia di Finanza | Purchase of operational vehicles The goal of the project was to provide the Guardia di Finanza with motor vehicles for performing the tasks related to the detection and identification of immigrants at sea borders in the context of the fight against illegal immigration. 355 vehicles were bought. | 2010 | 3 612 768 |
| 23 | Ministry of the Interior (Polizia di Stato) | Purchase of a fixed-wing aircraft for the border police The purchase of a second aircraft (first aircraft purchased out of annual programme 2009) for the border police to ensure coordination of operational activities, especially in relation to the management of crisis situations, which can occur without warning in certain locations of the national territory. | 2010 | 3 377 748 |

1 The figures shown for Greece are those verified and reported by the RA. They have not been approved by the Commission yet.

| | Final beneficiary | Project name | Annual programme | Total final EBF expenditure in euro ¹ |
|---------------|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------------------------------------------|
| Greece | | | | |
| 24 | Ministry of Citizen Protection/ Hellenic Police | The incorporation of the common training standard for the country's police personnel The project aimed to incorporate Frontex's common training standard into Greece's police training system, by training 448 participants in three levels of courses. The common standard provides for basic and periodic training of police officers and border guards involved in managing migrant flows. | 2007 | 600 079 |
| 25 | Ministry of Public Order and Citizen Protection | Rental costs of temporary detention centre on the island of Lesbos The project concerned the cost of renting a temporary detention centre at Pagani, close to Mytilini on the island of Lesbos. | 2008 | 200 554 |
| 26 | Ministry of Citizen Protection/ Hellenic Police | Purchase of patrol passenger vehicles The project aims to purchase 75 vehicles (split between patrol cars in police livery and unmarked passenger cars) to be used for patrols of the roads close to the border, aiming at controlling and protecting the external borders from the illegal entry of immigrants. | 2009 | 1 115 807 |
| 27 | Ministry of Citizen Protection/ Hellenic Police | Purchase of 4x4 police patrol vehicles (jeep type) A total of 69 police patrol vehicles were procured through this project. These vehicles will be used for patrols in inaccessible and mountainous border regions aiming to prevent illegal immigrants from entering Greek territory. | 2009 | 1 275 989 |
| 28 | Ministry of Foreign Affairs | Support for the installation of the visa information system The objective of the action was to co-finance the implementation of N-VIS and NET-VIS IT systems, regarding costs for system design, implementation, roll-out and personnel training. It is part of a multiannual action aiming to install the EU visa information system (VIS) in Greece's consulates. | 2009 | 2 984 335 |
| 29 | Ministry of Citizen Protection | The construction and upgrading of border infrastructure at the external land borders with Albania and Turkey for police services involved in border control The purpose of this action was to improve the border infrastructure at the Greek–Albanian and the Greek–Turkish borders by construction of two new stations in Delvinaki and in Feres. | 2010 | 2 117 706 |
| 30 | Ministry of Citizen Protection/ Hellenic Police | Purchase of police patrol dogs and police vehicles for their transportation The project aimed to provide around 40 police dogs and vehicles for their transportation, with the purpose of detecting irregular migrants trying to cross the external land border. The vehicles envisaged were station wagons with four-wheel drive, to operate in rough terrain at the border. | 2010 | 880 268 |
| 31 | Ministry of Citizen Protection/ Hellenic Police | Support of the operational costs related to the implementation of integrated border management system at the land Greek–Turkish borders and initial reception and detention centres for illegal immigrants in Evros region Operational running costs of the Hellenic police services, including maintenance costs for the patrol vehicles/vessels and other equipment, fuels and spare parts for vehicles/vessels involved in border control activities. Also photographic film, printing of photos, fluorescent lamps, tyres, a boiler. | 2010 | 706 011 |

¹ The figures shown for Greece are those verified and reported by the RA. They have not been approved by the Commission yet.

Emergency actions, Community actions and specific actions

| | Final beneficiary | Project name | Annual work programme | Final EBF expenditure in euro |
|--------------------------|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-------------------------------|
| Emergency actions | | | | |
| 1 | Police Grand Ducale de Luxembourg, Luxembourg | Upgrade of LU NS.SIS II from development to full-scale production setup at ICD 3.0 level Procurement of hardware and basic software licences to upgrade development set-up on the back-up site to full production deployment. This upgrade is necessary to meet the milestones on the way to the SIS II entry into operation. | 2011 | 575 857 |
| 2 | Ministry of the Interior, Central Directorate for Immigration and Border Police, Public Security Department, Italy | Reinforcement of transportation means to patrol the border crossing points area and the area close to the CIE (RECARS) The project consisted of the purchase of 40 police vehicles to provide the reinforcement of means of transport within the maritime Border Police Offices and immigration offices. The action aimed to contribute to the increase of police surveillance capacity in the south of Italy and in the areas in all the Italian territory, particularly close to the southern Centre for Identification and Expulsion (CIE). | 2010 | 1 367 856 |
| 3 | Ministry of the Interior, Central Directorate for Immigration and Border Police, Public Security Department, Italy | Internal transportation of migrants (Shifts) The action consisted in the organisation of displacements of migrants from Lampedusa by air, land or sea, to identify and get assistance to the migrants in several different places duly equipped. | 2010 | 1 665 247 |
| Community actions | | | | |
| 4 | Belgian State Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation, Belgium | Schengen visa application centre Kinshasa The aim of the project was to create the first real Schengen common visa application centre. While each participating Member State would be responsible for the back office operations, the application processes are centralised allowing multiple Member States to pool and share resources in the Democratic Republic of the Congo (DRC). Belgium's partner in the project was Portugal (Ministerio Dos Negocios Estrangeiros). | 2007 | 395 349 |
| 5 | Belgian State Federal Public Service Foreign Affairs, Foreign Trade and Development Cooperation, Belgium | Maison Schengen Kinshasa Continuation of the project 'Schengen visa application centre Kinshasa' from 2007 since this project suffered delays and could not be fully executed within the 2007 annual work programme. At the end of 2013, the centre represented 17 Schengen states. | 2009 | 450 356 |

| | Final beneficiary | Project name | Annual work programme | Final EBF expenditure in euro |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-------------------------------|
| Specific actions | | | | |
| 6 | Italian Ministry of the Interior, Department of Public Security — Central Directorate for Immigration and Border Police, Italy | Six months' rental of vehicles to be delivered at the Italian southern maritime borders (CAR2) The project provided for the rental of 137 well equipped vehicles to provide a reinforcement of means within the maritime border police offices to improve police surveillance capability in the south of Italy. The increase of vehicles available for patrolling the coastline would enable to intercept migrants attempting to illegally cross the border. | 2009 | 950 688 |
| 7 | Italian Ministry of the Interior, Department of Public Security — Central Directorate for Immigration and Border Police, Italy | Border patrolling (Bor-trol) The plan was to purchase 80 police vehicles to provide a reinforcement of means within the maritime border police offices to improve police surveillance capability in the south of Italy, especially on the south-western coastline where a particular situation has occurred. 43 vehicles were eventually procured. | 2010 | 560 259 |

Executive summary

I According to recital 4 of the EBF decision, the EBF was conceived as a *'Community financial solidarity mechanism in order to support the Member States who bear, for the benefit of the Community a lasting and heavy financial burden'*.

Given this clear rationale underlying the establishment of the fund, the assessment of the EU added value of the fund should be carried out in the first place on the fund's ability to increase capacities of the Member States, especially those facing a heavier burden than others, to fulfil their roles and obligations to ensure uniform, effective and efficient controls at the external borders of the Member States of the European Union and applying the Schengen *acquis*.

Bearing in mind that the Schengen zone represents an EU added value in its own right, the EBF was enshrined in the basic logic of the Schengen governance whereby the obligation for the protection of EU external borders lies with individual Member States. Therefore the reinforcement of the capacities of the Member States in question through EBF investment in their own efforts to control the borders seems to be the best way to ensure the effective management of the EU external borders, especially to address particular migratory pressure.

The legislator, during the decision-making process for the establishment of the fund, decided deliberately not to include the principle of additionality under Article 8 of the EBF decision, listing the principles of assistance as opposed to the initially proposed text of the Commission. Therefore, contrary to Structural Funds, the principle of additionality was not enshrined in the design of the EBF, which was supposed to be governed by the principles of complementarity, consistency and compliance.

III

In addition to fostering financial solidarity, the crucial financial support to Member States to implement top priority projects such as SIS II, VIS and Eurosur have demonstrated that the fund had real European added value.

Nevertheless the initial problems in setting up indicators in national programmes and the deficiencies in the midterm evaluation made it difficult to get an accurate picture of the achievements of the fund.

IV

There was no obligation to embed the EBF programming in a national strategy for border control and visas.

Beneficiaries of the EBF are almost exclusively national authorities having an exclusive competence in the area, therefore for the EBF the selection of the beneficiaries was generally straightforward.

However, some Member States have to strengthen their procurement procedures in order to fully comply with the principle of sound financial management.

V

For Spain and Greece, some aspects of the management of the fund can qualify as serious weaknesses, in particular the low implementation rate for Greece, but this is only valid for the first years of implementation of the fund and was mostly due to the late adoption of the legal base of the fund capacity and lengthy procurement procedures.

For Malta and Italy, the novelty of the fund and the inexperience of the responsible authorities can largely explain the issues found by the Court.

VI (a)

The Commission considers that the recommendation relating to indicators has been implemented in the legal base of the Internal Security Fund with compulsory indicators in respect of the period 2014–20.

On the second issue, the Commission accepts the recommendation and is confident that the final evaluation report will address it.

VI (b)

The Commission accepts the first part of the recommendation (information of Frontex on EBF implementation) and considers that it has been implemented in the legal basis of the Internal Security Fund regulation in respect of the period 2014–20.

However, the Commission can only partially agree that co-financed assets should be systematically recorded in the Frontex equipment pool. The registration and putting at the disposal of Frontex of equipment are ruled by Frontex regulations and not by the fund's legal base. The Commission will promote common application centres and other funds of consular cooperation in addition to renovations, adaptation and/or equipping of consulates.

Items purchased under the ISF Borders and Visas specific actions which will correspond to Frontex needs will have to be registered in Frontex's equipment pool.

VI (c)

The Commission disagrees with making ISF support conditional on the elaboration of a national strategy. Conditionality as regards the Schengen *acquis* has been introduced in the ISF legal base for operating support.

VI (d)

The Commission agrees with the fact that public procurement procedures should be strengthened in some Member States and is already paying particular attention to this point.

Introduction

11

For large Member States, the Commission agrees that most expenditure may be financed nationally but this might be much less true for small Member States receiving a relatively high EBF allocation, which can have a huge leverage effect on the Member State investment capacity in this area.

The fund is a key tool which gives concrete expression to financial solidarity between Member States for the management of the external borders of the Schengen area.

Observations

26

The Commission acknowledges that even if partial information coming from different sources (final reports, *ex post* evaluation) is available and allowed for the measurement of some results of the fund, the overall result of the fund could not be measured so far. This will be done in the context of the final *ex post* evaluation. There were weaknesses in monitoring and evaluation in a few Member States in the first annual programmes, in particular a lack of SMART indicators. This was linked to the novelty of the fund and the lack of experience of the responsible authorities concerned. The situation has improved since 2012.

27

Out of the five projects identified by the Court, three (projects 9, 21 and 22) fully support EBF priorities and only support eligible expenditure. In particular, the purchase of patrolling boats (project 9) by the Spanish authorities for the maritime external borders surveillance was fully eligible for the fund as it was deployed on maritime external borders. The fact that it was not deployed in the most risky external maritime borders does not make it ineligible and is linked to the management of means of surveillance by the Spanish authorities in the context of a fleet.

The Commission is aware of the problems relating to the project mentioned in paragraph 60 and ineligible costs will be deducted from the eligible expenditure when closing the annual programme.

28

There has been a real improvement regarding the use of indicators by Member States since the annual programmes 2011. Initial problems were due to the lack of experience and difficulty for Member States to set measurable indicators at programming stage, despite initial guidance provided by the Commission.

29

The overall EBF implementation rate is satisfactory in spite of the fact that it was a new fund. Regarding Greece, the first annual programmes show quite a low implementation rate due to limited administrative capacity and lengthy procurement procedures which have been addressed since then with the assistance of the Commission in order to, inter alia, increase the absorption rate of EU funds, and it is expected that these efforts would have positive results on implementation from 2011.

30

The EBF was enshrined in the basic logic of the Schengen governance, where the obligation for the protection of EU external borders lies with individual Member States. Therefore the reinforcement of the capacities of the Member States in question through EBF investment in their own efforts to control the borders seems to be the best way to ensure the effective management of the EU external borders, especially to address particular migratory pressure.

While the creation of additional capacities through the cooperation of Member States was also encouraged and supported by the fund, this aspect has been considered as an ancillary element.

31 (a)

Please see replies to points 32–34. The specific priorities were largely used by Member States in their programmes, even by Member States which did not need it to increase their co-financing rates (cohesion countries).

31 (c)

The EBF mechanism to support emergencies under the Community actions was largely effective given the specific situations and circumstances where the emergency interventions were activated. Relevant funding was provided in response to some major emergency situations and effectively supporting projects in Member States facing particular pressure, such as Italy and Greece, contributing to the improvement of the situation on the ground.

However, the Commission agrees with the Court observation as regards the design of the EBF specific actions.

31 (d)

In the first years of implementation of the fund some projects which have been funded by the EBF would have anyway been funded by national funds. Given the fact that this was the first generation of funds in this area, this was almost unavoidable, in order not to lose the first years' allocations. The eligibility of costs is assessed at the time of closure in accordance with shared management principles (not at programming stage). Moreover, the Commission is carrying out audits which lead to financial corrections when appropriate.

32

The EBF's strategic guidelines, adopted by the Commission, established a framework ensuring that the fund is programmed and subsequently implemented in line with the relevant EU policies and built around the fund's five priorities.

Even if the specific priorities did not bring an additional financial incentive for cohesion countries such as Malta and Spain, Member States have widely used the specific priorities in their programming: nearly 720 million euro was programmed accordingly, representing 45 % of the total 2007–13 EBF allocations for all Member States.

33

Some elements/requirements of the specific priorities are open to interpretation, however, for most of the specific priorities (9 out of 12), the requirements were clear and allowed their effective application by Member States during the programming process.

Regarding the refocusing of the EBF programming on a few key strategic priorities (VIS, SISII, Eurosur, consular cooperation, state-of-the-art equipment), while the relevant reporting still needs to be analysed, the successful launch of VIS, SIS II and Eurosur in all Member States demonstrated the contribution of the EBF in this respect.

34

In line with reply to point 32, the Commission monitors the extent to which the specific priorities are applied by reviewing the concrete activities financed under specific priorities as part of the general work performed on the closure packages under each individual annual programme, as well as part of the general monitoring activities carried out by the Commission on national programmes (including monitoring missions).

Box 1

As replied to points 33 and 34, the Commission performed monitoring of the use of specific priorities as part of the monitoring of annual programmes implemented by Member States at the stages of draft programme analysis and during the implementation and at closure.

The successful launch of VIS and SIS II in all Member States demonstrates the crucial role of the fund in the achievement of these two large-scale IT projects. Despite the challenging environment surrounding the development and launching of both systems, the flexibility offered by the EBF (in particular through revisions) allowed the smooth financing of SIS II and VIS.

36

Initiatives by Member States remained limited and Member States preferred to finance renovations and upgrading of their visa sections under their annual programmes in order to comply with the requirements of the visa code and of the VIS regulation, which is also crucial to ensure proper external border management.

The reasons why the fund had a limited effect on the development of consular cooperation projects have been analysed and lessons have been learnt for the next programming period. In particular, the scope of the consular cooperation has been extended to other forms of consular cooperation than the common application centres as provided for by the visa code (colocation, representation, outsourcing), giving more possibilities to Member States. This is now reflected in the legal base of the Internal Security Fund (Borders and Visas — specific actions) for the period 2014–20.

37

The EBF was not conceived to directly support ‘operations coordinated by Frontex’ but to support efforts of Member States to manage the external borders of the European Union and in particular those most exposed to migratory pressure. Joint operations are financed from the Frontex’s own budget. Nevertheless, the Commission proposed specific priority 3(1) to increase the capacity of Member States to take part in and/or contribute to operational cooperation coordinated by Frontex. Nearly 30 million euro was earmarked in the MS 2007–13 annual programmes of Member States (nearly 2 % of the total EBF allocation for MS) under this specific priority.

38

Not all equipment purchased by Member States with EBF support would be systematically needed by Frontex for its joint operations. In addition, the registration in the Frontex pool and the putting at disposal of the equipment are regulated by founding Frontex regulations, therefore issues relating to the availability of technical means can only be solved within the context of Frontex regulation.

This explains why legislators have not established this condition in the EBF Decision. In the Internal Security Fund Borders and Visas 2014–20, the obligation to register in the Frontex pool of equipment has been introduced, but only for equipment purchased through specific earmarked funding for equipment necessary for Frontex joint operations, which is the best way to strike a balance between putting obligations on Member States and providing Frontex with appropriate equipment for its joint operations.

39

In accordance with article 53 (3) of the EBF Decision, the Commission communicates to the Agency all the approved final reports on the implementation of annual programmes. The information was transmitted to Frontex with some delay, bearing in mind that most of annual programmes relating to the 2007–10 period were closed in 2012–13.

However, this did not limit Frontex’s planning and operational ability as Frontex’s yearly operational planning is based on information from Member States in bilateral annual talks, and in terms of the availability of technical assets it relies on the information from the Frontex pool of technical means.

40

In order to step up the efforts for the exchange of information with Frontex, the CIRCABC electronic platform was established in 2014 by the Commission to organise and transmit the necessary information and to create a permanent repository of EBF documents which can be easily used by different services/units within Frontex.

This platform will ensure the full accessibility of the EBF final reports and other relevant information on EBF funding, most notably the ongoing EBF annual programmes, projects financed under EBF Community and specific actions.

On the top of making available the EBF documents, the Commission also offered to come with more targeted information, in particular, country fiches on EBF 2007–13 APs for each MS will be provided. In addition, some thematic fiches (i.e. on trainings, Eurosur) could also be made available if appropriate.

Information will be provided by the Commission to Frontex on measures to be financed via shared and centralised management. Effective information exchange will require also that Frontex shares with the Commission information from its annual bilateral and other talks with Member States, and the Commission has asked for this on a number of occasions.

41

Specific actions have been included in the course of the negotiation of the legal base and were not part of the initial Commission proposal. Experience has shown that the legal framework for the implementation of specific actions presented several flaws which have proven to be detrimental to the smooth implementation of these actions: the very cumbersome process leading to the definition of geographical areas concerned by specific actions (with the problem of quickly shifting risks which could not be immediately taken into account) and the very short period for implementation.

Therefore the Commission can agree with the fact that specific actions were not well designed from the beginning.

The use of Community actions to finance emergency actions and the possibility to revise annual programmes to address urgent situations have been used to their full in the case of certain Member States facing high migratory pressure. From a European added-value point of view this can hardly be criticised as actions which were financed were carried out to the benefit of the whole Schengen area on sections of external borders for which the level of security was put at risk in a context of high migratory pressure. It must be underlined that Member States indirectly affected by migratory crisis were also supporting the allocation of additional funds through emergency funding in order to help frontline Member States such as Italy or Greece.

42

Even if the legal framework for emergency actions under Community actions was not ideal, the financing of the actions under this mechanism was always legitimate and corresponded to an emergency/crisis situation. The lessons learnt from 2007–13 were applied in the 2014–20 Internal Security Fund.

The lack of some information in the grant application does not automatically mean that the action was poorly managed. This must be assessed in the light of the unpredictable context in which these actions are managed, which make them different from a normal Community action, in particular as regards *ex ante* detailed information to be provided on the expected results of the action financed.

Box 4, Case 1

The financing of SIS II final development steps for some countries constituted an emergency because a failure or delay on the part of a single MS in completing the SIS II tests scheduled in the second half of 2011 would have resulted in a delay for the entire project.

Accordingly, providing financial support to those Member States whose readiness to complete tests in 2011 depended on it represented an emergency action within the meaning of Article 7(c) of the EBF legal basis

This is why the Commission made significant efforts in 2011 to mitigate the risk of delay by Member States in adhering to the SIS II schedule because of a lack of financial resources to complete the development and testing of the national SIS II components. The Commission invited national authorities to give higher priority to SIS II under their existing EBF national allocations. It also organised a call for interest for emergency actions under the Community actions of the EBF, under which an extra 7.5 million euro was provided to the eight Member States most in need of additional resources (countries with very low EBF allocations and/or whose EBF resources were absorbed by other key priorities in the area of external borders).

Box 4, Case 2

The project's objective was to 'ensure transportation by air, land and sea of migrants arriving at the coasts of southern Italy during the summer of 2011'. At the time the situation of the submission of the Shifts project, the consequences of the critical situation in countries such as Libya were still unpredictable thus not allowing to have a clear vision of future developments in the exact number of migrants and asylum seekers to expect in Italy. In addition, it was impossible to predict how many additional places would become available in the mainland reception facilities, where and how many migrants would have to be. Achievement of progress for this type of emergency action could be measured only on an *ex post* basis due to the difficulty of setting indicators in a context of unpredictable events and a challenging operational environment. The other audited project concerns the purchase of vehicles for patrolling purposes. Transportation of migrants was a secondary objective. Hence, the Commission considers that, unlike for the project Shifts, the number of migrants transported was not a relevant indicator for evaluating the action.

43

Lessons have been learnt from the problems encountered in the implementation of specific actions and this mechanism will not exist anymore in the Internal Security Fund for the 2014–20 period.

Some actions under the 2008–10 were implemented outside the border areas specified in the calls for proposals. However, for the first one, the derogation was explicitly requested by the beneficiary and the Commission accepted as the derogation was directly linked to measures to address the situation in the border areas concerned (please see explanation below for Box 5). For the second one, as noted by the Court (Box 5, 3rd paragraph), the Commission has taken the necessary measures to recover the cost of cars which were deployed outside the border areas eligible under the call concerned.

Box 5, 2009 specific actions

Although the call for proposals for specific actions 2009 limited the territorial scope to the maritime border of Italy, during project implementation the beneficiary formally requested the geographical extension of the project to areas indirectly affected by the emergency migratory pressure triggered by the Arab Spring, namely areas of centres for identification and expulsion (CIE) where the migrants were being transferred. This project covered the period March–August 2011, during which the migration outflows from Tunisia following the Tunisian and Libyan revolutions reached their peak. In their request for amendment the Italian authorities specifically mentioned the need to relieve the burden on southern areas (about 40 000 migrants reached the Italian border) by transporting the migrants to other accommodation centres throughout the national territory and to ensure adequate security around these centres with the increased presence of vehicles. In a context of massive arrivals in the selected area in the call, it was crucial to transfer migrants to places where they could be screened properly in order to relieve the infrastructures located in the eligible areas. Therefore, this extension granted by the Commission remained in the scope of the objectives of the funds and was not departing from the geographical focus mentioned in the specific call as the situation in these areas was dependant on action in other areas. As a result, the Commission consistently considered eligible and accepted costs related to areas beyond the southern maritime border upon evaluation of the final cost claim.

Box 5, 2010 specific actions

In the context of this project, the financing of cars deployed beyond the areas identified in the Frontex risk analysis report was not justified. Consequently, the cost of the cars deployed outside the eligible areas has been rejected by the Commission.

45

Regarding the 2007 and 2008 annual programmes, it must be underlined that the late adoption of the EBF legal base, and consequently the late adoption of EBF multiannual programmes and 2007 and 2008 annual programmes, gave no other choice for many Member States but integrating in the first annual programmes already decided actions. In case of serious under-implementation of the first annual programmes, the Commission and Member States would have been criticised for not using the opportunity offered by the fund and this would have damaged the reputation of the fund and jeopardised its launching. In addition, had Member States waited to launch the public procurement procedure needed to purchase equipment, the funds available under the 2007 and 2008 annual programmes would have been lost, as was mostly the case in Greece.

46

National authorities usually spend their resources on relevant projects in this very sensitive area, which therefore have European added value as these investments serve the interests of the Member States participating in the Schengen area.

The nature of the costs financed by the fund does not necessarily limit the added value of related projects. The actions financed in Greece and Italy consisted of helping to deploy additional surveillance capacities and not of financing costs which would have normally been incurred in a non-crisis/emergency context.

The EBF focused in its first years of implementation on the long-term objective of capacity building in the Member States (2007–10). Later on, it was necessary to adapt to the pressure imposed by the emergency context due to political unrest in the south Mediterranean region, and to respond in an effective way by strengthening the operational dimension of the fund. Therefore, the Commission decided to support certain projects aiming at reinforcing the surveillance capacities linked to emergency situations in Greece and Italy.

In that context, the Commission believes that the EU added value of the fund also lies in assisting Member States facing a crisis situation because of increased migratory pressure.

47

The fact that ineligible expenditure is not detected by the national management and control systems does not necessarily mean that they are paid by the national fund. Where the Commission detects deficiencies in the national management and control systems, financial corrections may be applied.

Box 6, Lack of needs assessment and ineligible costs

The purchase of 355 vehicles was fully justified by the huge flow of migrants that tried to enter Italian territory following the Arab Spring in 2011 (62 692 people identified against 9 573 in 2009 and 4406 in 2010). These cars were not only needed to monitor the coastline but also to prevent secondary movements from the coastal regions to the inland regions and fulfil all the missions relating to the transportation of apprehended third country nationals towards retention centres, courts, etc. Of course these missions implied a use of the vehicles which was not strictly limited to the external borders but which was fully justified given the emergency context where the apprehension of irregular migrants having just crossed the external borders is not a matter of normal law enforcement but of border and migration management.

Given the absolute unpredictable nature of the Arab Spring, it was impossible for the Italian authorities to carry out a needs assessment on the adequate number of cars required to cope with the sudden flow of irregular migrants in 2011.

48

Due to time constraints for adopting the programmes, some of them lacked SMART indicators. The elaboration of national strategies was not a legal obligation imposed by the EBF on Member States to receive support from the fund. For one Member State the selection of beneficiaries could have been better documented, but this did not affect the effectiveness of the fund. The Commission is aware of the risk linked to public procurement and is applying financial corrections where necessary.

49

The obligations/requirements described by the Court are not included in the EBF legal base. The third version of the Schengen catalogue is not a binding instrument which would have imposed the obligation on Member States to have a national strategy for the management of the external borders to receive support from the EBF.

50

Member States are responsible for the preparation of their multiannual programme and their annual programmes. The multiannual programmes contained three parts (situation in the Member State, analysis of the requirements and strategy to achieve the objectives) which in most cases allowed the Commission to understand the situation, requirements and strategy of the Member States, even if the quality varied from one country to the other. It must be noted that the CIRAM has been developed by Frontex in the past years and was not available at the time of the preparation of the multiannual programmes. In addition, given that the situation regarding border management may be subject to change in time due to changing irregular migration routes, the approach has to be adapted to reality, which explains the revision of multiannual programmes and annual programmes as new needs have appeared and priorities have changed during the programming period. Complementarity has always been checked by the Commission when adopting annual programmes with other departments managing EU funds, and no major problems of complementarity were raised.

51

DG Home Affairs systematically consulted other Commission departments on the content of annual programmes, thereby mitigating the risk of targeting similar actions. ***The Commission is not aware of any double funding of the same project by two EU financial instruments.***

53

For the preparation of the first annual programmes, most responsible authorities did not have experience in managing EU funds. The task of the responsible authorities to request from beneficiaries to commit themselves on measurable targets proved to be difficult in a field of activity where accountability might not be as developed as in other areas due to safety/public security reasons.

54

Although the Commission insisted vis-à-vis Member States on the necessity to get measurable indicators (at least input indicators), it did not block the adoption of the first annual programmes because some actions were lacking measurable indicators, as this would have been disproportionate and would have anyway not resulted in a substantial improvement of the indicators for the first annual programmes (2007 and 2008) which were adopted together. Nevertheless, in the course of the adoption of the annual programmes, progress has been noted as regards the indicators inserted by Member States from 2012. For example, the initial Spanish annual programmes contained very few quantified indicators, whereas as from the 2012 and 2013 annual programmes many result and impact indicators were quantified, showing measurable targets.

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For the next programming period, Member States will have to report in a compulsory manner on common indicators. In addition, programme-specific indicators will be defined in accordance with national programme specificities. Reporting on indicators will be managed through an IT system developed by the Commission.

56

Annual programmes represent a disproportionate administrative burden for Member States and for the Commission under the 2007–13 period. Nevertheless, it was deliberately chosen by the Commission because on the one hand it could respond quickly to changing situations at the external borders and on the other hand it allowed better scrutiny of the eligibility of actions considering the novelty of the fund and the inexperience of responsible authorities as inherent risks.

57

The experience gained by Member States throughout the programming period 2007–13 allows shifting to a multiannual programme management framework for the 2014–20 period. As pointed out by the Court, this will facilitate the implementation of the procurement of large and sophisticated equipment, which can be very lengthy.

58

Given the specific nature of EBF beneficiaries (public bodies in charge of border management and visa issuance) and their rather limited number in each Member State, in many Member States the selection of relevant projects has to be centralised. However, at the same time it was often carried out or approved with the participation of high political level guaranteeing the use of the EBF allocation to address the most relevant priorities and needs faced by the Member State.

59

The fund is allocated between the different public entities which are in charge of external border management.

Regarding participation in specific actions and emergency measures, each relevant public authority could apply directly for funding without involving the responsible authority. So the lack of participation in these instruments of Italian public authorities other than the one institutionally connected with the responsible authority should not be regarded as an exclusion or marginalisation but as a prominent institutional role of the Ministry of the Interior (in collaboration with other public entities such as the Marina Militare, Guardia di Finanza, Capitaneria di Porto, Ministry of Foreign Affairs) in the management of the external borders.

60

Following the assessment of the relevant final implementation report by the Commission, this specific project was found in breach of the basic principles of the fund. Therefore, the respective costs will be deduced from the final payment of the EBF annual programme concerned.

In both stages of the involvement of the Commission in the EBF implementation, namely the adoption of national programmes and their final closure, the Commission pays particular attention that the EBF projects implemented by Member States are in compliance with EU law, including the respect of fundamental rights.

61

The acquisition of patrol dogs was initially part of the same procurement procedure as the patrol cars. When Greece realised that the two components (dogs and cars) could not be procured together, they went on with purchasing the cars and the dogs' acquisition was postponed.

62

The use of the exception clause for defence and security procurements is a valid option if the conditions provided by the legal framework on procurement to use this possibility are met.

Clear messages have been regularly sent by the Commission to Member States on the need to comply with the relevant legal framework and to properly document the reasons why a negotiated procedure was used by the beneficiaries and not open or restricted procedures. The Commission also applies project-specific corrections or, where appropriate, flat-rate financial corrections when it identifies in the context of closures of annual programmes irregular procurement procedures or a lack or insufficient documentation on the justification of the choice of procedures which can reveal a systemic deficiency in the management and control system. These financial corrections are calculated with the same rules as for the Structural Funds. In addition, *ex post* audit strategy will complement the efforts to reduce the risk of residual errors in the declared expenditure that were not detected at the time of closure.

63

This issue is regularly checked by the Commission at the stage of closures and through *ex post* audits. Financial corrections are applied when irregularities in procurement procedures are detected.

64

The Commission regularly draws the attention of the responsible authorities to the necessity of verifying the legality of the procurement procedures concerning contracts for which expenditure is declared to the fund. Such verifications fall within the scope of the responsible authority's management verifications. The responsible authorities are becoming more and more aware of the importance of ensuring that the beneficiaries provide well-documented justification and supporting reasoning when opting for less transparent procedures, as supporting documentation with their claim for reimbursement for expenditure incurred. Furthermore, as part of the audit work, the audit authority also verifies if public procurement procedures have been correctly applied.

65

In case of insufficient verification of procurement procedures and/or the use of inappropriate procurement procedures, there might be a risk of lower value for money, which is why the Commission pays particular attention to this issue and applies financial corrections where necessary.

66

Regarding the lack of SMART indicators, the Commission acknowledges that, despite its guidance to Member States, it has been really difficult to get reliable outcome and impact indicators for the reasons explained at points 53 and 54. This also explains why it was not really possible to exploit the reporting by Member States on indicators included in the first annual programmes for the 2007–10 evaluation and that the evaluation had to be carried out on the basis of an ad hoc questionnaire sent to Member States for the purpose of the evaluation.

67

The obligations of responsible authorities regarding monitoring have not always sufficiently been respected. The Commission has nevertheless observed that the situation has improved in most Member States since 2010. This is nevertheless mitigated by the fact that most beneficiaries of the EBF are large public entities which have to comply with checks by ministries of finance in order to proceed to the payment by the national treasury/ministry of finance (check against delivered equipment, compliance with orders, etc.).

68

Most Member States are carrying out monitoring visits (on-the-spot) even if the situation is varying from one Member State to another. For Italy, these on-the-spot controls, although carried out *ex post*, have represented 50 % of the total of the allocation between 2007 and 2012. For Spain, as from 2010 monitoring visits took place on a regular basis.

69

Setting up an IT system to record indicators was not an obligation in the basic act in the implementing rules of the fund. Nevertheless, the Commission encouraged Member States to develop a computerised system to record data on projects during its monitoring visits and fostered the exchange of best practices in this area. For example, during the SOLID Committee of 11 May 2012, a Member State presented an example of best practices in this area (electronic management of the funds) to other Member States.

70

While in some cases the reports received from certain Member States have limitations in the information provided, in particular in terms of quantifiable data on deliverables and outputs within the framework of the project, this is mitigated by additional exchanges with the beneficiary until satisfactory information is received. Templates for applications and final reporting have been modified to address this issue for EBF Community actions and specific actions.

72

Lessons have been learnt from the evaluation process which has been audited by the Court. In particular the main lesson learnt has been that the involvement of an external entity which will be in charge of the entire evaluation process is to be preferred. The *ex post* evaluation 2011–13 will therefore be carried out through a quite different process. In addition, the directly managed actions, which were not fully included in the scope of the evaluation, will be included in the next *ex post* evaluation.

In addition, the lack of common indicators on which Member States should have reported from the start made the definition of indicators compulsory at the time of the midterm review. Member States had to collect data from beneficiaries on these indicators which explain delays. For future evaluations of the Internal Security Fund, common indicators and programme-specific indicators will be used for the evaluation, making it easier and more effective.

73

The evaluation reports (which have been improved following the remarks made by the Court during the audit) contain quantitative data which gives an interesting overview of the assets purchased or developed with the help of the fund. The Commission acknowledges that, however, because of lack of time and insufficient information available, it was difficult to go beyond a descriptive analysis of what has been achieved by Member States with the fund during the first 4 years of its implementation. That is why the Commission thinks that the overall results of the fund could be partially measured.

The *ex post* evaluation that will be carried out in 2015 will include a detailed chapter on specific and Community actions, taking account of the results on the 2007–10 periods.

74

Delays occurred at the level of the Member States in the transmission of Member State reports. Additional verifications and requests for clarifications had to be sent by the Commission to Member States, which triggered additional delays. The report was published on the website of the Commission in May 2014.

Conclusions and recommendations

75

The added value of the fund is related to the financial solidarity established through Member States facing drastically different situations at their external borders. In doing so, the fund has created a tangible solidarity between the countries most exposed to migratory pressure at the borders and the ones less exposed. Thanks to the allocation mechanism, the bulk of resources were directed to the most exposed countries (mostly south Mediterranean ones). In addition, European added value is also represented by the fact that major projects for the Schengen area were supported successfully by the fund (VIS, SIS II and Eurosur). Regarding the weaknesses found by the Court, these are mainly due to an insufficient administrative capacity in the first years of implementation of the fund for one Member State, and for others to a lack of experience in the responsible authority and beneficiaries in the management of EU funds rather than systemic and persistent deficiencies. They are also linked with the delayed launch of the fund due to the late adoption of legal bases. In the opinion of the Commission, the situation of Italy and Malta cannot be qualified as showing 'serious weaknesses' in the management of the fund.

76

The fund has supported the fund's priorities, namely SIS II, VIS and Eurosur. The lack of SMART indicators for some programmes, due to the inexperience of responsible authorities in managing EU funds, did not prevent the use of the fund by Member States to support the fund priorities. This was achieved through close scrutiny of the Commission on annual programme content and appropriate guidance (in particular as from 2010) allowing directing the programmes resources towards the fund's priorities.

Some multiannual programmes and first annual programmes were indeed approved without being equipped with robust SMART indicators. The possible non-adoption of the programmes for this single reason would have been extremely damaging to the Member States concerned and to the fund's reputation (and to the European Union), and would have been considered as a purely bureaucratic and rigid approach.

77

Slovenia developed an integrated tool to manage the fund and collect data from the start. Other countries did so whereas there was no legal obligation to put in place such a system. Some systems already exist in some Member States.

Regarding the content of the *ex post* evaluation, most of the issues spotted by the Court have been corrected in the final version.

Recommendation 1

The Commission considers that this recommendation has already been implemented in the legal bases of the new funds. Additional guidelines will be provided to Member States.

Recommendation 2

This recommendation is addressed to Member States and is supported by the Commission.

79

The Commission acknowledges that the fund's legal framework was not well designed as far as the specific actions are concerned. The Commission also acknowledges that the fund, while offering opportunities to finance consular cooperation through Community actions, did not obtain significant results in that respect. Although the initiative of such actions mainly relies on Member States, this has been taken into account when elaborating the design of the new Internal Security Fund in order to provide an additional incentive for the establishment of consular cooperation mechanisms.

80

Frontex will be very closely associated with the implementation of the new Internal Security Fund. According to the legal base, it will be consulted on the draft national programmes of Member States (Article 9.4 of the ISF borders regulation) and on actions to remedy weaknesses detected in the context of a Schengen evaluation (Article 12). Input by Frontex will also be crucial for the midterm review allocation (Article 8) and Frontex will play a key role in the allocation of specific actions, in particular for equipment to be put at disposal of its joint operations. As the work on 2014–20 national programmes has already started, Frontex is already involved in these processes. An electronic information exchange platform has already been put in place to facilitate exchanges of documents between the Commission and Frontex.

The registration in the Frontex pool of equipment and the putting at disposal of equipment for Frontex operations are regulated by Frontex regulations and not by the fund. Not all equipment purchased by Member States with EBF support would be systematically needed by Frontex for its joint operations. In the Internal Security Fund, equipment corresponding to Frontex's needs for its operations will be purchased under the specific actions and will be entered in the Frontex technical equipment pool.

For Frontex equipment refer to recommendation 4.

Recommendation 3

The Commission partially agrees with this recommendation. The Commission will promote the establishment of common application centres and other forms of consular cooperation in addition to the renovation, adaptation and equipment of consulates. Renovating/equipping a consulate that processes hundreds of visas per day might make more sense sometimes than financing a consular cooperation action that concerns a few hundred visa applications per year. Renovating and equipping big consular posts so that they could process the applications in a more client-friendly, speedy manner with the help of state-of-the-art (IT) equipment is equally important to supporting consular cooperation projects. Moreover, 'equipping' can also mean VIS-related equipment, which is an important priority. Irrespective of stepping up consular cooperation, MSs should roll out the VIS worldwide in accordance with the roll-out schedule.

Recommendation 4

First indent: While this recommendation is broadly addressed to the legislator, the Commission does not accept it. The fund was conceived in the first place as a burden-sharing mechanism supporting Member States' capacities as the most effective way to fulfil their own roles and obligations for control of EU external borders. In the Internal Security Fund, equipment corresponding to Frontex's needs for its operations that will be purchased under a specific earmarked financial component (specific actions) will have to be entered in the Frontex technical equipment pool.

Second indent: The Commission accepts this recommendation. Measures have already been implemented to put this cooperation/exchange of information into practice.

Recommendation 5

This recommendation is addressed to Member States. The elaboration of a comprehensive strategy for external borders to prepare the EBF multiannual programme was not an obligation stemming from the EBF's legal base or of any other legal act.

Recommendation 6

The Commission does not accept this recommendation. The Commission would however point out that the Internal Security Fund (Borders and Visas) has integrated conditionality, and funding of operating support will depend on compliance with the Schengen *acquis*.

Recommendation 7

The Commission accepts this recommendation without prejudice to the respective roles of the Commission and of the Member States in shared management.

Recommendation 8

This recommendation is addressed to Member States. The Commission supports this recommendation.

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The aim of the External Borders Fund (EBF) is to help Member States ensure uniform, effective and efficient controls at their common external borders.

The Court's audit examined the EBF's effectiveness and the achievement of its objectives.

The Court found that the EBF has fostered financial solidarity by concentrating assistance on Member States who bear a heavier financial burden.

However, further EU added value was limited, and the overall result could not be measured due to weaknesses in monitoring and *ex post* evaluations. Furthermore, the audit found serious weaknesses in the management of the fund in key Member States, which might mean that border management is not adequately strengthened where it is most needed.



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