



Brussels, 8.12.2022
C(2022) 8906 final

COMMISSION IMPLEMENTING DECISION

of 8.12.2022

**approving the programme of Poland for support from the Internal Security Fund for
the period from 2021 to 2027**

[ONLY THE POLISH TEXT IS AUTHENTIC]

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy¹, and in particular Article 23(4) thereof,

Whereas:

- (1) On 13 May 2022, Poland submitted, through the electronic data exchange system of the Commission, the programme for support from the Internal Security Fund (ISF) for the period from 2021 to 2027.
- (2) The programme was prepared by Poland in cooperation with the partners referred to in Article 8(1) of Regulation (EU) 2021/1060.
- (3) The programme contains all the elements referred to in Article 22(3), (4) and (5) of Regulation (EU) 2021/1060 and was prepared in accordance with the model set out in Annex VI to Regulation (EU) 2021/1060.
- (4) In accordance with Article 15(2) of Regulation (EU) 2021/1060, the programme sets out Poland's assessment of the fulfilment of the horizontal enabling conditions as defined in Article 15(1), first and third sub-paragraph of that Regulation. In its assessment, Poland concludes on the lack of fulfilment of the horizontal enabling condition on the 'Effective application and implementation of the Charter of Fundamental Rights'. In that respect, the conditions in question should be declared as non-fulfilled. In accordance with Article 15(5) of Regulation (EU) 2021/1060, expenditure related to operations linked to the specific objectives concerned by unfulfilled enabling conditions may be included in payment applications but cannot be reimbursed by the Commission until Poland has informed the Commission of its assessment that it considers the enabling condition fulfilled with a justification of the fulfilment in accordance with Article 15(3) of Regulation (EU) 2021/1060 and, subsequently, the Commission has informed the Member State that it agrees with the fulfilment of the enabling condition pursuant to the first subparagraph of Article 15(4) of that Regulation. Amounts paid as pre-financing for the years 2021 and 2022 are to

¹ OJ L 231, 30.6.2021, p. 159.

be cleared from the Commission accounts each year in accordance with Article 90(5) of Regulation (EU) 2021/1060 and may thus be recovered. In addition, pursuant to Article 15(6) of Regulation (EU) 2021/1060, it is recalled that Member States have to ensure that enabling conditions remain fulfilled and respected throughout the programming period.

- (5) In accordance with Article 23 of Regulation (EU) 2021/1060, the Commission assessed the programme and made observations pursuant to paragraph 2 of that Article on 24 August 2022. Poland provided supplementary information and provided a revised programme on 7 November 2022.
- (6) Without prejudice to the situation as regards enabling conditions laid out in recital 4, Article 15(3) of Regulation (EU) 2021/1060 requires the Commission to approve the programmes also where not all enabling conditions are fulfilled. The Commission concluded that the programme complies with Regulation (EU) 2021/1060 and with Regulation (EU) 2021/1149 of the European Parliament and of the Council², is consistent with the Partnership Agreement of Poland, as regards aspects of complementarity and synergies with the Funds covered by the Partnership Agreement, and takes into account relevant country-specific recommendations, relevant challenges identified in the integrated national energy and climate plan, and the principles of the European Pillar of Social Rights, or other relevant Union recommendations addressed to the Member State.
- (7) Pursuant to the first subparagraph of Article 86(1) of Regulation (EU) 2021/1060, this Decision constitutes a financing decision within the meaning of Article 110(1) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council³. It is nevertheless necessary to specify the elements needed to make the budgetary commitments with respect to the programme in this Decision.
- (8) Pursuant to Article 12(7) and (8) of Regulation (EU) 2021/1149, it is necessary to set the co-financing rate and the maximum amount of support from the ISF. It is also necessary to set out for each type of action whether the co-financing rate applies in respect of the total contribution, including the public and private contributions, or of the public contribution only.
- (9) This Decision is without prejudice to the Commission's position regarding compliance of any operation supported under the programme with the State aid rules applicable at the time when the support is granted.
- (10) The proposed programme should therefore be adopted,

² Regulation (EU) 2021/1149 of the European Parliament and of the Council of 7 July 2021 establishing the Internal Security Fund (OJ L 251, 15.7.2021, p. 94).

³ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

The programme of Poland for support from the Internal Security Fund for the period from 1 January 2021 to 31 December 2027, submitted in its final version on 7 November 2022, is hereby approved.

Article 2

1. The maximum amount of support from the Internal Security Fund and its composition is set out in Annex I.

The maximum amount of support for the programme is set at EUR 70.755.658,31 to be financed from budget line 12 02 01 in accordance with the nomenclature of the General Budget of the European Union for 2021-2027.

2. The co-financing rate for each type of action is set out in Annex II. The co-financing rate for each type of action shall apply to total contribution, including public and private contributions.

Article 3

The enabling conditions are fulfilled with the exception of:

- Horizontal enabling condition ‘3. Effective application and implementation of the Charter of Fundamental Rights’.

Article 4

This Decision is addressed to the Republic of Poland.

Done at Brussels, 8.12.2022

For the Commission

Ylva JOHANSSON

Member of the Commission