

**FAQs about Specific Actions under BMVI Thematic Facility Work Programme**

- ❖ **BMVI/2023-2024/SA/1.2.2 - “Equipment for EBCG national components, purchased under BMVI and put at the disposal of Frontex to increase its operational capacity, in accordance with Article 64(14) of the Regulation (EU) 2019/1896”**

**Questions submitted to the functional mailbox (HOME-AFFAIRS-FUNDS-COMMITTEE@ec.europa.eu) (2nd set of replies)**

Nr. crt.	Topic classification	Question	Reply <sup>1</sup>
1.	<b>Deployment duration modification</b>	Would it be possible to change the duration of the loan of the equipment to Frontex? For technical and logistical reasons, this creates operational constraints.	We understand the loan as referring to the deployment of the equipment to Fontex. As mentioned in the call document – table 1, point 3 ” <i>At the Agency’s request, the technical equipment purchased shall be put at the disposal of Frontex, as planned in the annual bilateral negotiations. The exact timing for making available this technical equipment should be agreed between each Member State and the Agency through annual bilateral negotiations, taking into account capacity and proportionality. It should be noted that the equipment considered as 'being put at the disposal of the Agency for a minimum period of 4 months per year' is the equipment made available for Frontex coordinated operations carried out in another Member State and not in the context of deployments by the owner Member States within its own territory.</i> ”
2.	<b>Deployment as per the annual bilateral negotiations</b>	Since the contributions from the technical equipment pool are taken into consideration for the following year, does this mean that pledges made for contributions to a particular year will have to be fulfilled even	The pledged deployment during January of year N-1 shall be implemented for operational year N. During annual bilateral negotiations of year N, there is not any process for “cancelling” the pledged deployment on a basis of an agreement for applying Article 64 of the

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<sup>1</sup> These replies express the views of the Commission services – DG HOME and are intended to assist the Member States’ authorities in their application to this BMVI Specific Action call. These replies do not commit the European Commission. Only the Court of Justice of the European Union is competent to authoritatively interpret the Union law.

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		<p>if an Article 64 of Regulation 2019/1896 deployment is requested before the pledged deployment agreed upon during the annual bilateral negotiations?</p> <p>In such case the staff obligation for the following year is reduced to reflect the Article 64 of the Regulation 2019/1896 deployment with the relevant staff?</p>	<p>Regulation (EU) 2019/1896. One is not connected to the other.</p> <p>Regarding the staff, please see the reply included in row no. 4 below, in this table. The two pledges are not connected. The pledged technical equipment under Article 64 of the Regulation 2019/1896 should be provided with the necessary staff to operate it.</p>
3.	<b>Reporting obligations</b>	<p>What are the reporting conditions and what are the expectations?</p>	<p>Successful Member States should deliver every six months monitoring reports (template to be provided), informing the Commission on the implementation state of play of the project, including the different stages of the procurement procedure (tendering, evaluation, possible legal challenges, contracting, delivery, technical acceptance, etc.), the final registration of assets in the technical equipment pool (TEP), including the deployments of the equipment.</p> <p>Expectations are that by the end of 2026, by means of this specific action Member States will purchase the equipment to be registered in the TEP and put at the disposal of Frontex for operations at EU level, as per Article 64(14) of the Regulation 2019/1896, increasing thus the Agency's operational capability, while for the rest of the year, this equipment will be used nationally for external borders surveillance.</p>
4.	<b>Staff for operating the requested equipment</b>	<p>In case of purchase of a drone, what are the human resources needs of Frontex?</p> <p>***</p> <p>Article 54 (5) of the EBCG Regulation states that crew for equipment provided under Article 64 shall be taken into account as part of the contributions for short deployments for the following year. It continues to state that “The MS concerned</p>	<p>When the equipment is deployed in operations at EU level, the Member States shall provide the crew and the necessary support staff to ensure that the equipment is operationally available for the duration of the deployment.</p> <p>Therefore, staff to operate the equipment (incl. UAS, patrol cars) should be provided.</p>

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		<p>shall inform the agency about its intention to deploy technical equipment with corresponding crew by the end of January of each year.”</p> <p>With this in mind we would like clarify if the equipment in the technical equipment pool and the rapid deployment pool are to be provided complete with their crew and/or border surveillance officers (in case of patrol cars).</p> <p>***</p> <p>It has been noted that Article 63 (6) of Regulation 2019/1896 states “Where the Agency does not have the required qualified statutory staff, the Member State of registration or the supplier of technical equipment shall provide the necessary experts &amp; technical crew to operate the technical equipment in a legally sound &amp; safe manner ...”</p> <p>Does this also apply to patrol cars? If requested patrol cars can be sent to the deployment area for use by other Frontex standing corps members?</p>	<p>See as well the reply no. 16 in the Annex to the Note registered under the no. ARES(2022) 8355607 and sent on 02/12/2022.</p> <p>Frontex’s patrol cars are manned by standing corps officers mainly of category 1. The availability of patrol cars without border guard officers-terrestrial border surveillance officers by the providing Member States can be assessed, although from the operational point of view, it can’t be considered as a fully added value and, as such, won’t be prioritized in the evaluation.</p>
5.	<b>Use of the technical assistance</b>	<p>For what particular aims is allowed to use expenditures of Technical assistance under this programme? Will we be requested to prove them by financial documentation and payment? What particular expenditures (for example: administration costs, training of</p>	<p>Pursuant to Article 36(1) of the Regulation (EU) 2021/1060 - applicable to BMVI - the Technical Assistance may support actions, which may concern previous and subsequent programming periods, necessary for the effective administration and use of those Funds, including for the capacity building of the partners referred to in Article 8(1) of the Regulation (EU) 2021/1060, as well as to provide</p>

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		<p>staff, experts etc.?) cover Technical assistance category?</p>	<p>financing for carrying out, inter alia, functions such as preparation, training, management, monitoring, evaluation, visibility and communication.</p> <p>The technical assistance is to be used by the Managing Authority for the overall management of the BMVI programme.</p> <p>How the Member State exactly uses the flat-rate payments as per Article 36(5)(b) and within the scope of Article 36(1) of the Regulation (EU) 2021/1060 is the responsibility of the Member State.</p> <p>As for the technical assistance at the level of the Specific Action/ beneficiary, it is up to the Member State/ Managing Authority to set out in the document granting the support the eligibility conditions for this expenditure. Such conditions should in general remain within the scope of Article 36(1) of Regulation (EU) 2021/1060.</p>
6.	Payments	<p>If we win the Project, when can we expect payment (advance payment and what proportion) if more than one assets (from different categories) is purchased ?</p> <p>Is part/advance payment of the purchase possible and what proportion (some suppliers require part-payment because the equipment is individually manufactured)?</p> <p>Is it possible to receive payment/financing if the assets are purchased earlier than planned, i.e. is it possible to receive payment after the assets have been included in the TEP? (when the Country will receive payment ?)</p>	<p>Following the evaluation of the applications submitted under the BMVI Specific Action call, the BMVI programmes of the successful Member States will be amended in the second half of 2023 to include the respective additional allocations.</p> <p>The successful specific actions will therefore be part of the Member States' programmes and the rules for shared management will apply.</p> <p>As from that stage, the Member State can provide advanced payments and/or make interim and final payments to the beneficiaries depending on the systems, arrangements and grant/contractual conditions setup by the Managing Authorities and agreed by the beneficiaries. Such arrangements and conditions would define inter alia the level and clearance conditions of any advance payments paid by the Managing Authorities to the beneficiaries.</p>

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			<p>It is possible to receive payment/financing if the equipment is purchased earlier than initially planned, provided that the expenditure is incurred by the beneficiary within the set eligibility period (in any case not before 1 January 2021) and the project has not been physically completed or fully implemented before the application for funding under the programme was submitted, irrespective of whether all related payments have been made (cf. Article 63(6 and 7) of Regulation (EU) 2021/1060).</p> <p>The Managing Authorities ensures, subject to the availability of funding, that a beneficiary receives the amount due in full and no later than 80 days from the date of submission of the payment claim by the beneficiary; the deadline may be interrupted if information submitted by the beneficiary does not allow the Managing Authority to establish whether the amount is due (cf. Article 74(1)(b) of the Regulation (EU) 2021/1060).</p> <p>The Managing Authority should ensure that, not later than the final payment for the purchased equipment, the Specific Action has been completed in compliance with the applicable legislation and conditions, notably in terms of registration of the equipment in the TEP for deployments to Frontex.</p> <p>As for the payment application by the Member State to the Commission (programme level), it should be noted that only expenditure incurred by beneficiaries and paid in implementing the project can be declared. The payments from the Commission to the Member State will be done within 60 days following the receipt of the Member State's payment application.</p>
7.	<b>Leasing</b>	As regards question 6 (ARES(2022) 8355607) the reply seems to contradict previous discussions where the Commission	In addition to the reply already provided to question in row no. 6 of the Note having the ref. no. ARES(2022) 8355607, please note the following:

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		<p>has clarified that “<i>purchase</i>” can also include equipment rented or leased. This has also been reflected in the indicator fiches for the relevant <i>indicators</i> (see attached, e.g. O.1.5 &amp; O.1.6).</p> <p>As we are preparing a project which would involve leasing we would appreciate <u>urgent confirmation</u> that BMVI funds can also be used to rent or lease equipment to be put at the disposal of Frontex as previously communicated.</p>	<p>The Methodological note on the performance framework for the 2021-2027 AMIF/ISF/BMVI (ARES(2021)791558, attached) – sent to the Member States under the reference no. HOME- Funds/2021/28 clarifies on page 9 that “<i>As a general rule, the indicator data captures all data subjects, which or who have received support. Monitoring and data collection is to be decoupled from determining eligibility of support. Hence, the indicators do not determine whether a person or a good is eligible for support. If, however, in the context of checking eligibility, a data subject has been considered to be ineligible after the data has been recorded in the Member State’s monitoring system or reported to the Commission, the data needs to be corrected in the monitoring system and – if applicable - with the next reporting to the Commission</i>”.</p> <p>The BMVI Specific Action - ref. no. BMVI/2023-2024/SA/1.2.2, launched on 10 October 2022, is dedicated only to the purchase of equipment for EBCG national components, with the financial support of BMVI, and put at the disposal of Frontex to increase its operational capacity, in accordance with Article 64(14) of the Regulation (EU) 2019/1896. For this Specific Action call the leasing costs are not eligible.</p> <p>Within the flexibility offered by the thematic facility in the management of the BMVI, the Commission may examine together with Frontex the possibility of funding the leasing of such equipment under future similar Specific Actions.</p>