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2018/0132 (APP)

Proposal for a

**COUNCIL REGULATION**

**laying down the multiannual financial framework for the years 2021 to 2027**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

Article 312 of the Treaty on the Functioning of the European Union ('the Treaty') stipulates that a unanimously adopted Council Regulation shall lay down a Multiannual Financial Framework. It *shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations* and it *lay down any other provisions required for the annual budgetary procedure to run smoothly*.

The first multiannual financial framework (called financial perspectives at that time) was adopted thirty years ago together with provisions on interinstitutional cooperation and budgetary discipline<sup>1</sup>. This and the following financial frameworks allowed for improving and facilitating the annual budgetary procedure and cooperation between institutions whilst, at the same time, increasing budgetary discipline and predictability of funding for multiannual programmes and investments.

By enshrining the Multiannual financial framework into the Union's primary law, the Treaty has recognised its importance as a cornerstone of the budgetary architecture of the European Union.

The current Multiannual Financial Framework regulation for the years 2014 to 2020 was adopted on 2 December 2013<sup>2</sup>. On the same date, the European Parliament, the Council and the Commission approved the Interinstitutional Agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>3</sup>. The MFF Regulation was revised in 2015<sup>4</sup> in accordance with the provisions of its Article 19 to cater for the late programming of funds under shared management and, again, on 20 June 2017<sup>5</sup>, following its mid-term review.

The present explanatory memorandum focuses on elements which are new or which the Commission proposes to amend as compared with the current MFF Regulation, for both the proposal for a Regulation laying down the Multiannual Financial Framework for the years 2021 to 2027 ('the MFF Regulation') and the draft Interinstitutional Agreement on cooperation in budgetary matters and sound financial management<sup>6</sup> ('the draft IIA').

These proposals provide for a date of application as of 1 January 2021 and are presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union, received by the European Council on 29 March 2017.

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<sup>1</sup> Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure, signed by Parliament, the Council and the Commission on 29 June 1988 (OJ L 185, 15.7.1988, p. 33).

<sup>2</sup> OJ L 347, 20.12.2013, p. 884.

<sup>3</sup> OJ C 373, 20.12.2013, p.1.

<sup>4</sup> OJ L 103, 22.04.2015, p.1.

<sup>5</sup> OJ L 163, 24.06.2017, p.1

<sup>6</sup> COM(2018)323, 02.05.2018.

## **2. A NEW, MODERN BUDGET.**

### **2.1. Main political guidelines**

The proposal for the MFF Regulation and the draft IIA follow the principles and main political objectives outlined in the Commission Communication on "A modern Budget for a Union that protects, empowers and defends: The Multiannual Financial Framework for the years 2021-2027" adopted on 2 May 2018<sup>7</sup> (the 'MFF Communication'), in particular with regard to its duration, its structure reflecting political priorities, the need for increased flexibility, and the amounts foreseen for the Multiannual Financial Framework itself.

### **2.2. MFF Structure and MFF ceilings**

The structure of the expenditure 'headings' of the MFF reflects the proposal for a more streamlined and transparent budget, focused on clear policy priorities. The detail of the structure and policies covered under each heading is described in the MFF Communication.

The MFF is structured in seven headings with three sub-ceilings: on 'Economic, social and territorial cohesion' in heading II, on 'Market related expenditures and direct payments' in heading III and on 'Administrative expenditure of the institutions' in heading VII (see table in the Annex to this Regulation).

To support the Union's priorities in a context of EU 27, and to take into account the integration of the European Development Fund into the Union budget, the Commission proposes for the MFF 2021-2027 a ceiling for commitments of EUR 1 134.6 billion in constant prices of 2018 equal to 1.11% of EU GNI and a corresponding payment ceiling of EUR 1 104.8 billion in constant prices of 2018 equal to 1.08% of EU GNI.

The Commission is proposing together with this proposal a legislative package for the reform of the Union's Own resources system, including a proposal for a Council Decision on the system of own resources of the European Union<sup>8</sup>, including an increase of the ceiling for annual calls for own resources for payments to 1.29% of GNI, and 1.35% of GNI in commitments. This increase is reflecting the higher payment needs for the integration of the European Development Fund into the budget and the financing of new priorities while providing a sufficient safety margin in order to ensure that the Union is able – under any circumstances – to fulfil its financial obligations.

### **2.3. Flexibility**

Whilst aimed at ensuring budgetary discipline the financial framework must, at the same time, provide for adequate levels of flexibility to allow for effective resources allocation and a swift Union response to unforeseen circumstances and emergency situations.

In the first years of the Multiannual Financial Framework for the years 2014-2020, the Union was confronted with unforeseen challenges of an unprecedented scale resulting from instability in its neighbourhood occasioning security threats and mass migratory movements. In order to mobilise additional financial means for measures contributing to tackle the above mentioned challenges, the flexibility of the MFF was extensively used, in particular through the mobilisation of special instruments established as part of the MFF Regulation. This allowed the Union to take decisive action, but tested the budget's flexibility to the limit.

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<sup>7</sup> COM(2018)321, 02.05.2018.

<sup>8</sup> COM(2018)325, 02.05.2018

Therefore, the functioning of the flexibility 'toolbox' was examined in detail in the context of the mid-term review/revision of the 2014-2020 MFF<sup>9</sup> in 2016 and additional improvements were introduced in the 2017 revision of the MFF Regulation.

A number of parameters, such as the length of the period covered by the financial framework, the number and design of expenditure headings, the share of EU spending pre-allocated to Member States and regions or pre-determined by 'amounts of reference' in co-decided legislation, the margins available within each expenditure ceiling, and the margins left between the financial framework ceilings and the own resources ceiling, have an impact on the degree of flexibility or rigidity of a financial framework. When elaborating its proposals for the next financial framework, the Commission has taken those elements into account.

For the reasons laid out in the MFF Communication, budgetary flexibility will, more than ever, be an essential principle underpinning the next Multiannual Financial Framework. Building on the innovative provisions already included in the 2014-2020 MFF, the focus for the future should be on consolidating, enhancing and streamlining flexibility mechanisms, to create a more agile framework while preserving the stability that the multiannual framework offers.

The Commission therefore proposes the following flexibility provisions to be included in the MFF Regulation and the draft IIA:

1. **Maximising the use of the expenditure ceilings through specific and maximum flexibility between headings and years:** in addition to keeping a sufficient level of unallocated margins, the Commission proposes to fully exploit the mechanisms of the **Global Margin for Payments** introduced under the current framework. As a novelty, it proposes to widen the size and scope of the existing Global Margin for Commitments in order to establish a **Union Reserve** financed from margins left available under the ceilings for commitments of the previous financial year as well as through funds that have been committed to the EU budget but which are ultimately not spent in the implementation of EU programmes and have been decommitted. Also, the **Contingency Margin** is to be maintained as a last resort instrument.
2. The possibility to differ from the indicative amounts in the programmes adopted by ordinary legislative procedure is proposed to be increased from 10% to 15% to increase flexibility within headings.
3. With regard to **special instruments** which allow entering appropriations in the budget over and above the ceilings set in the MFF, it should be clarified that this applies to both commitment and payment appropriations mobilised. Furthermore:
  - (a) the scope of special instruments such as the European Globalisation Adjustment Fund and the Emergency Aid Reserve is revised, and where appropriate extended (for instance, in order to allow the activation of the Emergency Aid Reserve for emergencies inside the Union), coupled with streamlined mobilisation procedures.
  - (b) the size of the maximum amounts available each year for the European Globalisation Adjustment Fund, the European Union Solidarity Fund, the Emergency Aid Reserve, and the Flexibility instrument is proposed to be increased. Finally, the Flexibility instrument should also be allowed to use the unused portion of the annual amounts of the Emergency Aid Reserve, as it is

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<sup>9</sup> Mid-term review/revision of the multiannual financial framework 2014-2020: An EU budget focused on results, COM(2016)603final, 14.09.2016.

currently already the case for the European Union Solidary Fund and the European Globalisation Adjustment Fund.

## **2.4. Adjustments, review and revision of the MFF**

The 2021-2027 financial framework is presented in 2018 prices. The procedure for its technical adjustment is maintained as well as the 2% deflator. The annual technical adjustment also includes the calculations of the amounts relating to the global margin for payments, the global margin for commitments (Union reserve), the Flexibility Instrument and the Contingency Margin, in line with the provisions on maximum annual amounts and transfers of unused amounts stemming from previous years provided for in the Regulation. The results of the adjustments should be communicated to the budgetary authority ahead of the budgetary procedure for the year n+1.

The adjustments to the MFF ceilings may also be due to other circumstances. This is the case for example to allow "re-budgeting" of commitments in the case of delayed adoption of new rules or programmes under shared management, or to adapt cohesion policy envelopes to the most recent statistics in relation to the allocation method. It is also the case to enable the re-budgeting of appropriations as a consequence of the lifting of suspension measures which may have been decided under specific basic acts linking effectiveness of funds to sound economic governance or to the protection of the Union's budget in the case of generalised deficiencies as regards the rule of law in the Member States.

It appears appropriate maintaining the provisions which specify cases for which a revision of the MFF should be foreseen (revision of the Treaties with budgetary implications, enlargement of the Union, re-unification of Cyprus).

A mid-term review of the MFF is foreseen by the end of 2023. This review may, as appropriate, be accompanied by relevant proposals for revision of the Regulation.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

### **3.1. Multiannual Financial Framework Regulation**

As per the current Regulation 1311/2013, the provisions of the draft MFF Regulation are structured in Chapters. The order of some of the provisions has been changed to streamline the presentation.

#### **Chapter 1 – General Provisions**

##### *Article 1 – Multiannual Financial Framework*

The wording of Article 1 specifies the duration of the Multiannual Financial Framework which is set for seven years (from 2021 to 2027) for the reasons set out in the MFF Communication.

##### *Article 2 – Compliance with the ceilings of the MFF*

The first paragraph of Article 2 refers to the Annex containing the table of the Multiannual Financial Framework ceilings, and lays down an obligation for the institutions to respect the ceilings during the budgetary procedure in compliance with the provisions of the Treaty.

It also provides for the adjustment of the sub-ceiling for market related expenditure and direct payments in accordance with application of the flexibility between the two pillars of the Common Agricultural Policy (CAP) as set out in the CAP legislation.

The second paragraph introduces the Special instruments which are further defined in Chapter 3 of the draft Regulation (Articles 9 to 14), with the principle that these instruments are not

included in the Multiannual Financial Framework and that their financing in specific circumstances is provided over and above the ceilings of the Multiannual Financial Framework, both for commitment and corresponding payment appropriations. In order to maintain the current level of flexibility and the roles of the institutions in the mobilisation of these instruments, the procedures applicable for the mobilisation of these instruments are included in the draft IIA.

The third paragraph reproduces the text of current Article 3(3), aligning it to the definition of Financial assistance to Member States set out in Title X of the Financial Regulation<sup>10</sup>. This includes any loan to Member States which may be provided under the Balance of Payments Facility ("BoP")<sup>11</sup> and the European Financial Stabilisation Mechanism ("EFSM")<sup>12</sup>, as well as the new European Investment Stabilisation Function providing loans to Member States experiencing a severe asymmetric shock. The principle that provides that if the repayment of a guaranteed loan under Financial assistance to Member States has to be covered from the Union's budget, such potential expenditure should be excluded from the financial framework (i.e. the amounts would be mobilised over and above the ceilings of the Multiannual Financial Framework) is maintained.

The relevant ceiling constraining the Union's capacity to guarantee lending from the Union's budget is the own resources ceiling, not the MFF ceiling.

#### *Article 3 – Respect of own resources ceiling*

This Article reproduces the text of Article 4 of the current Regulation. The compliance with the own resources ceiling must be ensured for each year. Should the ceilings for payment appropriations result in call-in rate for own resources exceeding the own resources ceiling, the ceilings of the financial framework have to be adjusted.

## **Chapter 2 – Adjustments to the MFF**

#### *Article 4 – Global Margin for Payments*

This Article reproduces the text of Article 5 of the current Regulation for the period 2022-2027, however without any restriction in terms of the amount of the adjustment of ceilings to ensure specific and maximum flexibility.

#### *Article 5 – Technical adjustment*

This Article reproduces the text of Article 6 of the current Regulation. The financial framework is presented in 2018 prices. The procedure for its annual technical adjustment is maintained as well as the 2% deflator. In paragraph 1, the order of paragraphs (d) to (f) is amended to reflect the order of articles in Chapter 3.

#### *Article 6 – Adjustment of cohesion policy envelopes*

This Article reproduces the text of Article 7 of the current Regulation in relation to the adjustment of cohesion policy envelopes based on the most recent statistical data, with the exception of the eligibility review of the Cohesion Fund. The changes introduced reflect the timing for the 2021-2027 MFF.

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<sup>10</sup> Regulation n° EU [XXX/201X] of the European Parliament and of the Council of [...] on the financial rules applicable to the general budget of the Union (OJ L...)

<sup>11</sup> Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments, OJ L 053, 23.02.2002, p.1.

<sup>12</sup> Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism, OJ L 118, 12.5.2010, p. 1.

*Article 7 – Adjustments related to measures linked to sound economic governance or to the protection of the Union’s budget in the case of generalised deficiencies as regards the rule of law in the Member States.*

In relation to macro-economic conditionality, this Article reproduces the text of Article 8 of the current Regulation. It is proposed to extend this mechanism to adjust the MFF ceilings in the case of lifting of measures related to the protection of the Union’s budget in the case of generalised deficiencies as regards the rule of law in the Member States<sup>13</sup>. In both cases, the maximum time period allowed for re-entering suspended commitments in the budget is proposed to be limited to n+2 years.

*Article 8 – Adjustment following new rules or programmes under shared management*

It is proposed to make the modification of ceilings in case of delayed adoption of new rules or programmes under shared management through a technical adjustment rather than a revision as it is currently the case (Article 19 of the current MFF Regulation), as this is essentially an automatic and mechanical modification, which needs to be implemented swiftly so as to facilitate the finalisation of the programming process. It is proposed to transfer the allocations not used in 2021 in equal tranches to the four subsequent years 2022 to 2025.

### **Chapter 3 – Special instruments**

The order of presentation of Special instruments is changed, to include first the two special instruments (European Globalisation Adjustment Fund, European Union Solidarity Fund) linked to specific basic acts. The provisions on mobilisation are streamlined in the Regulation and the draft IIA, taking into account the provisions already included in the specific sectoral basic acts and in the Financial Regulation.

*Article 9 – European Globalisation Adjustment Fund*

This Article reproduces the text of Article 12 of the current Regulation. The definition of the objectives and scope of the European Globalisation Adjustment Fund will be defined in the specific basic act (Regulation (EU) XXXX/XX<sup>14</sup>). The maximum annual amount is increased to EUR 200 million (in 2018 prices).

*Article 10 – European Union Solidarity Fund*

This Article reproduces the text of Article 10 of the current Regulation. The definition of the objectives and scope of the European Union Solidarity Fund are defined in the specific basic act (Regulation (EC) No 2012/2002 as amended by Regulation (EU) No 661/2014 of the European Parliament and of the Council of 15 May 2014), for which no amendment is proposed. The maximum annual amount is increased to EUR 600 million (in 2018 prices).

*Article 11 – Emergency Aid Reserve*

This Article corresponds to Article 9 of the current Regulation. Taking into account the need to ensure the responsiveness of the Union budget and the new challenges the Union has been and continues to be confronted with, it is proposed to extend the scope of the Emergency Aid Reserve to operations inside the EU, to provide a common mechanism to financially reinforce EU actions in response to all kinds of crises (natural disasters, migration management emergencies, humanitarian emergencies, health epidemics, etc.) and in all geographic locations. To maximise the EU budget response capacity, there is no earmarking or priority use for specific programmes. However, temporary limitations of use would apply through the year to ensure the capacity to respond at all times to internal or external crises and to ensure

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<sup>13</sup> COM(2018)324, 02.05.2018

<sup>14</sup> OJ L, , p. .

that funds can be mobilised to cover needs that may arise towards the end of the year. The maximum annual amount is increased to EUR 600 million (in 2018 prices).

#### *Article 12 – Global Margin for Commitments (Union Reserve)*

This Article corresponds to Article 14 of the current Regulation. In addition to the margins left available below the MFF ceilings for commitments of year n-1, applicable as soon as 2022, it is proposed that, as of 2023, the resources of the Global margin for Commitments (Union reserve) are increased with amounts corresponding to de-committed appropriations of the year n-2, with the exception of de-committed appropriations made available again under specific rules set out in article [15] of the Financial Regulation. The provisions on mobilisation remain unchanged from the current Global Margin for Commitments.

#### *Article 13 – Flexibility Instrument*

This Article corresponds to Article 11 of the current Regulation. The maximum annual amount is increased to EUR 1 billion (in 2018 prices). Moreover, it is proposed to add to the Flexibility Instrument the unused amounts of the Emergency Aid Reserve which have lapsed in the previous year, as is already the case for the European Union Solidarity Fund and the European Globalisation Adjustment Fund under the current Regulation. The calculation of the amounts available under the Flexibility Instrument will continue to be communicated under the annual technical adjustment set out in Article 5.

#### *Article 14 – Contingency Margin*

This Article reproduces the text of Article 13 of the current Regulation.

### **Chapter 4 – Review and revision of the MFF**

#### *Article 15 – Revision of the MFF*

The wording of this Article corresponds to Article 17 of the current Regulation. The text of paragraph 3 in relation to the examination of possibilities of redeployment within the relevant MFF heading was simplified.

#### *Article 16 – Mid-term review of the MFF*

This Article corresponds to Article 2 of the current Regulation. It is proposed that the Commission presents by the end of 2023 a review of the functioning of the MFF, accompanied as appropriate by relevant proposals for the remainder of the period, including a proposal for the revision of the MFF (Article 15(1)).

#### *Article 17 – Revision related to implementation*

The wording of this Article corresponds to Article 18 of the current Regulation. The general rule concerning the timing of the adoption of the revision is removed, so as not to restrict in time the possibility to revise the MFF on the basis of implementation, should such need arise.

#### *Article 18 – Revision of the MFF in case of a revision of the Treaties*

This Article reproduces the text of Article 20 of the current Regulation.

#### *Article 19 – Revision of the MFF in the event of enlargement of the Union*

This Article reproduces the text of Article 21 of the current Regulation.

#### *Article 20 – Revision of the MFF in the event of the reunification of Cyprus*

This Article reproduces the text of Article 22 of the current Regulation.

### **Chapter 5 – Contribution to the financing of large scale projects**



### *Article 21 – Contribution to the financing of large scale projects*

This Article corresponds to Article 16 of the current Regulation. It is proposed to maintain for the period 2021 to 2027 provisions setting maximum amounts for the contributions from the Union's budget to large-scale infrastructure projects which are financed within the MFF ceilings but whose lifetime extends well beyond the period set for the financial framework.

This would concern large scale projects under the proposed European Space Programme as well as the International Thermonuclear Experimental Reactor project (ITER).

Consequently, the proposed provision foresees a 'ring-fencing' of the amount available for the 2021 – 2027 MFF. The legislative acts concerning the above mentioned programmes shall comply with the financial provisions set in the present Regulation.

## **Chapter 6 – Interinstitutional cooperation in the budgetary procedure**

### *Article 22 – Interinstitutional cooperation in the budgetary procedure*

This Article reproduces the text of Article 23 of the current Regulation.

### *Article 23 – Unity of the budget*

This Article reproduces the text of Article 24 of the current Regulation.

## **Chapter 7 – Final provisions**

### *Article 24 - Transition towards the next financial framework*

The wording of this Article corresponds to Article 25 of the current Regulation. It lays down the obligation for the Commission to present a new financial framework before 1 July 2025.

The rules in case no new financial framework is agreed by the end of the financial framework covered by the Regulation are defined by primary law (Article 312(4) TFEU) and need not be reproduced in the Regulation. They are recalled in recital 15.

### *Article 25 - Entry into force*

The final Article of the draft MFF Regulation sets the date of entry into force and the date of applicability of the Regulation. The IIA should enter into force on the same day as the two legal texts complement each other.

## **3.2. Interinstitutional Agreement on cooperation in budgetary matters and on sound financial management**

### **Introduction – Points 1 to 6 of the draft IIA**

The introductory part of the draft IIA introduces the Treaty reference (Article 295), the binding nature of this agreement, its coherence with other legal acts linked to the multiannual financial framework and the budgetary procedure, describes the structure of the Agreement, and stipulates the date of its entry into force (the same date as the MFF Regulation).

It reproduces the wording of Points 1 to 6 of the current IIA.

### **Part I – provisions related to the financial framework**

#### *A. Provisions related to the financial framework*

Point 7 of the IIA concerns the margins beneath the ceilings. The MFF Regulation establishes the ceilings for all headings that have to be respected during each annual budgetary procedure as required by the Treaty. However, the practice to ensure as far as possible sufficient margins beneath the ceilings should be preserved. It constitutes an element of the interinstitutional cooperation and good will of the institutions in the budgetary procedure. The provision is kept

without any change from point 8 of the current IIA, save for the reference to the sub-heading 'Economic, Social and territorial cohesion' as no such sub-heading is proposed under the new MFF structure.

Point 8 provides for an update of forecast for payment appropriations after 2027 in the fourth year of the MFF, according to the current practice and point 9 of the current IIA.

#### *B. Provisions related to special instruments*

Points 9 to 13 correspond to points 10 to 14 of the current IIA and define the procedures applicable for the mobilisation of the following special instruments which are set out in the MFF Regulation: European Globalisation Adjustment Fund, European Union Solidarity Fund, Emergency Aid Reserve, Flexibility Instrument and Contingency Margin. The order of the provisions is changed to reflect the order of the draft MFF Regulation.

The text of the provisions is amended to:

- align the voting rules required for the mobilisation of the European Globalisation Adjustment Fund, the European Union Solidarity Fund and the Flexibility Instrument to the rules applicable to the adoption of the EU budget under Article 314 TFEU;
- simplify and streamline the text where specific provisions are already included in the Financial Regulation or the relevant sectoral basic act: rules applicable to transfers (European Globalisation Adjustment Fund and Emergency Aid Reserve), mobilisation decision (European Globalisation Adjustment Fund and European Union Solidarity Fund).

## **Part II – improvement of interinstitutional cooperation in budgetary procedure**

### *A. The interinstitutional collaboration procedure*

Point 14 refers to the details of the interinstitutional cooperation during the budgetary procedure, which are included in the Annex to the IIA.

Point 15 on 'budgetary transparency' maintains the wording of point 16 of the current IIA, with modifications to take into account reports for which detailed provisions are now included in the Financial Regulation (e.g. Trust Funds in Articles and 41(6) and 252, 5 year forecast on inflows and outflows in Article 247(1)(c)). The text is also amended to reflect the proposal to integrate the European Development Fund in the Union budget as of 2021. The reporting on the European Development Fund under point 15 of the IIA should thus apply only to outstanding issues of the previous European Development Funds.

### *B. Incorporation of financial provisions in legislative acts*

The provisions of the current IIA are maintained. The possibility to depart from the amounts included in the legislative acts is increased from 10% to 15% in order to increase flexibility within the headings (point 16). This provision does not apply to amount pre-allocated to Member States for the whole duration of the financial framework, nor to the large scale projects referred in Article 21 of the MFF Regulation.

Point 17 is revised to align terminology with TFEU. The reference to the Joint Declaration of the European Parliament, the Council and the Commission of 4 March 1975 is deleted as it is now obsolete.

### *C. Expenditure relating to fisheries agreements*

The text of the current IIA for provisions related to cooperation and information related to budgetary matters in relation to fisheries agreements is maintained, except to take into account the fact that, since the - non-budgetary - issue of participation in conferences

negotiating on international agreements is already set out in points 25 and 26 of the Framework Agreement on relations between the European Parliament and the European Commission of 20 October 2010<sup>15</sup>, it is better to avoid a parallel text in the IIA.

#### *D. Financing of the Common Foreign and Security policy*

Point 20 reproduces the text of point 23 of the current Interinstitutional Agreement.

The wording of point 21 largely reproduces the wording of point 24 of the current IIA, with a re-ordering of paragraphs and a clarification of terminology ('operations' rather than 'instruments'). The reference to the Emergency Aid Reserve is removed, bearing in mind that under the extended scope proposed under Article 11 of the draft MFF Regulation, it will remain possible to mobilise the Emergency Aid Reserve for the purposes of urgent reinforcement of the Common Foreign and Security Policy budget.

In point 22, it is proposed to set a fixed date (30 November each year) for the agreement on the annual timetable for the joint consultation meetings to be held in the subsequent year for the purposes of the regular dialogue between the European Parliament and the High Representative.

#### *E. Involvement of the institutions as regards development policy issues*

The provision of point 23 is amended to take into account the proposed integration of the European Development Fund in the Union budget.

### **Part III – Sound financial management of EU funds**

Points 28 and 29 of the current IIA on joint management and on the annual evaluation report provided for in Article 318 TFEU are deleted as these reports are now covered by specific provisions of the Financial Regulation (Articles 41(3)(g) and 247(1)(e), respectively).

Point 24 on Financial programming reproduces the text of point 30 of the current IIA, with adjustments to align the dates with those defined in article 41(2) of the Financial Regulation.

Section B on Agencies and European Schools (points 25 to 28) are unchanged from the current IIA.

### **Annex – Interinstitutional cooperation during the budgetary procedure**

The provisions included in the Annex are unchanged from the current IIA, as they have proved to be a sound basis for the cooperation between institutions, except for two modifications:

- The text of point 9 in relation to letters of amendment to the draft budget is aligned with the wording of article 42 of the Financial Regulation;
- To reflect current practice, and in order to align the wording with point 20 of the Annex, the word 'implementability' is replaced by 'executability'.

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<sup>15</sup> OJ L 304, 20.11.2010, p. 47

Proposal for a

## **COUNCIL REGULATION**

### **laying down the multiannual financial framework for the years 2021 to 2027**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 312 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>16</sup>,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Taking into account the need for an adequate level of predictability for preparing and implementing medium-term investments, the duration of the Multiannual Financial Framework (MFF) should be set at seven years starting on 1 January 2021.
- (2) The annual ceilings on commitments appropriations by category of expenditure and the annual ceilings on payment appropriations established by the MFF must respect the applicable ceilings for commitments and own resources, which are set in accordance with the Council Decision on the system of own resources of the European Union adopted in accordance with the third paragraph of Article 311 TFEU.
- (3) If it is necessary to mobilise the guarantees given under the general budget of the Union for financial assistance to Member States authorised in accordance with Article [208(1)] of Regulation No EU [xxx/201x] of the European Parliament and of the Council<sup>17</sup> ('the Financial Regulation'), the necessary amount should be mobilised over and above the ceilings of the commitments and payments appropriations of the MFF, while respecting the own resources ceiling.
- (4) The MFF should not take account of budget items financed by assigned revenue within the meaning of the Financial Regulation.
- (5) The MFF should be laid down in 2018 prices. The rules for annual technical adjustments to the MFF to recalculate the ceilings and margins available should also be laid down.

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<sup>16</sup> OJ C , , p. .

<sup>17</sup> Regulation n° EU [XXX/201X] of the European Parliament and of the Council of [...] on the financial rules applicable to the general budget of the Union (OJ L...)

- (6) Specific and maximum possible flexibility should be implemented to allow the Union to fulfil its obligations in compliance with Article 323 of the Treaty on the Functioning of the European Union (TFEU).
- (7) The following special instruments are necessary to allow the Union to react to specified unforeseen circumstances, or to allow the financing of clearly identified expenditure which cannot be financed within the limits of the ceilings available for one or more headings as laid down in the MFF in order to allow the budget procedure to run smoothly: the European Globalisation Adjustment Fund, the European Union Solidarity Fund, the Emergency Aid Reserve, the Global Margin for Commitments (Union Reserve), the Flexibility Instrument and the Contingency Margin. The Emergency Aid Reserve is not aimed at addressing the consequences of market related crises affecting the agricultural production or distribution. Specific provision should therefore be made for the possibility to enter commitment and corresponding payment appropriations into the budget over and above the ceilings set out in the MFF where it is necessary to use special instruments.
- (8) The national envelopes for cohesion policy are established on the basis of the statistical data and forecasts used for the May 2018 Commission proposal for this Regulation. Given the forecasting uncertainties, and the impact for the capped Member States, it is necessary to carry out during the period of the MFF a review comparing the forecasted and actual statistical data, and in the case of significant differences to provide for an adjustment of the national envelopes for the Member States concerned and of the relevant MFF ceilings.
- (9) Rules should be laid down for other situations that may require the MFF to be adjusted. Those adjustments may be related to the delayed adoption of new rules or programmes under shared management, or to measures linked to sound economic governance or to the protection of the Union's budget in the case of generalised deficiencies as regards the rule of law in the Member States adopted in accordance with the relevant basic acts.
- (10) It is necessary to carry-out a review of the functioning of the MFF at mid-term of its implementation. The results of this review should be taken into account in any revision of this Regulation for the remaining years of the MFF.
- (11) It is necessary to provide for a revision of the MFF in the event of revision of the Treaties, of the reunification of Cyprus or of the enlargement of the Union, as well as in the light of the implementation of the budget.
- (12) This Regulation may also need to be revised in relation to unforeseen circumstances that cannot be dealt with within the ceilings set out in the MFF. It is therefore necessary to provide for revision of the MFF in such cases.
- (13) Specific rules are also necessary for dealing with large scale infrastructure projects whose lifetime extends well beyond the period set for the MFF. It is necessary to establish maximum amounts for the contributions from the general budget of the Union to those projects, thereby ensuring that they do not have any impact on other projects financed from that budget.
- (14) It is necessary to provide for general rules on interinstitutional cooperation in the budgetary procedure.
- (15) The Commission should present a proposal for a new multiannual financial framework before 1 July 2025, to enable the institutions to adopt it sufficiently in advance of the start of the subsequent multiannual financial framework. In accordance with Article

312(4) TFEU the ceilings corresponding to the last year set out in this Regulation are to continue to apply in the event that a new financial framework is not adopted before the end of the term of the MFF laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

## **Chapter 1**

### **General provisions**

#### *Article 1*

#### *Multiannual Financial Framework*

This regulation lays down the multiannual financial framework for the period 2021 to 2027 (MFF).

#### *Article 2*

#### *Compliance with the ceilings of the MFF*

1. The European Parliament, the Council and the Commission shall, during each budgetary procedure and when implementing the budget for the year concerned, comply with the annual expenditure ceilings set out in the Annex ('MFF ceilings').

The sub-ceiling for Heading III as set out in the Annex is established without prejudice to the flexibility between the two pillars of the Common Agricultural Policy (CAP). The adjusted ceiling to be applied to pillar I of the CAP following the transfers between the European Agricultural Fund for Rural Development and direct payments shall be laid down in the relevant legal act and the MFF shall be adjusted accordingly under the technical adjustment provided for in Article 5 of this Regulation.

2. Where it is necessary to use the resources from the special instruments provided for in Articles 9 to 14, commitment and corresponding payment appropriations shall be entered in the budget over and above the relevant MFF ceilings.
3. Where it is necessary to mobilise a guarantee for financial assistance to Member States authorised in accordance with Article [208(1)] of Regulation No EU [xxx/201x] ('the Financial Regulation'), the necessary amount shall be mobilised over and above the ceilings laid down in the MFF.

#### *Article 3*

#### *Respect of own resources ceiling*

4. For each of the years covered by the MFF, the total appropriations for payments required, after annual adjustment and taking account of any other adjustments and revisions as well as the application of paragraphs 2 and 3 of Article 2, may not be such as to produce a call-in rate for own resources that exceeds the own resources ceiling set in accordance with the Council decision on the system of own resources of the European Union adopted in accordance with the third paragraph of Article 311 TFEU ('Own Resources Decision') in force.
5. Where necessary, the ceilings set in the MFF shall be lowered in order to ensure compliance with the own resources ceiling set in accordance with the Own Resources Decision in force.

## Chapter 2

### Adjustments to the MFF

#### *Article 4*

##### *Global margin for payments*

1. Every year, starting in 2022, as part of the technical adjustment referred to in Article 5, the Commission shall adjust the payment ceiling for the years 2022-2027 upwards by an amount equivalent to the difference between the executed payments and the MFF payment ceiling of the year n-1.
2. Any upward adjustment shall be fully offset by a corresponding reduction of the payment ceiling for year n-1.

#### *Article 5*

##### *Technical adjustments*

1. Each year the Commission, acting ahead of the budgetary procedure for year n+1, shall make the following technical adjustments to the MFF:
  - (a) revaluation, at year n+1 prices, of the ceilings and of the overall figures for appropriations for commitments and appropriations for payments;
  - (b) calculation of the margin available under the own resources ceiling set in accordance with the Own Resources Decision in force;
  - (c) calculation of the global margin for payments provided for in Article 4;
  - (d) calculation of the global margin for commitments (Union reserve) provided for in Article 12;
  - (e) calculation of the amounts to be made available to the Flexibility Instrument under the second subparagraph of Article 13(1);
  - (f) calculation of the absolute amount of the Contingency Margin provided for in Article 14.
2. The technical adjustments referred to in paragraph 1 shall be made on the basis of a fixed deflator of 2 % per year.
3. The Commission shall communicate the results of the technical adjustments referred to in paragraph 1 and the underlying economic forecasts to the European Parliament and the Council.
4. Without prejudice to Article 6, 7 and 8, no further technical adjustments shall be made in respect of the year concerned, either during the year or as ex post corrections during subsequent years.

#### *Article 6*

##### *Adjustment of cohesion policy envelopes*

1. The Commission shall in 2024, together with the technical adjustment for the year 2025, review all Member States' total allocations under the "Investment for growth and jobs" goal of cohesion policy for the years 2025 to 2027, applying the allocation method set out in the relevant basic act on the basis of the then available most recent statistics and of the comparison, for the capped Member States, between the

cumulated national GDP observed for the years 2021 to 2023 and the cumulated national GDP estimated in 2018. It shall adjust those total allocations whenever there is a cumulative divergence of more than +/- 5 %.

2. The adjustments required shall be spread in equal proportions over the years 2025 to 2027 and the corresponding ceilings of the MFF shall be adjusted accordingly. The payment ceilings shall also be adjusted accordingly to ensure an orderly progression in relation to the appropriations for commitments.
3. The total net effect, whether positive or negative, of the adjustments referred to in paragraph 2 shall not exceed EUR 4 billion.

#### *Article 7*

#### *Adjustments related to measures linked to sound economic governance or to the protection of the Union's budget in the case of generalised deficiencies as regards the rule of law in the Member States*

In the case of the lifting, in accordance with the relevant basic acts, of a suspension of budgetary commitments concerning Union funds in the context of measures linked to sound economic governance or to the protection of the Union's budget in the case of generalised deficiencies as regards the rule of law in the Member States, the amounts corresponding to the suspended commitments shall be transferred to the following years and the corresponding ceilings of the MFF shall be adjusted accordingly.

Suspended commitments of year n may not be entered in the budget beyond year n+2.

#### *Article 8*

#### *Adjustment following new rules or programmes under shared management*

In the event of the adoption after 1 January 2021 of new rules or programmes under shared management for the Structural Funds, the Cohesion Fund, the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund, the Asylum and Migration Fund, the Internal Security Fund and the instrument for border management and visa under the Integrated Border Management Fund, the amounts corresponding to the allocations not used in 2021 shall be transferred in equal proportions to the years 2022 to 2025, and the corresponding ceilings of the MFF shall be adjusted accordingly.

## **Chapter 3** **Special instruments**

#### *Article 9*

#### *European Globalisation Adjustment Fund*

1. The European Globalisation Adjustment Fund, the objectives and scope of which are set out in [Regulation (EU) XXXX/XX of the European Parliament and of the Council<sup>18</sup>], shall not exceed a maximum annual amount of EUR 200 million (2018 prices).
2. The appropriations for the European Globalisation Adjustment Fund shall be entered in the general budget of the Union as a provision.

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<sup>18</sup> OJ L, , p. .



*Article 10*  
*European Union Solidarity Fund*

1. The European Union Solidarity Fund, the objectives and scope of which are set out in Council Regulation (EC) No 2012/2002<sup>19</sup>, shall not exceed a maximum annual amount of EUR 600 million (2018 prices). On 1 October of each year, at least one quarter of that annual amount shall remain available in order to cover needs arising until the end of that year. The portion of the annual amount not used in year n may be used up to year n+1. The portion of the annual amount stemming from the previous year shall be drawn on first. That portion of the annual amount from year n which is not used in year n+1 shall lapse.
2. In exceptional cases and if the remaining financial resources available in the European Union Solidarity Fund in the year of occurrence of the disaster are not sufficient to cover the amount of assistance considered necessary, the Commission may propose that the difference be financed through the annual amounts available for the following year.

*Article 11*  
*Emergency Aid Reserve*

1. The Emergency Aid Reserve may be used for a rapid response to specific emergency needs within the Union or in third countries following events which could not be foreseen when the budget was established, in particular for emergency response and support operations following natural or man-made disasters, humanitarian crises, in cases of large-scale public health, veterinary or phytosanitary threats, as well as in situations of particular pressure resulting from migratory flows at the Union's external borders where circumstances so require.
2. The annual amount of the Reserve is fixed at EUR 600 million (2018 prices) and may be used up to year n+1 in accordance with the Financial Regulation. The Reserve shall be entered in the general budget of the Union as a provision. The portion of the annual amount stemming from the previous year shall be drawn on first. That portion of the annual amount from year n which is not used in year n+1 shall lapse.

By 1 October of each year, at least one quarter of the annual amount for year n shall remain available to cover needs arising until the end of that year.

No more than half of the amount available until 30 September each year may be mobilised for, respectively, internal or external operations.

As of 1 October, the remaining part of the amount available may be mobilised either for internal or external operations to cover needs arising until the end of that year.

*Article 12*  
*Global Margin for Commitments (Union Reserve)*

1. The Global Margin for Commitments (Union Reserve), to be made available over and above the ceilings established in the MFF for the years 2022 to 2027, shall comprise the following:

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<sup>19</sup> Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p.3).

- (a) margins left available below the MFF ceilings for commitments of year n-1;
  - (b) as of 2023, in addition to the margins referred to in point (a), an amount equivalent to de-commitments of appropriations made during year n-2, without prejudice to Article [15] of the Financial Regulation.
2. The Global Margin for Commitments (Union Reserve) or part thereof may be mobilised by the European Parliament and the Council in the framework of the budgetary procedure provided for in Article 314 TFEU.

*Article 13*  
*Flexibility Instrument*

The Flexibility Instrument may be used for the financing, for a given financial year, of clearly identified expenditure which could not be financed within the limits of the ceilings available for one or more other headings. Subject to the second subparagraph, the ceiling of the annual amount available for the Flexibility Instrument is set at EUR 1 000 million (2018 prices).

Each year the annual amount available for the Flexibility Instrument shall be increased by the following amounts:

- (a) an amount equivalent to the portion of the annual amount for the European Globalisation Adjustment Fund which has lapsed in the previous year;
- (b) an amount equivalent to the portion of the annual amount for the European Union Solidarity Fund which has lapsed in the previous year in accordance with Article 10(1);
- (c) an amount equivalent to the portion of the annual amount for the Emergency Aid Reserve which has lapsed in the previous year in accordance with Article 11(2).

Amounts made available to the Flexibility Instrument in accordance with the second subparagraph shall be used in accordance with the conditions set out in this Article.

3. The unused portion of the annual amount of the Flexibility Instrument may be used up to year n+3. The portion of the annual amount stemming from previous years shall be used first, in order of age. That portion of the annual amount from year n which is not used in year n+3 shall lapse.

*Article 14*  
*Contingency Margin*

1. A Contingency Margin of up to 0.03 % of the Gross National Income of the Union shall be constituted outside the ceilings of the MFF, as a last resort instrument to react to unforeseen circumstances. It may be mobilised only in relation to an amending or annual budget.
2. Recourse to the Contingency Margin shall not exceed, at any given year, the maximum amount provided in the annual technical adjustment of the MFF, and shall be consistent with the own resources ceiling.
3. Amounts made available through the mobilisation of the Contingency Margin shall be fully offset against the margins in one or more MFF headings for the current or future financial years.

4. The amounts offset in accordance with paragraph 3 shall not be further mobilised in the context of the MFF. Recourse to the Contingency Margin shall not result in exceeding the total ceilings of commitment and payment appropriations laid down in the MFF for the current and future financial years.

## **Chapter 4**

### **Review and Revision of the MFF**

#### *Article 15*

##### *Revision of the MFF*

1. Without prejudice to Article 3(2) and Articles 16 to 20 and 24, in the event of unforeseen circumstances, the MFF may be revised in compliance with the own resources ceiling set in accordance with the Own Resources Decision in force.
2. As a general rule, any proposal for a revision of the MFF in accordance with paragraph 1 shall be presented and adopted before the start of the budgetary procedure for the year or the first of the years concerned.
3. Any proposal for revision of the MFF in accordance with paragraph 1 shall examine the scope for reallocating expenditure between the programmes covered by the heading concerned by the revision, with particular reference to any expected under-utilisation of appropriations.
4. Any revision of the MFF in accordance with paragraph 1 shall take into account the scope for offsetting any raising of the ceiling for one heading by the lowering of the ceiling for another heading.
5. Any revision of the MFF in accordance with paragraph 1 shall maintain an appropriate relationship between commitments and payments.

#### *Article 16*

##### *Mid-term review of the MFF*

Before 1 January 2024, the Commission shall present a review of the functioning of the MFF. This review shall, as appropriate, be accompanied by relevant proposals.

#### *Article 17*

##### *Revision related to implementation*

When notifying the European Parliament and the Council of the results of the technical adjustments to the MFF, the Commission shall, where appropriate, submit any proposal to revise the total appropriations for payments which it considers necessary, in the light of implementation, to ensure a sound management of the yearly payments ceilings, and in particular their orderly progression in relation to the appropriations for commitments.

#### *Article 18*

##### *Revision of the MFF in case of a revision of the Treaties*

Should a revision of the Treaties with budgetary implications occur, the MFF shall be revised accordingly.

#### *Article 19*

##### *Revision of the MFF in the event of enlargement of the Union*

If there is an accession or accessions to the Union, the MFF shall be revised to take account of the expenditure requirements resulting therefrom.

#### *Article 20*

##### *Revision of the MFF in the event of the reunification of Cyprus*

In the event of the reunification of Cyprus, the MFF shall be revised to take account of the comprehensive settlement of the Cyprus problem and the additional financial needs resulting from the reunification.

## **Chapter 5**

### **Contribution to the financing of large scale projects**

#### *Article 21*

##### *Contribution to the financing of large scale projects*

1. A maximum amount of EUR 14 196 million (in 2018 prices) shall be available from the general budget of the Union for the period 2021 to 2027 for the large scale projects under [Regulation XXXX/XX of the European Parliament and the Council - *Space Programme*]<sup>20</sup>.
2. A maximum amount of EUR 5 406 million (in 2018 prices) shall be available for the International Thermonuclear Experimental Reactor project (ITER) from the general budget of the Union for the period 2021 to 2027.

## **Chapter 6**

### **Interinstitutional cooperation in the budgetary procedure**

#### *Article 22*

##### *Interinstitutional cooperation in the budgetary procedure*

The European Parliament, the Council and the Commission ('the institutions') shall take measures to facilitate the annual budgetary procedure.

The institutions shall cooperate in good faith throughout the procedure with a view to reconciling their positions. The institutions shall, at all stages of the procedure, cooperate through appropriate interinstitutional contacts in order to monitor the progress of the work and analyse the degree of convergence.

The institutions shall ensure that their respective calendars of work are coordinated as far as possible, in order to enable proceedings to be conducted in a coherent and convergent fashion, leading to the final adoption of the general budget of the Union.

Trilogues may be held at all stages of the procedure and at different levels of representation, depending on the nature of the expected discussions. Each institution, in accordance with its own rules of procedure, shall designate its participants for each meeting, define its mandate for the negotiations and inform the other institutions in good time of the arrangements for the meetings.

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<sup>20</sup> OJ C, ..., p. .

*Article 23*  
*Unity of the budget*

All expenditure and revenue of the Union and Euratom shall be included in the general budget of the Union in accordance with Article [7] of the Financial Regulation, including expenditure resulting from any relevant decision taken unanimously by the Council after consulting the European Parliament, in the framework of Article 332 TFEU.

**Chapter 7**  
**Final provisions**

*Article 24*  
*Transition towards the next multiannual financial framework*

Before 1 July 2025, the Commission shall present a proposal for a new multiannual financial framework.

*Article 25*  
*Entry into force*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council*  
*The President*