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COM(2016) 678 final

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the mobilisation of the Contingency Margin in 2017

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Council Regulation (EU, EURATOM) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020[1] ('MFF Regulation') allows for the mobilisation of the Contingency Margin of up to 0,03 % of Gross National Income for the EU-28 to react to unforeseen circumstances as a last resort instrument. In the technical adjustment of the MFF for 2017[2], based on Article 6 of the MFF Regulation, the absolute amount of the Contingency Margin for the year 2017 is set at EUR 4 496,8 million.

In accordance with Article 13 of the MFF Regulation, and after having examined all possibilities for financing additional and unforeseen commitment needs, the Commission proposes to mobilise the Contingency Margin for 2017 for an amount of EUR 2 150,6 million so as to complement the commitment appropriations related to expenditure in headings 3 *Security and Citizenship* and 4 *Global Europe* in the general budget of the European Union for the financial year 2017, over and above the commitment ceilings of, respectively, EUR 2 578 million and EUR 9 432 million in current prices.

In accordance with point 14 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management[3], the Commission has carried out an analysis of the possibility to reallocate significant amounts within the existing budget. In accordance with Article 13(3) of the MFF Regulation, the Commission proposes to offset the reinforcement of the expenditure ceiling of headings 3 and 4 as follows:

- 2017: EUR 850 million against the unallocated margin available under the expenditure ceiling of heading *2 Sustainable Growth: Natural Resources* and EUR 514,4 million against the unallocated margin available in heading *5 Administration*.
- 2018: EUR 570 million against the unallocated margin available in heading *5 Administration.*
- 2019: EUR 216,2 million against the unallocated margin available in heading *5 Administration.*

This proposal includes an amount of EUR 1 164,4 million for which the Commission had already made a proposal to mobilise the Contingency Margin for heading 3 which accompanied the initial draft budget 2017[4], and which is now repealed and replaced by the present proposal.

This proposal has been preceded by a Commission proposal to mobilise in full the amount of the Flexibility Instrument[5] available for 2017 (EUR 530 million), also for heading 3.

[1] OJ L347, 20.12.2013, p.884.
[2] COM(2016) 311, 30.6.2016.
[3] OJ C 373, 20.12.2013, p. 1.
[4] COM(2016) 314, 30.6.2016.
[5] COM(2016) 313, 30.6.2016.

2. JUSTIFICATION OF THE MOBILISATION

2.1. INTRODUCTION

2.1.1 Heading 3 Security and Citizenship

The internal dimension of the migration, refugee and security crisis is financed from heading 3 through the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF) as well as through specialised agencies such as Frontex, EASO, eu-Lisa and Europol. A new instrument providing emergency support within the Union was adopted by the Council in 2016, which will continue to offer in 2017 emergency support of a humanitarian nature in response to the current influx of refugees and migrants into the Union.

The expenditure ceiling of heading 3 in 2017 stands at EUR 2 578 million in current prices. The commitment appropriations authorised for heading 3 in the 2016 budget are EUR 4 052 million, which required the mobilisation of all the availability of the Flexibility Instrument at a level of EUR 1 506 million over and above the ceiling of heading 3, in accordance with Article 11(2) of the MFF Regulation.

The Commission proposes the full mobilisation of the EUR 530 million annual ceiling for the Flexibility Instrument available in 2017 to increase spending above the expenditure ceiling of heading 3.

However, the budgetary needs for managing the impact of the migration, refugee and security crisis are at least as high in 2017 as in 2016. As a policy response, the Commission has proposed a wide range of structural actions in relation with security and the management of external borders, the reform of the Common European Asylum System, integration and return.

Spending related to migration, refugees and security under heading 3 represents more than 70 % of total expenditure under the ceiling. The Commission has carefully examined all possibilities for redeployment and proposes to reduce the level of appropriations (in comparison with the financial programming) for Food and Feed and the Civil Protection Mechanism. Nonetheless, the room for manoeuvre is limited by the small size of programmes and new requirements, such as the new emergency measures in plant health foreseen in the Food and Feed Regulation for 2017. For this reason it is only possible to cover a small percentage of the additional needs related to migration and refugees by a redeployment of appropriations within heading 3.

As a consequence the only possible recourse to meet the budgetary needs is the mobilisation of the Contingency Margin. Availability of margins in other headings allows its mobilisation to be completely offset in 2017.

The corresponding payment appropriations will be accommodated within the 2017 ceiling for payments; there is therefore no need to mobilise the Contingency Margin in payments.

2.1.2 Heading 4 Global Europe

On 7 June 2016 the Commission presented a communication *on establishing a new Partnership Framework with third countries under the European Agenda on Migration*[6], which builds on the Valletta Action Plan[7] and the results of high-level dialogues on migration and *compacts*[8] with a number of priority partners, which will require additional funding. The short-term objective of these compacts, which are tailor-made to each beneficiary country, is to offer better perspectives to refugees and candidates for migration in order for them to stay close to home and avoid taking dangerous journeys. This is especially urgent considering the significant number of migrants who have lost their lives trying to reach the coast of Europe from North-Africa.

To reach this target in a timeframe compatible with the need to take action rapidly, especially with the priority partners, the Commission proposes to reinforce the Development Cooperation Instrument (DCI) and the European Neighbourhood Instrument (ENI) by EUR 750 million in commitments. More specifically, the goal is to support mediterranean countries such as Lebanon, Jordan, Tunisia and Libya through the European Neighbourhood Instrument (ENI) but also to adress the root causes of migration by helping countries in Sub-Saharan Africa and Asia, through the use of the Development Cooperation Instrument (DCI).

In order to address the root causes of migration, the Commission also launched the European Fund for Sustainable Development (EFSD) based on the establishment of an EFSD Guarantee and an EFSD Guarantee Fund. The Commission proposes to endow the EFSD Guarantee Fund with EUR 750 million over the period 2017–2020, of which EUR 400 million from the European Development Fund (EDF) over the four years, EUR 100 million from the ENI over 2017–2020 (of which EUR 25 million in 2017), and EUR 250 million of commitment (and payment) appropriations in 2017.

The transfer of EUR 13,8 million expenditure for the three 'double-hatted' European Union Special Representatives from heading 4 to the budget of the European External Action Service (heading 5) creates a corresponding margin under the expenditure ceiling of heading 4. Such a margin can be used first to cover part the EUR 1 billion of additional and unforeseen needs under this heading as outlined in the amending letter No 1 to the draft budget 2017[9], before having recourse to the contingency margin to cover the oustanding amount (EUR 986,2 million). The Commission proposes to offset part (EUR 200 million) of such outstanding amount against the margin available in heading 2 *Sustainable Growth - Natural Resources* in 2017, leaving a residual margin of EUR 439,3 million; the remaining part (EUR 786,2 million) is to be offset against the margins of heading 5 *Administration* in 2018 (EUR 570 million) and 2019 (EUR 216,2 million). In this way the offsetting preserves as much as possible some room of manoevure to address future unforeseen events.

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6 COM(2016) 385, 7.6.2016.

7 http://www.consilium.europa.eu/en/meetings/international-summit/2015/11/11-12

8 Tailor-made country packages to implement the new partnership framework. The short-term objective is to save refugees to stay close to home and avoid taking dangerous journeys.

9 COM(2016) 679 final, 17.10.2016.

2.2. THE CONTINGENCY MARGIN AS THE LAST RESORT INSTRUMENT

Article 13(1) of the MFF Regulation defines the Contingency Margin as a last resort instrument to react to unforeseen circumstances. In the 2017 Draft Budget (DB), the Commission proposes to use in full the unallocated margin under the commitment ceiling of headings 3 and 4 after having examined all possibilities for redeployment within these headings.

Given the full mobilisation of the flexibility instrument in the DB 2017 (EUR 530 million), the mobilisation of the Contingency Margin for 2017 at a level of EUR 2 150,6 million is therefore the only available instrument to address the gap between the level of the expenditure ceiling of headings 3 and 4 in 2017 and the additional unforeseen needs estimated for 2017.

2.3. BUDGETARY IMPACT OF UNFORESEEN CIRCUMSTANCES IN 2017

Although the migration, refugee and security crisis began in 2015, its impact and consequences are still evolving on a day-to-day basis. Political decisions in third countries about the acceptance of refugees on their territory and the opening and closure of borders make it very hard to foresee the long-term evolution in this field. The changing character and unpredictability of the crisis justifies the use of the Contingency Margin as the last resort tool for addressing the unforeseen consequences of the migration, refugee and security crisis on the expenditure needs in headings 3 and 4.

3. OFFSETTING THE CONTINGENCY MARGIN AGAINST THE MFF CEILINGS

Article 13(3) of the MFF Regulation requires that amounts made available through the mobilisation of the Contingency Margin shall be fully offset against the margins for the current or future financial years.

According to Article 13(4) of the MFF Regulation, the amounts offset shall not be further mobilised in the context of the MFF so that the total ceilings of commitment and payment appropriations laid down in the MFF for the current and future financial years shall not be exceeded. Consequently, the mobilisation of the Contingency Margin for commitment appropriations in 2017 under headings 3 and 4 and the related offsetting have to respect the total commitment ceiling for the years 2017 to 2020.

The Commission proposes to offset the reinforcement of the expenditure ceilings of headings 3 and 4 in four instalments spread as follows between 2017 and 2019:

- 2017:
    - EUR 850 million against the unallocated margin available under the expenditure ceiling of heading 2, and
    - EUR 514,4 million against the unallocated margin available under the expenditure ceiling of heading 5.
- 2018: EUR 570 million against the unallocated margin available under the expenditure ceiling of heading 5.
- 2019: EUR 216,2 million against the unallocated margin available under the expenditure ceiling of heading 5.

After the offsetting a margin of EUR 439,3 million would still remain under the expenditure ceiling of heading 2, and no margin under the expenditure ceiling of heading 5 in 2017. For

2018 and 2019, the offsetting proposed will leave a margin at least of EUR 100 million under heading 5 following the estimates of the indicative financial programming.

The overall commitment ceiling for the whole MFF will remain unchanged.

4. ADDITIONAL ELEMENTS

The European Parliament and the Council are reminded that the publication of this Decision in the Official Journal of the European Union shall not intervene later than the publication of the budget 2017 of the European Union, in accordance with the last sentence of article 13(1) of the MFF Regulation.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management[1], and in particular the second paragraph of point 14 thereof,

Having regard to the proposal from the European Commission,

Whereas,

(1) Article 13 of Council Regulation No 1311/2013[2] has established a Contingency Margin of up to 0,03 % of the Gross National Income of the Union.

(2) In accordance with Article 6 of Regulation (EU, Euratom) No 1311/2013, the Commission has calculated the absolute amount of this Contingency Margin for 2017[3].

(3) After having examined all other financial possibilities to react to unforeseen circumstances within the 2017 expenditure ceilings for headings *3 Security and Citizenship* and *4 Global Europe* laid down in the multiannual financial framework (MFF), and after having proposed to mobilise the Flexibility Instrument for heading 3 of MFF for the full amount of EUR 530 000 000 available in 2017, the mobilisation of the Contingency Margin is necessary to address the needs stemming from the migration, refugee and security crisis by increasing the commitment appropriations of headings 3 and 4 of MFF in the general budget of the European Union for the financial year 2017, over and above the ceilings of those headings.

(4) Having regard to this very particular situation, the last-resort condition in Article 13(1) of Regulation (EU, Euratom) No 1311/2013 is fullfilled.

(5) In order to minimise the time taken to mobilise the Contingency margin, this Decision should apply from the beginning of the 2017 financial year,

HAVE ADOPTED THIS DECISION:

Article 1

For the general budget of the Union for the financial year 2017, the Contingency Margin shall be mobilised to provide EUR 1 164 380 960 in commitment appropriations over and above the commitment ceiling of heading 3 *Security and Citizenship* and EUR 986 230 000 in

[1] OJ C 373, 20.12.2013, p. 1.

[2] Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

[3] Communication from the Commission to the Council and the European Parliament of 30 June 2016 on the technical adjustment of the financial framework for 2017 in line with movements in GNI (COM(2016) 311 of 30 June 2016).

commitment appropriations over and above the commitment ceiling of heading 4 *Global Europe* of the multiannual financial framework.

Article 2

The EUR 2 150 610 960 in commitment appropriations mobilised through the Contingency Margin for the financial year 2017 shall be offset against the margins of the years 2017 to 2019 of the following headings:

(a) 2017:

(i) heading 2 *Sustainable Growth - Natural Resources* : EUR 850 000 000;
(ii) heading 5 *Administration* : EUR 514 380 960;

(b) 2018: heading 5 Administration : EUR 570 000 000 million;

(c) 2019: heading 5 Administration : EUR 216 230 000 million.

Article 3

This decision shall enter into force on the day of its publication in the *Official Journal of the European Union.*

It shall apply from 1 January 2017.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*