



**COUNCIL OF
THE EUROPEAN UNION**

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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	2 June 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Delegations will find attached document COM(2014) 328 final.

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EUROPEAN
COMMISSION

Brussels, 28.5.2014
COM(2014) 328 final

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Mobilisation of the Contingency Margin in 2014

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Council Regulation 1311/2013 laying down the multiannual financial framework for the years 2014-2020 ('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 2014¹, based on Article 6 of the MFF Regulation, the absolute amount of the Contingency Margin for the year 2014 was set at EUR 4 026,7 million.

In accordance with Article 13 of the MFF Regulation, and after having examined all possibilities for financing additional and unforeseen payment needs, the Commission proposes to mobilise the Contingency Margin for 2014 in full so as to complement the payment appropriations related to expenditure in sub-heading 1a, sub-heading 1b, heading 2 and heading 4 in the general budget of the European Union for the financial year 2014, over and above the payment ceiling of EUR 135 866 million for payments.

The obligation laid down in point 14 of the Interinstitutional Agreement of 2 December 2013, according to which the Commission proposal shall be accompanied by a proposal for reallocation within the existing budget is taken into account in the draft amending budget (DAB) No 3/2014² by a proposal to redeploy EUR 65,0 million from the reserve for 'Sustainable Fisheries Partnership Agreements' and the savings of EUR 378 000 resulting from the conversion of AST posts into AST/SC posts in establishment plans. Further to this redeployment, the DAB No 3/2014 proposes an increase of EUR 711,4 million in the level of payment appropriations up to the 2014 MFF ceiling for payments as well as an increase of payment appropriations of EUR 4 026,7 million through the mobilisation of the Contingency Margin in accordance with Article 13 of the MFF Regulation.

2. UNFORESEEN CIRCUMSTANCES EMERGING AFTER THE FEBRUARY 2013 EUROPEAN COUNCIL

2.1. INTRODUCTION

A political agreement on the 2014-2020 MFF ceilings was reached at the level of the European Council in February 2013. In the subsequent negotiations with the European Parliament:

- The MFF ceilings established in the February 2013 European Council conclusions were confirmed, acknowledging the particularly difficult context at the time of this decision³;
- The provisions for existing special instruments were broadened;

¹ COM(2013) 928, 20.12.2013.

² COM(2014) 329, 28.5.2014.

³ See the EP report prepared by MEPs Ivalo Kalfin and Jean-Luc Dehaene 'on negotiations on the MFF 2014-2020: lessons to be learned and the way forward' (2014/2005(INI)) adopted on 15 April 2014 ((P7_TA-PROV(2014)0378)).

- New instruments of flexibility such as the Global Margin for commitments and the Global Margin for payments were agreed;
- The Contingency Margin, already agreed at the February 2013 European Council, was confirmed.

In this respect it is also worth recalling the Commission's statement to the minutes of the European Council of February 2013 whereby "*... a difference of EUR 51,5 billion between commitments and payments in the next MFF for the period 2014-2020 is just compatible with the principles of sound financial management and the legal requirements, to the extent that the Heads of State and Government have agreed that specific and maximum flexibility will be implemented in order to comply with article 323 TFEU to allow the Union to fulfil its obligations.*"

The existence of 'unforeseen circumstances' that may justify the mobilisation of the Contingency Margin to cover additional payment needs has thus to be assessed against the state of play in February 2013 when the MFF payment ceilings were first established.

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 DAB No 3/2014 the Commission proposes to use the unallocated margin under the payment ceiling for 2014 of EUR 711 million to reinforce payments in other areas⁴, after having exhausted the possibilities for redeployment. The limited scope to reallocate funds within the existing budget is clearly insufficient to meet the unforeseen needs mentioned in the sections below.

Given that the Global Margin for Payments is not applicable for the year 2014, the mobilisation of the full Contingency Margin for 2014 of EUR 4 026,7 million is therefore the only available instrument to react to the budgetary impact of unforeseen circumstances that emerged after the MFF payment ceilings were first established, and to reduce the significant gap between the level of the authorised payment appropriations and the additional unforeseen payment needs for this year. Moreover, some of these unforeseen circumstances have a budgetary impact on the 2015 financial year as well.

2.3. BUDGETARY IMPACT OF UNFORESEEN CIRCUMSTANCES IN 2014

This section sets out the unforeseen elements which emerged since the February 2013 European Council, and the extent to which they have an impact on the payment requirements to be addressed in 2014 through the mobilisation of the Contingency Margin for this year.

2.3.1 Frontloading of programmes in sub-heading 1a and sub-heading 1b

The frontloading of the 'Youth Employment Initiative' (YEI), 'Horizon 2020', 'Erasmus+' and 'COSME', which was decided in June 2013⁵ as part of the political agreement on the 2014-2020 MFF, is expected to result in a net increase of payment needs amounting to EUR 627 million in 2014.

⁴ COM(2014) 329, 28.5.2014.

⁵ Joint Declaration on Article 15 of the Council Regulation laying down the multiannual financial framework for the years 2014-2020 (Council doc. 11961/13).

For 'Horizon 2020', an additional EUR 155 million in payment appropriations is required to meet payments needs arising from the frontloading of the commitment appropriations for the 'Marie Skłodowska-Curie actions' and for the 'European Research Council'. For 'Erasmus+' and 'COSME', respectively EUR 117 million and EUR 10 million in payment appropriations are needed in 2014 as a consequence of the decision to frontload the programme. These amounts include the additional needs arising from the decision taken by the European Parliament and the Council to increase the capital of the European Investment Fund (EIF) as from 2014, with contributions via budgetary transfers from 'Horizon 2020' and 'COSME' to be paid out in 2014. It is expected that the corresponding backloading of the 'ITER' programme and of the energy related part of the 'Connecting Europe Facility', which fully offset the increase in commitment appropriations in 2014, will not lead to reduced payments in 2014.

With regard to sub-heading 1b, the 2014 budget already includes the net impact in payment appropriations of EUR 345 million to cover the frontloading of the 'Youth Employment Initiative' (YEI) in 2014. Therefore, the combined additional payment appropriations resulting from the frontloading of programmes for sub-headings 1a and 1b amount to EUR 282 million in 2014.

2.3.2 Excess backlog of payment claims Cohesion policy 2013

In September 2013, when Member States submitted their revised forecasts, the expected backlog of payment claims for the Cohesion policy at the end of 2013 was estimated at 'up to EUR 20 billion'. This was the amount taken as a reference for negotiations on the level of payment appropriations during the Conciliation for the 2014 budget in November 2013. The actual backlog at year-end, however, exceeded by EUR 3,4 billion the higher-end estimate based on past patterns of Member States' forecasts. The unexpected surge in payment claims, which further increased the backlog at the end of 2013, is not expected to be offset by a lower level of payment claims in 2014.

2.3.3 Fund for European Aid to the Most Deprived (FEAD)

An additional voluntary allocation of EUR 1 billion in current prices taken from the European Social Fund (ESF) was agreed in the context of the FEAD Regulation⁶. Moreover, the FEAD Regulation sets the pre-financing rate at 11 %, calculated on the basis of the total allocations 2014-2020, while the general pre-financing rates of the 'European Structural and Investment Funds' are much lower (for 2014 1 % or 1,5 % for Member States with serious difficulties with respect to their financial stability). Consequently, there has been an unforeseen net increase in payment needs for pre-financing in 2014 of EUR 99 million.

2.3.4 Top-up of co-financing rates for rural development and fisheries

For the new programmes of the MFF 2014-2020 the 'Common Provisions Regulation' (CPR) reintroduced the 10 % top-up of co-financing rates until 2016 for Member States with temporary budgetary difficulties, which initially only applied to expenditure incurred until 31 December 2013. In order to ensure a coherent and uniform treatment to the preceding programming period, Member States should benefit from the increase of the co-financing rate until the end of the eligibility period for the 2007-2013 programmes. Article 77 of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional

⁶ Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived, OJ L 72, 12.3.2014, p.1.

Development Fund, the European Social Fund and the Cohesion Fund, Article 70(4c) of Regulation (EC) No 1698/2005 for the European Agricultural Fund for Rural Development and Article 77 of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund were amended for that purpose.

The related unforeseen payment needs for 2014 amount to EUR 90 million for the EAFRD and EUR 10 million for the EFF under heading 2. These increased needs will be automatically offset until closure of the programmes, as the total allocations to these Member States does not change. For the same reasons additional payment needs for 2015 are to be expected.

2.3.5 Top-up of co-financing rates for Cohesion policy

As set out in section 2.3.4 above, the ‘Common Provisions Regulation’ (CPR) reintroduced the 10 % top-up of co-financing rates until 2016 for Member States with temporary budgetary difficulties, which initially only applied to expenditure incurred until 31 December 2013.

The related unforeseen payment needs for 2014 for the European Regional Development Fund (ERDF), European Social Fund (ESF) and Cohesion Fund (CF) under sub-heading 1b amount to EUR 1 125 million. Awaiting confirmation of payment execution trends in 2014, however, for reasons of prudence the additional payment needs related to the top-up of the co-financing rates for the Cohesion policy are not added to the request related to the unexpected backlog of unpaid payment claims at the end of 2013 as set out in section 2.3.2. However, depending on the size of the backlog of unpaid payment claims at the end of 2014, it may be necessary for the Commission to propose the mobilisation of the Contingency Margin for payments in 2015 in relation with this top-up of the co-financing.

2.3.6 Common Provisions Regulation for the European Structural and Investment Funds

The negotiations between the European Parliament and the Council on the CPR resulted in changes to the payment needs compared to the conclusions at the February 2013 European Council. The agreed reduction of the ‘performance reserve’ from 7 % to 6 %, the reduced scope of the performance reserve⁷, the increase in annual pre-financing and the exclusion of the performance reserve from initial and annual pre-financing will result in a change to the expected payment profile and is in total likely to result in additional payments needs in the period until 2020. In the year 2014, however, a reduction in payment needs can be expected compared to the initial assumptions due to the exclusion of the performance reserve from the basis on which the initial pre-financing is to be calculated for the ESI funds. This reduces the payment needs in 2014 by EUR 288 million. Nonetheless, the corresponding appropriations have not been included in the 2014 budget, and therefore do not have to be deducted, since the 2014 budget was prepared under the assumption of a 7 % performance reserve, excluded from the calculation of the pre-financing, and adoption of only 80 % of the operational programmes.

2.3.7 Financial package for Ukraine

To respond to the dramatic unfolding of events in Ukraine, on 5 March 2014 the Commission announced⁸ a financial package including a ‘state building contract’ in the form of budget

⁷ It was agreed that no performance reserve has to be withheld for the allocations for the YEI, the FEAD, the transfer from the Cohesion Fund to the CEF and the Commission technical assistance.

⁸ IP 14/219, 5.3.2014.

support, amounting to EUR 355 million, of which a first instalment of EUR 250 million is to be paid in June 2014 and a second instalment of EUR 105 million in mid-2015. Such a disbursement schedule is much faster than the traditional assistance under the European Neighbourhood Instrument. Therefore the Commission requests EUR 250 million to cover this unforeseen development in 2014.

2.4. BUDGETARY IMPACT OF UNFORESEEN CIRCUMSTANCES IN 2015

At this stage, the Commission is addressing only the budgetary impact of the unforeseen circumstances for the year 2014. For information purposes, this section sets out the budgetary impact in 2015 of the unforeseen circumstances for which an appropriate budgetary response in light of implementation will be required, by using all the possible means foreseen in the MFF Regulation, including through the possible mobilisation of the Contingency Margin for that year.

2.4.1 Frontloading of programmes in sub-headings 1a and 1b

The frontloading of ‘Horizon 2020’, ‘Erasmus+’ and ‘COSME’ under sub-heading 1a is expected to result in a net increase of payment needs amounting to EUR 143 million in 2015. With regard to sub-heading 1b, the frontloading of expenditure for the ‘Youth Employment Initiative’ (YEI) and the corresponding backloading of the Cohesion Fund related part of the ‘Connecting Europe Facility’ and the ‘European Territorial Cooperation’ (ETC) is expected to lead to additional payment needs of EUR 505 million in 2015.

2.4.2 Top-up of co-financing rates for Cohesion policy

As set out in sections 2.3.4 and 2.3.5 above, for the new programmes of the MFF 2014-2020 the ‘Common Provisions Regulation’ (CPR) reintroduced the 10 % top-up of co-financing rates until 2016 for Member States with temporary budgetary difficulties, which initially only applied to expenditure incurred until 31 December 2013. As a consequence, additional payment needs for 2015 amounting to EUR 375 million are to be expected for the top-up of the co-financing rates for the Cohesion policy. However, the budgetary impact of the top-up of the co-financing rates for rural development and fisheries is expected to be limited to 2014 only.

2.4.3 Financial package for Ukraine

As set out in section 2.3.7 above, the second instalment of financial package announced for Ukraine is expected to lead to additional payment requirements of EUR 105 million by mid-2015.

2.5. BUDGETARY IMPACT OF UNFORESEEN CIRCUMSTANCES IN 2014 AND 2015: OVERVIEW

In total, as shown in table 1 below, the unforeseen payment needs for 2014 compared to the situation of February 2013 sum up to EUR 5 209 million. However, taking into account the impact known when the 2014 budget was adopted and the assessment which has to be done end of 2014 of the impact of the top-up of co-financing for the cohesion policy, EUR 4 027 million is necessary to address the related payment needs in 2014.

Table 1: unforeseen payment needs emerging after the February 2013 European Council

Additional payment needs for 2014 linked to unforeseen circumstances not yet included in the 2014 budget	EUR million
Frontloading sub-heading 1a (Horizon 2020, Erasmus+ and COSME)	282
Pre-financing FEAD	99
Unforeseen excess backlog 2013	3 296
Top-up of co-financing rates: rural development and fisheries (heading 2)	100
Financial package for Ukraine	250
Total impact of unforeseen circumstances not yet included in the 2014 budget (A)	4 027

Additional payment needs linked to unforeseen circumstances already included in the 2014 budget	EUR million
Frontloading Youth Employment Initiative (YEI)	345
Treatment of performance reserve for ESI funds	-288
Total impact of unforeseen circumstances already included in the 2014 budget (B)	57

Additional payment needs linked to unforeseen circumstances likely to materialise after 2014	EUR million
Top-up of co-financing rates: Cohesion policy (sub-heading 1b)	1 125
Total impact of unforeseen circumstances likely to materialise after 2014 (C)	1 125

Grand total unforeseen circumstances having an impact on payment needs (D = A + B + C)	5 209
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The frontloading of the programmes under sub-headings 1a and 1b, the top-up in co-financing rates for the Cohesion policy and the financial package for Ukraine will also lead to some additional payment needs for the year 2015, as shown in the table below.

Additional payment needs for 2015 linked to unforeseen circumstances to be addressed at a later stage	EUR million
Frontloading sub-heading 1a (Horizon 2020, Erasmus+ and COSME)	143
Frontloading Youth Employment Initiative (YEI)	505
Top-up of co-financing rates: Cohesion policy (sub-heading 1b)	375
Financial package for Ukraine	105
Total unforeseen circumstances having an impact on payment needs	1 128

In summary, at this stage the Commission proposes to limit the request for additional payment appropriations in 2014 for the Cohesion policy to the excess backlog of unpaid claims at the end of 2013.

A request corresponding to the top up of 10 % for the co-financing of the Cohesion policy in 2014 may follow later on, pending evaluation of the backlog of unpaid claims at the end of 2014. Furthermore, additional payment needs are expected to emerge in 2015, as set out in section 2.4 above. Consequently, the Commission may have to propose at a later stage – in the light of implementation in 2014 – the mobilisation of the Contingency Margin for the year 2015 as well.

Whereas an amount of EUR 65,4 million is proposed to be redeployed in 2014, the remaining additional payment needs for 2014-2015 required to react to unforeseen circumstances are proposed to be mobilised through the use of the Contingency Margin. This will be offset by

lower payment ceilings in following years of the 2014-2020 MFF, as required by Article 13(3) of the MFF Regulation.

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 payment appropriations in 2014 and the related offsetting have to respect the total payment ceiling for the years 2014 to 2020 of EUR 1 023 954 million in current prices (equivalent to EUR 908,4 billion in 2011 prices).

Given the uncertainties related to the years 2015 and 2016 (i.e. the level of payment claims outstanding at the end of the previous year and the likelihood of additional unforeseen payment needs occurring), offsetting in either of these years would be imprudent. In 2017 the level of the payment ceiling decreases nominally compared to 2016. For these reasons it is proposed to distribute the offsetting over the years 2018 to 2020.

Given the increasing payment needs towards the end of the programming period and the increase in the payment ceiling during the years 2018 to 2020, it is proposed to implement the offsetting in equal annual tranches. These amounts under the payment ceiling will not be available for payment appropriations in the respective annual budgets.

Table 2: distribution of offsetting for the Contingency Margin 2014

EUR million	Payment ceiling	Amounts offset	Amounts usable under the ceiling
2018	149 074,0	1 342,3	147 731,7
2019	153 362,0	1 342,2	152 019,8
2020	156 295,0	1 342,2	154 952,8
Total	458 731,0	4 026,7	454 704,3

4. ADDITIONAL ELEMENTS

The two arms of the budgetary authority are reminded that the publication of the Decision in the Official Journal of the European Union shall not intervene later than the publication of the amending budget No. 3 to the general budget of the European Union for the financial year 2014.

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Mobilisation of the Contingency Margin in 2014

THE EUROPEAN PARLIAMENT AND THE COUNCIL 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 management⁹, and in particular point 14, second subparagraph, thereof,

Having regard to the proposal from the European Commission,

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

Whereas,

(1) Article 13 of Council Regulation 1311/2013 laying down the multiannual financial framework for the years 2014-2020¹⁰ 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 this Regulation, the Commission has calculated the absolute amount of this Contingency Margin for 2014¹¹,

(3) After having examined all other financial possibilities to react to unforeseen circumstances that have arisen after the multiannual financial framework payment ceiling for 2014 was first established in February 2013, it appears necessary to mobilise the full amount of the Contingency Margin available to complement the payment appropriations in the general budget of the European Union for the financial year 2014, above the payment ceiling,

HAVE ADOPTED THIS DECISION:

Article 1

For the general budget of the European Union for the financial year 2014, the Contingency Margin shall be used to provide the sum of EUR 4 026 700 000 in payment appropriations over and above the payment ceiling of the multiannual financial framework (MFF).

⁹ OJ C 373, 20.12.2013, p. 1.

¹⁰ OJ L 347, 20.12.2013, p. 884.

¹¹ Communication from the Commission to the Council and the European Parliament of 20 December 2013 on the technical adjustment of the financial framework for 2014 in line with movements in GNI (COM(2013) 928).

That amount shall be used to complement payments in sub-heading 1a (EUR 282 000 000), sub-heading 1b (EUR 3 394 700 000), heading 2 (EUR 100 000 000) and heading 4 (EUR 250 000 000).

Article 2

The sum of EUR 4 026 700 000 mobilised through the Contingency Margin for the financial year 2014 shall be offset against the Margins under the payment ceilings for the following years:

- (a) 2018: EUR 1 342 300 000
- (b) 2019: EUR 1 342 200 000
- (c) 2020: EUR 1 342 200 000

Article 3

This decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the European Parliament
The President

For the Council
The President