



EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability, to the decommitment rules for certain Member States, and to the rules on payments of the final balance

REGULATION (EU) No .../2013
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

amending Council Regulation (EC) No 1083/2006
as regards certain provisions relating to financial management
for certain Member States experiencing or threatened
with serious difficulties with respect to their financial stability,
to the decommitment rules for certain Member States,
and to the rules on payments of the final balance

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

¹ Opinion of 19 September 2013 (OJ C 341, 21.11.2013, p. 27).

² Position of the European Parliament of 20 November 2013 (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) The unprecedented enduring global financial crisis and economic downturn have seriously damaged economic growth and financial stability and provoked a strong deterioration in financial, economic and social conditions in the Member States. In particular, certain Member States are experiencing serious difficulties or are threatened with such difficulties, in particular with problems in their economic growth and financial stability and with a deterioration in their deficit and debt position, also as a result of the international economic and financial environment.
- (2) Whilst important actions to counterbalance the negative effects of the financial crisis have already been taken, including amendments of the legislative framework, the impact of that crisis on the real economy, the labour market and citizens is being widely felt. Pressure on national financial resources is increasing and further steps should be taken urgently to alleviate that pressure through the maximal and optimal use of the funding from the Structural Funds and the Cohesion Fund ("the Funds"). In view of the persistence of the financial difficulties, it is necessary to extend the application of the measures adopted by Regulation (EU) No 1311/2011 of the European Parliament and of the Council¹. Those measures were adopted pursuant to Article 122(2) and Articles 136 and 143 of the Treaty on the Functioning of the European Union.

¹ Regulation (EU) No 1311/2011 of the European Parliament and of the Council of 13 December 2011 amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability (OJ L 337, 20.12.2011, p. 5).

- (3) In order to facilitate the management of Union funding, to help accelerate investments in Member States and regions, and to improve the availability of funding to the economy, Council Regulation (EC) No 1083/2006¹ was amended by Regulation (EU) No 1311/2011 of the European Parliament and of the Council to allow the increase of interim payments from the Funds by an amount corresponding to ten percentage points above the actual co-financing rate for each priority axis for Member States which are facing serious difficulties with respect to their financial stability and have requested to benefit from this measure.
- (4) Article 77(6) of Regulation (EC) No 1083/2006 allows for the application of an increased co-financing rate up to 31 December 2013. However, since Member States still face serious difficulties with respect to their financial stability, the duration of the application of an increased co-financing rate should not be limited to 31 December 2013.

¹ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

- (5) In line with the European Council conclusions of 7-8 February 2013 and as provided for in Article 22 of Regulation (EU) No .../2013⁺ of the European Parliament and of the Council¹, the co-financing rate increased by 10 percentage points is to apply with regard to the 2014-2020 programming period until 30 June 2016, when the possibility of the increase is to be reviewed. As the 2007-2013 and 2014-2020 programming periods overlap, it is necessary to ensure coherent and uniform treatment of Member States receiving financial assistance during the two periods. Therefore, these Member States receiving financial assistance should also benefit from the increase of the co-financing rate until the end of the eligibility period and to claim it in their requests for final balance even if the financial assistance is not anymore provided.

⁺ OJ: please insert the reference number of the document in COD 2011/0276 - PE-CONS 85-2013.

¹ Regulation (EU) No .../2013 of the European Parliament and of the Council of ... laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L ..., ..., p. ...).

- (6) Regulation (EU) No .../2013⁺ aims to contribute to achieving adequate concentration of cohesion funding on the least developed regions and Member States. In order to contribute to the reduction of disparities in average per capita aid intensities, the maximum level of transfer (capping) from the Funds to each individual Member State pursuant to future Regulations is to be fixed at 2,35 % of the GDP of the Member State. The capping is to be applied on an annual basis, and, if applicable, is to proportionally reduce all transfers (except for the more developed regions and the European territorial cooperation goal) to the Member State concerned in order to obtain the maximum level of transfer. For Member States which acceded to the Union before 2013 and whose average real GDP growth in the 2008-2010 period was lower than -1 %, the maximum level of transfer is to be fixed at 2,59 % of their GDP.
- (7) Regulation (EU) No .../2013⁺ caps the allocations per Member State at 110 % of their level in real terms for the 2007-2013 period. Member States affected by this capping need to be further protected from the risk of automatic decommitment of allocations in the 2007-2013 period.
- (8) In its conclusions of 8 February 2013, the European Council invited the Commission to explore practical solutions with regard to reducing the risk of automatic decommitment of the Funds from the 2007-2013 national envelope for Romania and Slovakia, including the amendment of Regulation (EC) No 1083/2006.

⁺ OJ: please insert the reference number of the document in COD 2011/0276 - PE-CONS 85-2013.

- (9) The European Council also highlighted the need to ensure a manageable level and profile for the payments in all headings in order to limit the outstanding budgetary commitments in particular by applying rules for automatic decommitment in all headings. Hence, provisions releasing the decommitment rules for Member States affected by the capping set out in Regulation (EU) No .../2013⁺ should be balanced in view of its effects on the outstanding budgetary commitments.
- (10) The deadline for the calculation of the automatic decommitment of the annual budget commitments for years 2011 and 2012 should be extended by one year, but the 2012 budget commitment, which will still be open on 31 December 2015, is to be justified by 31 December 2015. That extension should help to improve the absorption of funding committed for operational programmes in Member States that are affected by the capping of their future cohesion policy allocations at 110 % of their level in real terms for the 2007-2013 period. Such flexibility is necessary in order to address a slower than expected implementation of programmes affecting those Member States in particular.

⁺ OJ: please insert the reference number of the document in COD 2011/0276 - PE-CONS 85-2013.

- (11) Limited adjustments of the maximum amount of assistance from the Funds for each priority axis should be applied when establishing the amount of the final balance to be paid to the operational programmes in order to optimise the absorption of the Funds.
- (12) Given the unprecedented nature of the crisis, swift adoption of support measures is needed and therefore it is appropriate that this Regulation enters into force on the day of its publication in the *Official Journal of the European Union*.
- (13) Regulation (EC) No 1083/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1083/2006 is amended as follows:

(1) Article 77 is amended as follows:

(a) Paragraph 2 is amended as follows:

"2. By way of derogation from Article 53(2), from the second sentence of Article 53(4) and from the ceilings set out in Annex III, interim payments and payments of the final balance shall be increased by an amount corresponding to 10 percentage points above the co-financing rate applicable to each priority axis, but not exceeding 100 %, to be applied to the amount of eligible expenditure newly declared in each certified statement of expenditure submitted until the end of the programming period, where, after ...⁺ a Member State meets one of the following conditions:

- (a) financial assistance is made available to it in accordance with Council Regulation (EU) No 407/2010^{*} or financial assistance is made available to it by other euro area Member States before the entry into force of that Regulation;
- (b) medium-term financial assistance is made available to it in accordance with Council Regulation (EC) No 332/2002^{**};

⁺ OJ: Please insert the date of entry into force of this Regulation.

- (c) financial assistance is made available to it in accordance with the Treaty establishing the European Stability Mechanism following its entry into force.

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

** 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 53, 23.2.2002, p. 1).";

- (b) Paragraph 6 is deleted;
- (c) The following paragraph is added:

"12. By way of derogation from paragraph 10, the Union contribution through payments of the final balance for each priority axis shall not exceed, by more than 10 %, the maximum amount of assistance from the Funds for each priority axis as laid down in the decision of the Commission approving the operational programme. However, the Union contribution through payments of the final balance shall not exceed the public contribution declared and the maximum amount of assistance from each Fund to each operational programme as laid down in the decision of the Commission approving the operational programme.";

(2) Article 93 is amended as follows:

(a) The following paragraph is inserted:

"2b. By way of derogation from the first subparagraph of paragraph 1 and from paragraph 2, for Member States whose cohesion policy allocations in the 2014-2020 programming period are capped at 110 % of their level in real terms for the 2007-2013 period, the deadline referred to in paragraph 1 shall be 31 December of the third year following the year of the annual budget commitment from 2007 to 2012 under their operational programmes.";

(b) In paragraph 3, the following subparagraph is added:

"The first subparagraph is without prejudice to the application of the deadline laid down in paragraph 2b to the 2012 budget commitment for the Member States referred to in that paragraph.".

Article 2

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

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

Done at ...,

For the European Parliament
The President

For the Council
The President
