



Council of the
European Union

Brussels, 31 March 2022
(OR. en)

7796/22

Interinstitutional File:
2022/0096(COD)

COH 26
SOC 200
CODEC 416

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	31 March 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2022) 162 final
Subject:	Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1303/2013 and Regulation (EU) No 223/2014 as regards increased pre-financing from REACT-EU resources

Delegations will find attached document COM(2022) 162 final.

Encl.: COM(2022) 162 final



Brussels, 31.3.2022
COM(2022) 162 final

2022/0096 (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulation (EU) No 1303/2013 and Regulation (EU) No 223/2014 as regards
increased pre-financing from REACT-EU resources**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

On 23 March 2022, the European Commission adopted a legislative proposal to amend Regulations (EU) No 1303/2013 and (EU) No 223/2014 to provide for exceptional and targeted changes in response to the invasion of Ukraine by the Russian Federation and the subsequent impact on the European Union and several of its eastern regions in particular.

This proposal was to provide additional initial pre-financing for 2014-2020 programmes supported by cohesion policy funds and the Fund for European Aid to the Most Deprived (FEAD), to be paid under REACT-EU, financed by the European Recovery Instrument “NextGenerationEU”.

The Commission had already taken action to assist Member States in this regard, via its Cohesion’s Action for Refugees in Europe (CARE) proposal of 8 March 2022.

At its meeting on 24-25 March 2022, the European Council discussed the Russian military aggression against Ukraine and, in its conclusions of the meeting, invited the Commission “to work on additional proposals to reinforce EU support” so as “to ensure that EU funding for refugees and their hosts can be mobilised rapidly”.

To address this invitation, the Commission is bringing forward this proposal, amending its legislative proposal of 23 March 2022. Since one of the most effective methods of mobilising funding rapidly is to make use of “simplified costs options”, which enable easier and quicker implementation of cohesion policy funds while also reducing the administrative burden, this proposal therefore creates a new unit cost. Member States can use this new unit cost to facilitate the financing of basic needs and support of persons granted temporary protection in accordance with Council Implementing Decision (EU) 2022/382 in all Member States where such a person is present. The unit cost may be used for a maximum of 13 weeks in total, starting from the date of arrival of the person in the European Union.

- **Consistency with existing policy provisions in the policy area**

The amended proposal is consistent with the overall legal framework established for the European Structural and Investment Funds and is limited to targeted and exceptional amendments of Regulations (EU) No 1303/2013 and (EU) No 223/2014. The proposal also complements the preceding amendment proposal to this regulation under the Commission’s CARE proposal of 8 March 2022 as well as all other measures aimed at addressing the current unprecedented situation.

- **Consistency with other Union policies**

The proposal is limited to targeted and exceptional amendments of Regulations (EU) No 1303/2013 and (EU) No 223/2014 and maintains consistency with other Union policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Articles 175(3) and 177 of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive competence)**

Since addressing the challenges created by very high arrivals of those fleeing Ukraine cannot be sufficiently achieved by the Member States alone and can therefore be better achieved at Union level, the Union may provide for an increased amount of pre-financing to be paid out under REACT-EU and provide for a new unit cost simplified cost option, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

- **Proportionality**

The proposal is an exceptional and targeted change not going beyond what is necessary to achieve the objective of providing for an increased amount of pre-financing to be paid out under REACT-EU and providing for a new unit cost to support measures to address migratory challenges as a result of the military aggression by the Russian Federation and to alleviate the corresponding burden on public budgets to enable in turn mobilising investment in response to the widespread public health crisis affecting the growth of regions.

- **Choice of the instrument**

A Regulation is the appropriate instrument to provide for an increased amount of pre-financing to be paid out under REACT-EU and for the creation of a new unit cost needed to address these unprecedented circumstances.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

The proposal follows high level exchanges with other institutions and Member States. A public consultation is not required given that there is no need for an impact assessment.

- **Collection and use of expertise**

N/A

- **Impact assessment**

An impact assessment has been carried out to prepare the proposal for Regulations (EU) No 1303/2013 and (EU) No 223/2014. This current targeted change to respond to a critical situation does not require a separate impact assessment.

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

The proposed modification to the Commission's proposal of 23 March 2022 does not involve any change to commitment appropriations under the 2021-2027 MFF.

The use of the new unit cost would facilitate an acceleration of the disbursement of funds.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The implementation of the measures will be monitored and reported upon in the framework of the general reporting mechanisms established in Regulations (EU) No 1303/2013 and (EU) No 223/2014.

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

The proposed modification to the Commission's proposal of 23 March 2022 provides for the creation of a new unit cost to support measures to address migratory challenges as a result of the military aggression by the Russian Federation.

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 1303/2013 and Regulation (EU) No 223/2014 as regards increased pre-financing from REACT-EU resources

Commission proposal COM(2022) 145 is amended as follows:

- (1) the title is replaced by the following:

“REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1303/2013 and Regulation (EU) No 223/2014 as regards increased pre-financing from REACT-EU resources and establishment of a unit cost”
- (2) the following recital (5a) is inserted:

“Furthermore, with a view to simplifying the use of the European Structural and Investment Funds and reducing the administrative burden for Member State administrations and beneficiaries in the context of addressing migratory challenges resulting from the military aggression by the Russian Federation, a unit cost should be established. This unit cost should facilitate the financing of basic needs and support of persons granted temporary protection or other adequate protection under national law in accordance with Council Implementing Decision (EU) 2022/382¹ and Council Directive 2001/55/EC² in all Member States, where such a person is present during the 13 weeks since their arrival in the European Union. In accordance with the Commission’s “Cohesion’s Action for Refugees in Europe” (CARE) proposal of 8 March 2022, Member States may also apply this unit cost when making use of the possibility provided in [Article 98(4) of Regulation (EU) No 1303/2013] to finance such operations by the ERDF on the basis of the rules applicable to the ESF, including when this involves REACT-EU resources. In making use of the unit cost, Member States should ensure that they have the necessary arrangements in place to avoid double financing of the same costs.”
- (3) in Article 1, the following point is inserted before point (1):

“(1) the following Article 68c is inserted:

Article 68c

Unit cost for operations addressing migratory challenges resulting from the military aggression by the Russian Federation

¹ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, OJ L 71, 4.3.2022, p. 1–6

² Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

For the implementation of operations addressing migratory challenges resulting from the military aggression by the Russian Federation, Member States may include in the expenditure declared in payment applications a unit cost linked to the basic needs and support of persons granted temporary protection or other adequate protection under national law in accordance with Council Implementing Decision (EU) 2022/382 and Council Directive 2001/55/EC. That unit cost shall be EUR 40 per week for each full week or partial week that the person is in the Member State concerned. The unit cost may be used for a maximum of 13 weeks in total, starting from the date of arrival of the person in the Union.

The amounts calculated on this basis shall be regarded as public support paid to beneficiaries and as eligible expenditure for the purpose of applying this Regulation.”

(4) in Article 1, point (1) becomes point (2) and point (2) becomes point (3);

(5) in Article 1, the following point is added:

“(4) in Article 131, paragraph 2 is replaced by the following:

2. Eligible expenditure included in a payment application shall be supported by receipted invoices or accounting documents of equivalent probative value, except for the forms of support referred to in points (b) to (e) of the first subparagraph of Article 67(1), Articles 68, 68a, 68b and 68c, Article 69(1) and Article 109 of this Regulation and in Article 14 of the ESF Regulation. For those forms of support, the amounts included in a payment application shall be the costs calculated on the applicable basis.”

Done at Brussels,

For the European Parliament
The President

For the Council
The President