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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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 - Outcome of the European Parliament's first reading (Strasbourg, 4-7 April 2022)

I. INTRODUCTION

On 6 April 2022, the Permanent Representatives Committee confirmed that, should the European Parliament approve the abovementioned amended Commission's proposal without amendments, the Council would approve the European Parliament's position.

In this context, after the plenary approved the request of the Committee on Regional Development to proceed according to the Rule 163 (urgent procedure) on 5 April 2022, this Committee tabled the amended Commission's proposal for a Regulation. No amendments were presented.

II. VOTE

The Parliament adopted its first-reading position on 7 April 2022 by taking over the amended Commission proposal. This position is contained in its legislative resolution.

The Council should therefore be in a position to approve the European Parliament's position as set out in the Annex hereto, thus bringing to a close the first reading for both Institutions.

The legislative act would then be adopted in the wording which corresponds to the European Parliament's position.

P9_TA(2022)0118

Increased pre-financing from REACT-EU *I**

European Parliament legislative resolution of 7 April 2022 on the 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 and establishment of a unit cost (COM(2022)0145 – C9-0127/2022 – COM(2022)0162 – C9-0136/2022 – 2022/0096(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0145) and the amended proposal (COM(2022)0162),
 - having regard to Article 294(2), Article 175, third paragraph, and Article 177 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0127/2022, C9-0136/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - after consulting the European Economic and Social Committee,
 - after consulting the Committee of the Regions,
 - having regard to the undertaking given by the Council representative by letter of 6 April 2022 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 and 163 of its Rules of Procedure,
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 7 April 2022 with a view to the adoption of Regulation (EU) 2022/... of the European Parliament and of the Council amending Regulations (EU) No 1303/2013 and (EU) No 223/2014 as regards increased pre-financing from REACT-EU resources and the establishment of a unit cost

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 175, third paragraph, and Article 177 thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure¹,

¹ Position of the European Parliament of 7 April 2022.

Whereas:

- (1) The recent military aggression by the Russian Federation against Ukraine and the ongoing armed conflict has fundamentally changed the security situation in Europe. As a result of that military aggression, the Union, and its eastern regions in particular, is facing a substantial inflow of persons. This poses an additional challenge for public budgets at a time when Member States' economies are still recovering from the impact of the COVID-19 pandemic, and risks undermining the preparation of a green, digital and resilient recovery of the economy.
- (2) Member States are already able to finance a broad range of investments to address migratory challenges under their operational programmes with support from the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Fund for European Aid to the Most Deprived (FEAD), including from the additional resources made available as Recovery Assistance for Cohesion and the Territories of Europe (REACT-EU), to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy.

- (3) Furthermore, Regulation (EU) 2022/... of the European Parliament and of the Council²⁺ made a number of targeted amendments to Regulations (EU) No 1303/2013³ and (EU) No 223/2014⁴ of the European Parliament and of the Council in order to make it easier for Member States to use their remaining ERDF, ESF and FEAD allocations under the 2014-2020 multiannual financial framework, as well as to use REACT-EU resources, to address the migratory challenges as effectively and as rapidly as possible.

² Regulation (EU) 2022/... of the European Parliament and of the Council of ... amending Regulations (EU) No 1303/2013 and (EU) No 223/2014 as regards Cohesion's Action for Refugees in Europe (CARE) (OJ L ..., p...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 12/22 (2022/0075(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

³ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 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, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

⁴ 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).

- (4) Notwithstanding the flexibilities offered by Regulation (EU) 2022/...⁺, Member States continue to face substantial pressure on public budgets from challenges deriving from the very high numbers of arrivals of persons fleeing Ukraine. That pressure risks undermining Member States' capacity to move towards a resilient recovery of the economy from the COVID-19 pandemic. In order to assist Member States in addressing the migratory challenges, support from the ERDF, ESF and FEAD should therefore be mobilised quickly by increasing the rate of initial pre-financing paid from REACT-EU resources for all Member States. At the same time, some Member States have been confronted with significant numbers of persons arriving from Ukraine, requiring the provision of immediate support. Those Member States should accordingly benefit from a significantly higher increase of the rate of initial pre-financing to offset the immediate budgetary costs and support their efforts in preparing the recovery of their economies.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 12/22 (2022/0075(COD)).

- (5) In order to monitor the use made of that additional pre-financing, the final reports on the implementation of ERDF and ESF programmes receiving additional pre-financing should include information on the use made of the additional amounts received to address the migratory challenges faced as a result of the military aggression by the Russian Federation, and how those additional amounts contributed to the recovery of the economy.

- (6) A unit cost should be established, in order to simplify the use of the European Structural and Investment Funds and to reduce the administrative burden for beneficiaries and Member State administrations in the context of addressing migratory challenges resulting from the military aggression by the Russian Federation. The unit cost should facilitate, in all Member States, the financing of basic needs and the support of persons granted temporary protection or other adequate protection under national law in accordance with Council Implementing Decision (EU) 2022/382⁵ and Council Directive 2001/55/EC⁶, for a period of 13 weeks from the person's arrival in the Union. In accordance with Regulation (EU) 2022/...⁺ Member States could also apply a unit cost when making use of the possibility provided for in Article 98(4) of Regulation (EU) No 1303/2013 to finance operations addressing migratory challenges by either the ERDF or the ESF on the basis of the rules applicable to the other Fund, including when that 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.

⁵ 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 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).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 12/22 (2022/0075(COD)).

- (7) Since the objectives of this Regulation, namely to assist Member States in addressing the challenges created by the exceptionally high arrivals of persons fleeing the military aggression of the Russian Federation against Ukraine and to support Member States' move towards a resilient recovery of the economy from the COVID-19 pandemic, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the proposed action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.
- (8) Regulations (EU) No 1303/2013 and (EU) No 223/2014 should therefore be amended accordingly.

- (9) In view of the urgency of providing rapid relief to public budgets with a view to preserving Member States' capacity to support the recovery of economies from the COVID-19 pandemic and to enable additional payments to operational programmes without delay, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (10) In view of the need to provide rapid relief to public budgets with the aim of preserving Member States' capacity to sustain the economic recovery process and to enable additional payments to be made to operational programmes without delay, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendment to Regulation (EU) No 1303/2013

Regulation (EU) No 1303/2013 is amended as follows:

- (1) the following article is inserted:

‘Article 68c

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

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 that basis shall be regarded as public support paid to beneficiaries and as eligible expenditure for the purposes of applying this Regulation.

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- * 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).
- ** 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).’;

(2) in Article 92b, paragraph 7 is amended as follows:

(a) the following subparagraphs are inserted after the first subparagraph:

'In addition to the initial pre-financing set out in the first subparagraph, the Commission shall pay 4 % of the REACT-EU resources allocated to programmes for the year 2021 as additional initial pre-financing in 2022. For programmes in Member States which have had a level of arrivals of persons from Ukraine greater than 1 % of their national population between 24 February 2022 and 23 March 2022, that percentage shall be increased to 34 %.

When submitting the final implementation report required under Article 50(1) and Article 111, Member States shall report on the use made of the additional initial pre-financing provided for in the second subparagraph of this paragraph to address the migratory challenges faced as a result of the military aggression by the Russian Federation and the contribution of that additional initial pre-financing to the recovery of the economy.';

- (b) the third subparagraph is replaced by the following:

'Where the Commission decision approving the operational programme or the amendment to the operational programme allocating the REACT-EU resources for 2021 was adopted after 31 December 2021 and the related pre-financing not paid, the amount of initial pre-financing referred to in the first and second subparagraphs of this paragraph shall be paid in 2022.

The amount paid as initial pre-financing referred to in the first and second subparagraphs of this paragraph shall be totally cleared from the Commission accounts not later than when the operational programme is closed.';

- (3) 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.’.

Article 2

Amendment to Regulation (EU) No 223/2014

Article 6a, paragraph 4, of Regulation (EU) No 223/2014 is amended as follows:

- (1) the following subparagraph is inserted after the first subparagraph:

'In addition to the initial pre-financing set out in the first subparagraph, the Commission shall pay 4 % of the REACT-EU resources allocated to programmes for the year 2021 as additional initial pre-financing in 2022. For programmes in Member States which have had a level of arrivals of persons from Ukraine greater than 1 % of their national population between 24 February 2022 and 23 March 2022, that percentage shall be increased to 34 %.';

(2) the second subparagraph is replaced by the following:

‘The amount paid as initial pre-financing referred to in the first and second subparagraphs shall be totally cleared from the Commission accounts not later than when the operational programme is closed.’.

Article 3

Entry into force

This Regulation shall enter into force on the day following that 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

For the Council

The President

The President
