



Brussels, 30.9.2016  
COM(2016) 624 final

Proposal for a

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the mobilisation of the Contingency Margin in 2016**

## 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<sup>1</sup> ('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 2016<sup>2</sup>, based on Article 6 of the MFF Regulation, the absolute amount of the Contingency Margin for the year 2016 is set at EUR 4 438,2 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 2016 for an amount of EUR 240,1 million so as to complement the commitment appropriations related to expenditure in heading 3 *Security and citizenship* in the general budget of the European Union for the financial year 2016, over and above the commitment ceilings of EUR 2 546 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<sup>3</sup>, 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 ceilings of heading 3 against the unallocated margin available under the expenditure ceilings of heading 5 *Administration* in 2016.

This proposal complements the decision (EU) 2016/253 of the European Parliament and of the Council of 25 November 2015 to mobilise in full the amount of the Flexibility Instrument<sup>4</sup> available for 2017 (EUR 520 million), 2016 (EUR 510 million) and 2015 (EUR 500 million) in order to cover the cost of immediate budgetary measures to address the refugee crisis.

### 2. JUSTIFICATION OF THE MOBILISATION

#### 2.1. INTRODUCTION

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. In addition, a new instrument was adopted by the Council on 15 March 2016<sup>5</sup> to allow the provision of emergency support of a humanitarian nature in response to the increased influx of refugees and migrants into the Union.

As set out in the related Commission proposal<sup>6</sup>, the funding needs for this new emergency instrument in 2016 were estimated at EUR 300 million in commitment appropriations and EUR 241 million in payment appropriations<sup>7</sup>. EUR 199 million in commitment appropriations and EUR 130,2 million in payment appropriations have been redeployed from AMIF, first in

<sup>1</sup> OJ L347, 20.12.2013, p.884.

<sup>2</sup> COM(2015) 320, 22.5.2015.

<sup>3</sup> OJ C 373, 20.12.2013, p. 1.

<sup>4</sup> OJ L 47, 24.2.2016, p. 6.

<sup>5</sup> OJ L 70, 16.3.2016, p. 1.

<sup>6</sup> COM(2016) 115, 2.3.2016.

<sup>7</sup> 80% of prefinancing.

the context of the amending budget No 1/2016 adopted on 13 April 2016<sup>8</sup> (EUR 100 million in commitment appropriations and EUR 80,2 million in payment appropriations) and then, through a Commission transfer of appropriations implemented in August in accordance with Article 26(1)(c) of the Financial Regulation (EUR 99 million in commitment appropriations and EUR 50 million in payment appropriations).

Likely outstanding needs related to the new emergency instrument, currently estimated at EUR 50 million in commitment appropriations and EUR 10 million in payment appropriations, has still to be financed in 2016. Moreover, the latest reassessment of the AMIF needs by the end of the year requires that the abovementioned redeployments be partially offset by fresh appropriations for an amount of EUR 130 million in commitment only. This partial replenishment of AMIF is combined with a reinforcement of the Borders strand of the Internal Security Fund (ISF-Borders) by EUR 70 million in commitment appropriations, in order to respond to Bulgaria's recent request for emergency assistance. This takes account of the fact that the ISF emergency assistance currently available in the 2016 budget has been almost fully used.

After taking account of the possible redeployments identified on other budget lines under heading 3 (EUR 9,9 million), the Commission has requested to increase commitment appropriations by EUR 240,1 million above the ceiling of this heading in the draft amending budget No 4/2016<sup>9</sup>.

The expenditure ceiling of heading 3 in 2016 stands at EUR 2 546 million in current prices. The commitment appropriations authorised for heading 3 in the 2016 budget are EUR 4 052 million, which has already required the mobilisation of the Flexibility Instrument (EUR 1 506 million) over and above the ceiling of heading 3, in accordance with Article 11(2) of the MFF Regulation.

Spending related to migration, refugees and security represents more than 70 % of total expenditure under the ceiling of heading 3. The Commission has carefully examined all possibilities for redeployment. However, given the limited room for manoeuvre under this heading, it is only possible to cover a small percentage of the needs in commitment appropriations as described above without jeopardising the proper functioning of the other relatively smaller programmes.

As a consequence, the mobilisation of the Contingency Margin is the only possible recourse to meet the budgetary needs in commitment appropriations. Availability of margins in other headings allows this mobilisation to be completely offset in 2016.

The needs in payment appropriations will be accommodated within the 2016 ceiling for payments, thus making the mobilisation of the Contingency Margin in payments unnecessary.

## **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 2016 Budget, given the absence of unallocated margin under the commitment ceiling of heading 3, the Commission has examined all possibilities for redeployment within the heading.

Given the full mobilisation of the flexibility instrument in the 2016 Budget (EUR 1 530 million), the mobilisation of EUR 240,1 million through the Contingency Margin for 2016 is therefore the only available instrument to address the gap between the level of the expenditure ceiling of heading 3 and the additional unforeseen needs estimated for 2016.

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<sup>8</sup> OJ L 143, 31.5.2016.

<sup>9</sup> COM(2016) 623, 30.9.2016.

### **2.3. BUDGETARY IMPACT OF UNFORESEEN CIRCUMSTANCES IN 2016**

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 made it very hard to foresee the short- and 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 heading 3.

### **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 2016 under heading 3 and the related offsetting have to respect the total commitment ceiling for the years 2017 to 2020.

As sufficient margin is available under the 2016 expenditure ceiling of heading 5, the Commission proposes to make the offsetting fully in 2016 in order not to prejudge the needs in commitment appropriations of the years 2017-2020. The amount offset in heading 5 will be EUR 240,1 million, leaving a margin of EUR 291,9 million in 2016. The overall commitment ceiling for 2016 and 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 draft amending budget No 4/2016, in accordance with the last sentence of article 13(1) of the MFF Regulation.

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the mobilisation of the Contingency Margin in 2016**

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<sup>1</sup>, and in particular the second subparagraph of point 14, thereof,

Having regard to the proposal from the European Commission,

Whereas,

(1) Article 13 of Council Regulation No 1311/2013<sup>2</sup> 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 2016<sup>3</sup>,

(3) After having examined all other financial possibilities to react to unforeseen circumstances within the 2016 expenditure ceilings for heading 3 *Security and citizenship*, and after having proposed to mobilise the Flexibility Instrument for headings 3 and 4 for the full amount of EUR 1 530 million available in 2016, 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 heading 3 in the general budget of the European Union for the financial year 2016, above the ceiling of this heading,

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

HAVE ADOPTED THIS DECISION:

*Article 1*

For the general budget of the Union for the financial year 2016, the Contingency Margin shall be mobilised to provide EUR 240,1 million in commitment appropriations over and above the commitment ceiling of heading 3 of the multiannual financial framework.

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<sup>1</sup> OJ C 373, 20.12.2013, p. 1.

<sup>2</sup> Council Regulation (EU, Euratom) N° 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).

<sup>3</sup> Communication from the Commission to the Council and the European Parliament of 22 May 2015 on the technical adjustment of the financial framework for 2016 in line with movements in GNI (COM(2015) 320, 22.5.2015).

*Article 2*

The EUR 240,1 million in commitments appropriations mobilised through the Contingency Margin for the financial year 2016 shall be fully offset against the margin of heading 5 *Administration*.

*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*