How flexible is the EU budget?

Flexibility instruments and mechanisms in the multiannual financial framework (MFF)

IN-DEPTH ANALYSIS

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This publication gives an overview of the flexibility instruments in the 2014-2020 multiannual financial framework (MFF) and in the proposal for the 2021-2027 MFF. It explains why the EU's long-term budget should include a certain flexibility and gives examples of the role the flexibility mechanisms have played in financing EU actions over the last decade.

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Executive summary

A well-designed multiannual financial plan should include flexibility tools that allow management of pressing financial needs resulting from unexpected circumstances, or from new priorities occurring during the execution of the budgets. Flexibility tools involve, for example, creation of special contingency reserves, possibilities to use unallocated margins, to reallocate resources between different priorities and budgetary years. The longer the timespan covered by a financial plan, the greater may be the need for budgetary flexibility and for application of such tools.

The 1988 introduction of multiannual financial frameworks (MFF) in the European Union (EU) has improved financial predictability and facilitated the development of multiannual spending programmes, but soon had to be balanced by measures that would provide some flexibility and ability to react to unexpected situations. In the years that followed, striking a balance between predictability and flexibility in the long-term EU budget turned out to be both an indispensable and challenging task. Occasions to use the flexibility provisions were increasingly frequent, as the crises and challenges faced by the EU required actions that could not be financed under the tight expenditure ceilings of the MFFs. As a result, each year during the 2014-2020 MFF, the budgetary authority decided on mobilisation of the flexibility instruments. Most frequently, the additional resources were necessary to address migration and security challenges under Heading 3 'Security and citizenship'. This demonstrates that, with neither the relevant flexibility mechanisms nor the possibility to revise the MFF in the mid-term, achieving policy goals and reacting adequately to unexpected events and crises would be impossible. The wide use of these instruments also illustrates the limitations of the flexibility instruments currently available, justifying moving to an even more flexible MFF structure in the future.

Over the last 30 years, the flexibility toolbox available in the EU budget has developed into a complex system. The instruments available under the 2014-2020 MFF differ in terms of their legal basis, aims and scope for intervention, the amounts available, the decision-making process, and their interrelation with other instruments. There are instruments that allow maximised use of margins, special reserves placed outside the MFF, and some limited possibilities to shift resources between spending programmes. Furthermore, the level of the MFF's flexibility or rigidity is largely determined by such features of the budgetary system as: the duration and structure of the MFF, the level of ceilings, the size of unallocated margins, the share of the resources pre-allocated to Member States, and the possibility to revise the MFF in the mid-term, as well as the decision-making necessary to mobilise the flexibility instruments.

What at first glance looks like an accounting tool applied during the budget execution process is in fact a multilayer issue, linked to strategic political planning, budgetary performance and efficient and effective management of public resources. It is an area of the EU budget where the positions and interests of the two arms of the EU budgetary authority – the European Parliament and the Council – often differ on what constitutes an 'adequate level of flexibility' and how to achieve it.

The flexibility of the EU budget has already featured as an important issue in the negotiations on the 2021-2027 MFF. While the Commission and the Parliament broadly agree when it comes to enhancing the MFF's flexibility, the Council is considering a reorganisation of the structure of the flexibility provisions and a rejection of a MFF mid-term review. Meanwhile, the first months of the post-electoral period in the EU have already brought new budgetary demands to the debate that, most likely, will require adjustments to the MFF proposal.

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1. Introduction

It is generally acknowledged that multiannual planning of public expenditure has important advantages in comparison with short-term budgeting. Extending the horizon for policy-making and financial planning beyond the annual budgetary calendar, facilitates strategic planning, enhances fiscal discipline, and improves predictability and allocative efficiency. International institutions, such as the Organisation for Economic Co-operation and Development (OECD), the World Bank and the European Union therefore recommend the creation of multiannual budgetary frameworks in national public finance.[1]

However, it is just as often stressed that one of the most challenging aspects of successful multiannual financial planning is striking a balance between stability and predictability on one side and the flexibility and ability to react to changing circumstances on the other. A well-designed multiannual financial plan with an overall objective of achieving policy goals should include mechanisms and tools allowing management of pressing financial needs resulting from unexpected circumstances, events and crises, or from new priorities occurring during the execution of the multiannual budget. Moreover, the longer the timespan of a financial plan, the greater may be the need for application of tools for budgetary flexibility.

Consequently, most of the OECD countries using medium-term financial frameworks to plan their public finances, apply different flexibility measures in execution of their plan.[2] These include setting up unallocated margins, contingency reserves, possibilities to reallocate resources between different parts of the budget, or priorities and possibilities to carry over unspent amounts between budgetary years. Their scope, character and mobilisation modalities differ from country to country. They can be mobilised under certain circumstances, require authorisation by the budget authority and are limited by a threshold.

Many of these measures are budgetary neutral, meaning that they do not increase the overall need for appropriations over the financial period. If well designed, the instruments contribute to more efficient resource use and higher achievement of targets. Moreover, as demonstrated in the OECD reports on public finance management, the role of agility in multiannual budgets goes hand in hand with increasing popularity of tools that improve the quality of public expenditure, such as performance budgeting, programme evaluation and spending reviews.[3] This shows how complex the issue is. What at first glance looks like an accounting tool applied in the budget execution process, is in fact a multilayer issue, linked to strategic, multiannual political planning, achievement of goals, responsiveness to unexpected circumstances and efficient and effective management of public resources.

This complexity is particularly apparent in the unique system that is the EU's budget. The

[1] For more on multiannual expenditure planning at national level, see: OECD, Recommendation of the Council on Budgetary Governance, 2015; Beyond the annual budget. Global experience with medium-term expenditure frameworks, The World Bank, Washington, D.C., 2013; Budgeting practices and procedures in OECD Countries, OECD, 2012; M. Sherwood, Medium-Term Budgetary frameworks in the EU Member States, European Commission, Discussion Paper 021/December 2015.

[2] Budgeting and public expenditure in OECD countries 2019, OECD Publishing, Paris 2019.

[3] Correct design of flexibility instruments should minimise any risk of altering the budget after it has been agreed, thereby undermining the legislators' intent. In order to avoid this risk, it is crucial to link flexibility with greater responsibility for performance and for meeting the objectives. See: Budgeting practices and procedures in OECD Countries, OECD, 2012; Budgeting practices and procedures [in:] Government at a glance 2013, OECD, 2013, p. 92; B. T. Pitsvada, Flexibility in federal budget execution, Public Budgeting & Finance, Vol. 3, pp. 83-101, June 1983.

introduction of the multiannual financial frameworks (MFF), in 1988, has improved budgetary predictability and facilitated the development of multiannual spending programmes, but quickly had to be balanced by flexibility measures, which would allow the EU to react to unexpected circumstances. A number of crises affecting the EU in the years that followed, and in particular the economic, migratory and security challenges of the last decade, confirmed the necessity for flexibility instruments. Thanks to the flexibility toolbox, which was expanded, not without difficulty, in the 2014-2020 MFF, the EU was able to finance action in these sensitive areas. This experience gives grounds to expect that the flexibility mechanisms, although a seemingly technical and marginal aspect of the MFF, will again become an issue in the negotiations on the 2021-2027 MFF.

This analysis provides an overview of the flexibility tools and mechanisms in the EU multiannual financial framework. It explains why the EU's long-term budget should include certain flexibility and gives examples of the role the flexibility mechanisms have played in the implementation of the multiannual financial frameworks and in financing EU actions over recent decades. It presents the main types of flexibility tools available under the 2014-2020 MFF, as well as those proposed by the European Commission for the 2021-2027 MFF. Furthermore, the European Parliament position on the proposed architecture of the budget flexibility is set out in detail.

2. Evolution of flexibility provisions in the EU budget

The European Communities introduced the multiannual approach to spending in 1988, with the aim of strengthening budgetary discipline and making expenditure more predictable. Since then, negotiations on EU annual budgets take place within the limits provided in the multiannual financial frameworks (MFF), i.e. the annual limits ('ceilings') on EU commitments in different policy areas ('headings') and on overall annual payments. According to article 312 of the Treaty on the Functioning of the European Union, the MFF must be set out in a regulation and cover a period of at least five years. In practice, with the exception of the first MFF, all subsequent MFFs were set for a duration of seven years. The current MFF regulation covers years 2014-2020 and is coming to an end.[4] Consequently, on 2 May 2018, the European Commission proposed a legislative package for the next period, covering years 2021-2027.[5]

Budget flexibility in the EU is understood as a capacity to accommodate EU spending to finance actions when unexpected challenges and crises occur, and when there is need to change spending priorities. In other words, an adequate level of flexibility in the budget should allow both a swift Union response to un-programmable, emergency situations and effective updating of the allocation of resources in line with new or changing priorities.[6] This double function is provided by specific instruments enabling, for example, transfer of amounts within and between headings and years, re-use of underspent amounts and mobilisation of resources above the ceilings set in the MFF, when unforeseen needs arise. Moreover, the level of flexibility is determined by other elements of the budgetary system, in particular: the duration and structure of the MFF, the share of the MFF

[4] Council regulation (EU, Euratom) No 1311/2013 of 2 December 2013, laying down the multiannual financial framework for the years 2014-2020.

[5] European Commission, Legal texts and factsheets on the EU budget for the future, https://ec.europa.eu/commission/publications/factsheets-long-term-budget-proposals_en

[6] The role of budgetary flexibility is further explained by P. Becker: '(...) flexibility is more than just keeping European funds available when needed. (...) Flexibility (...) includes also the possibility to re-define political priorities in case of new circumstances and challenges, and then subsequently to change the spending priorities in the European budget'. See P. Becker, The EU budget and the MFF between flexibility and unity, [in:] Features and challenges of the EU budget. A multidisciplinary analysis, (ed.) L. Zamparini, U. Villani-Lubelli, Edward Elgar, 2019.

resources pre-allocated to Member States, the size of unallocated margins and the level of ceilings, as well as the decision-making necessary to mobilise the flexibility instruments and to revise the MFF regulation (see Figure 1 and section 3.1).

> **EU budget flexibility** is the capacity to accommodate EU spending to finance actions when unexpected challenges and crises arise and when there is a need to change spending priorities.
>
> An adequate level of flexibility in the budget should allow both a swift Union response to un-programmable, emergency situations and for effective updating of the allocation of resources in line with new or changing priorities.

The instruments and the determinants of EU budget flexibility have changed and developed over the last 30 years into a very complex system. The first EU multiannual budget, covering 1988-1992, did not include special flexibility mechanisms. Necessary adjustment and revision, aimed at accommodating new activities and strengthening existing policies, had to be agreed under cumbersome procedures.[7] Consequently, starting with the Emergency Aid Reserve created in 1993, the Flexibility Instrument in 1999, and the European Solidarity Fund in 2002, successive multiannual budgets have gradually been endowed with flexibility mechanisms.

In the years that followed, occasions to use the flexibility provisions were increasingly frequent, as unexpected financial needs collided with the limitations of the agreed MFF ceilings. The crises and challenges faced by the European Union in the 2007-2013 financial perspective required actions that could not be financed under the tight expenditure ceilings. Already existing and new instruments and mechanisms, such as the European Globalisation Fund or the possibility to depart by up to 5 % from the amounts allocated to the spending programmes (except for cohesion policy), were frequently used; the Flexibility Instrument was almost fully implemented in this period. The resources mobilised thanks to the flexibility provisions financed actions that would not otherwise have been possible, in areas of high importance for the EU, such as competitiveness for growth and employment and the EU as a global player. Examples of programmes and projects supported include: the European Geostationary Navigation Overlay Service (EGNOS) and Galileo, projects in the energy field under the European Economic Recovery Plan, the Lifelong Learning Programme, assistance for Palestine, and the European Neighbourhood Policy.[8]

Important changes to the EU budget flexibility were also introduced as a result of the negotiations on the 2014-2020 MFF. Here, the European Parliament played a key role, insisting on increased flexibility. When the European Council agreed the MFF ceilings at a lower level than in the previous MFF, the Parliament rejected the agreement and focused its efforts on ensuring that the budget was equipped with maximum overall flexibility. Parliament demanded new instruments to encourage the full use of available funds, such as the possibility of fully utilising the each heading's available margins in one financial year (for commitment appropriations), as well as an automatic carry-over of available margins to other financial years (for both commitment and payment appropriations), as a condition of its consent to the MFF regulation. Moreover, it insisted that provisions were made to

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7 In the first financial plan for 1988-1992, the ceiling on expenditure was raised in real terms by 5.5 % per year on average over the period. See: European Union Public Finance, 5th Edition, p. 40.

8 For more see: Flexibility in the Multiannual Financial Framework 2007-2013: revisions and use of instruments, Directorate-General for Internal Policies, Policy Department D: Budgetary Affairs, European Parliament, 2010; Success stories: the use of the EU Flexibility Instrument in the Multi-annual Financial Framework 2007-2013, Directorate-General for Internal Policies, Policy Department D, Budgetary Affairs, European Parliament, 2015.

ensure a post-electoral review and revision of the MFF. This approach was based on the assumption that the smaller budget, the greater the need for flexibility.[9]

Based on the agreement reached between the Parliament and the Council, the regulation on the 2014-2020 MFF was equipped with new possibilities to shift commitments and payments across MFF headings and years. A major innovation was that the agreement on the 2014-2020 MFF provided for a compulsory mid-term review, on the basis of which the European Commission could propose a revision of the MFF Regulation.

These instruments proved to be simultaneously crucial and insufficient. In the programming period 2014-2020, in a context of tightening financial constraints imposed on national and EU budgets, the EU had to address unexpected needs related to the financial, refugee and security crises. Most of the EU action in these areas was financed thanks to the resources available under the MFF's special and 'last-resort' flexibility provisions. As a result, already in the first half of the MFF implementation period, the scale of the budgetary consequences of these challenges raised questions about the functioning and efficiency of the MFF through to 2020.[10]

In June 2017, the relevant provisions of the MFF were revised.[11] The European Parliament, which had long called for revision and for greater MFF flexibility, agreed to the compromise package negotiated with the Council, although its ambitions were not fully met. To ensure that the EU can react to unforeseen circumstances and challenges in the remaining years of the MFF, some flexibility instruments were reinforced and modified. The whole legislative package related to the revision widened the scope of some instruments and increased the EU budgetary capacity with extra amount of about €6 billion. This was allocated to job creation, in particular among young people; growth; migration and security challenges.[12]

Experience of implementing the current MFF demonstrated that, without relevant flexibility mechanisms nor the possibility to revise the MFF in the mid-term, achieving policy goals and reacting adequately to unexpected events and crises would be impossible. It also showed the limitations of the flexibility instruments currently available and that an even more flexible MFF structure in the future is justified. In situations of major disasters and crises, the EU needs sufficient funding, available at short notice, and an agile legal framework, which would allow the EU budget to intervene in a wide range of un-programmable situations.

The flexibility of the EU budget is an area where the positions and interests of the two arms of the EU budgetary authority – the European Parliament and the Council – often diverge.[13] While the question of definition and need for flexibility in the MFF does not seem to raise major controversy,

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9 European Parliament resolution on the European Council conclusions of 7/8 February 2013 concerning the multiannual Financial Framework, 13 March 2013.

10 For more detail on these reasons and the most prominent issues in the debate preceding the decision on the mid-term revision of the MFF see: M. Sapala, Mid-term review/revision of the MFF: key issues at the outset of the debate, EPRS, European Parliament 2016.

11 Council Regulation (EU, Euratom) 2017/1123 of 20 June 2017.

12 The changes to the MFF flexibility included: removal of the cap on the global margin for payments for the years 2018-2020, to address possible pressure on payments in the final years of the MFF; increase the resources of the Flexibility Instrument and the Emergency Aid Reserve to €1 billion (from €471 million) and €500 million (from €280 million) respectively (2011 prices), to address unexpected crises in the EU neighbourhood and their humanitarian and security implications; and removal of the limitations (time and scope) of the global margin for commitments to increase EU support for objectives related to growth and employment or other policy challenges. For a detailed presentation see: A. D'Alfonso, 2014-2020 Multiannual Financial Framework: Mid-term revision, EPRS, European Parliament, 2017.

13 For some interesting considerations on the budgetary flexibility as an area of collision of the interests and powers of the main actors of the budgetary negotiations, see: P. Becker, The EU budget and the MFF between flexibility and unity..., op cit.

the two institutions differ in their views on what constitutes an 'adequate level of flexibility' and how to achieve it. The Council, in principle, favours a more stable budget and choses to redeploy programmed resources towards new needs when necessary, whereas the Parliament calls for more budgetary flexibility in the MFF's design and the financing of new needs without hindering ongoing policies. The two conflicting approaches therefore often lead to difficulties in the budgetary negotiations, especially when there is a need to mobilise existing instruments.[14]

The European Parliament has long demanded a level of budgetary flexibility that allows for an adequate reaction in case of emergencies and smooth implementation of the EU budget. The Parliament is particularly interested in ensuring maximum flexibility in the EU's financial architecture and has already proved influential in this area. As mentioned above, it played an instrumental role in developing the flexibility toolbox available in the 2014-2020 MFF and in the mid-term revision, when enhanced flexibility improved the EU's ability to finance the actions in the area of migration, support for youth and research.[15]

Parliament has emphasised on many occasions that the EU budget has to be prepared to respond to changing political and economic circumstances and unforeseen events that may require adjustments to the multiannual budget.[16] It considers budget agility as instrumental in ensuring maximum use and effective allocation of resources. In this context, Parliament has persistently called for a sufficient level of payment appropriations and adequate management of the appropriations that the EU has committed but not yet paid (RAL),[17] to avoid a payments crisis, such occurred in the first years of the current MFF.[18] Other changes demanded by the Parliament with an impact on overall MFF flexibility, concern the MFF's duration (Parliament prefers the '5+5' option), and obligatory and genuine mid-term review and revision of the MFF. In resolutions preceding the publication of the proposal for the 2021-2027 MFF and in its negotiating position adopted six months after its publication, Parliament again emphasised that enhanced MFF flexibility is among the MFF aspects to which it attaches particular attention.

In this regard, the Council may be considered a more conservative branch of the budgetary authority, and as such, usually tries to limit the funding, definitions and scope of the flexibility instruments.[19] Some examples of this approach include: the Council's cuts to the size of the flexibility instruments during the negotiations of the 2014-2020 MFF;[20] the disagreement with Parliament and the Commission over the treatment of payments for special instruments; refusal to modify the MFF

14 This difference, as argued by S. Becker and M. W. Bauer, is linked to the different bargaining powers of the two institutions in the main areas of budgetary negotiations - figures and procedures (including flexibility measures). The Parliament is more influential in the area of procedures than figures. Therefore, as could be observed during the negotiations of the 2014-2020 MFF, it focuses its efforts on procedural issues. See: M. W. Bauer, S. Becker, Assessing the European Parliament's power of the purse: rights, capabilities, and strategies, [in:] Becker, Stefan/Bauer, Michael W./De Feo, Alfredo (eds.): *The New Politics of the European Union Budget*, Baden-Baden: Nomos, 173-194.

15 For more see: The power of the European Parliament. Examples of EP impact during the 2014-19 legislative term, EPRS. European Parliament 2019, p. 16-17.

16 For example: Resolution of 23 October 2012, 2011/0177(APP); Resolution of 26 March 2014, 2014/2005(INI) and recently in the negotiating position on the proposal for the 2021-2027 MFF.

17 RAL stands for *reste à liquider* (remains to be spent) and is the total amount of appropriations that the EU has committed but not yet paid at a certain point in time. It Represents an EU budget liability in the short and medium term, with an impact on the level of payment appropriations needed for current and future years.

18 A. D'Alfonso, M. Sapala, Payments backlog in recent EU budgets: Lessons learned and outlook, EPRS, European Parliament, November 2015.

19 S. Becker, The EU budget and the MFF between flexibility and unity, op. cit.

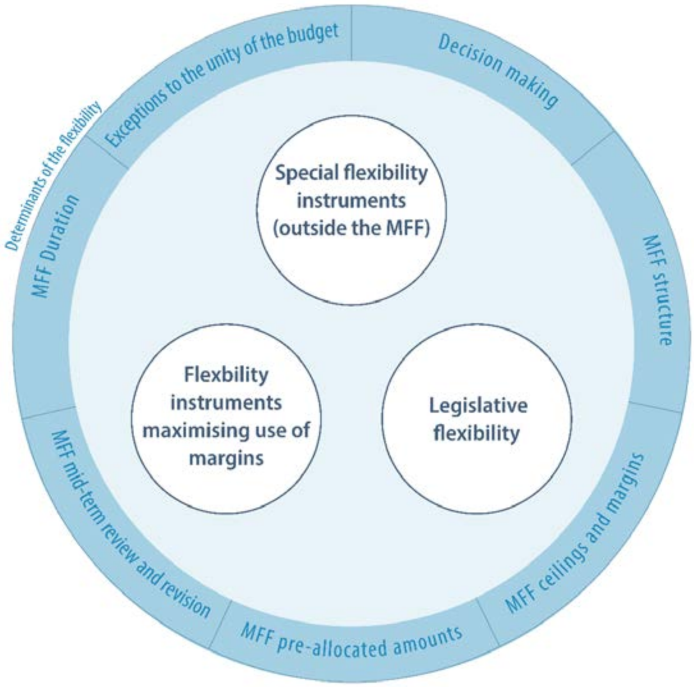
20 In February 2013, the Council reduced the maximum annual budget proposed by the European Commission for the Flexibility Instrument to EUR 471 million (at 2011 prices). Other instruments were also significantly reduced. See: Success stories: the use of the EU Flexibility Instrument in the Multi-annual Financial Framework 2007-2013, op. cit.

ceilings in the mid-term revision of the MFF;[21] and the disagreement with the idea of introducing a Union reserve in the mid-term revision of the MFF. More recently, during the negotiations on the annual budgets for 2019 and 2020, the Council disagreed with Parliament and the Commission on the proposal to apply article 15(3) of the Financial Regulation allowing for re-use of de-committed amounts originally allocated to research projects.[22]

3. Flexibility 'toolbox' in the 2014-2020 MFF

As mentioned above, EU budgetary flexibility depends on the existence of concrete instruments and mechanisms allowing for the mobilisation of financial resources when these are necessary. In addition, the functioning of these instruments and mechanisms is determined by features of the budgetary system, such as: the MFF's duration and structure; the share of MFF resources pre-allocated to Member States; the size of unallocated margins and the level of ceilings; the decision-making necessary to mobilise the flexibility instruments and to revise the MFF Regulation; and the approach to exceptions to the principle of the unity in the budget (Figure 1).

Figure 1 – Flexibility in the EU budget



Source: EPRS.

[21] The decision on the mid-term revision of the MFF did not change the MFF ceilings. For more on the Council's approach and debates related to the adjustments of the flexibility mechanisms in the mid-term review and revision of the 2014-2020 MFF see: A. D'Alfonso, 2014-2020 Multiannual Financial Framework: Mid-term revision, Op. cit.; Parliament clashes with Council on EU's 2017 budget and MFF mid-term revision, European Parliament, Press release, 25 October 2016; K. Georgieva's (then Commissioner for the budget) intervention at the meeting of the EP Committee on Budgets on 14 September 2016.

[22] During the budgetary negotiations on the 2019 budget, based on Article 15(3) of the Financial Regulation, the Commission and the Parliament wanted to use the unspent commitments for research from 2017 to increase Horizon 2020 financing. The Council, however, opposed this move, on the grounds of principle, to avoid setting a precedent. For more detail see: A. D'Alfonso, A. Delivorias, M. Sapala, M. Szczepanski, I. Zachariadis, Economic and budgetary outlook for the European Union 2019, EPRS, European Parliament 2019, p. 20-22.

3.1. Flexibility determinants

3.1.1. Duration

The seven-year planning perspective applied in the EU budget is longer than the practice in most OECD countries (including the EU Member States), where medium-term expenditure frameworks cover three to a maximum five years.[23] A longer duration usually implies an enhanced need for flexibility measures and for possibilities to adjust the framework in the course of its implementation via, for example, a mid-term review and revision. A study of the advantages and disadvantages of different options shows that, from a point of view of MFF responsiveness and EU spending effectiveness, the most desirable duration would be a period of five or ten years, with a substantial mid-term review, known as the '5+5' option. The feasibility of this solution would require that ensuring sufficient flexibility by including relevant reserves, margins and special instruments.[24]

3.1.2. Structure

The structure of the MFF, understood as a number of headings and the distribution of spending programmes between these headings can have an impact on flexibility. It has implications for the possibilities to re-allocate funds during the course of budget implementation and, as a result, for the efficiency of the budget. The flexibility is greater within headings than between headings. Any changes to the ceilings agreed under headings require revision of the MFF regulation (and therefore require unanimity in the Council), whereas transfers within headings can take place through the budgetary procedure (with the approval of the two arms of the budgetary authority). Therefore, reducing the number of headings can be a way to increase the scope for re-allocating resources between the priorities while avoiding the necessity to renegotiate the MFF.

3.1.3. Level of ceilings and margins

The ceilings placed on the MFF and the EU own resources, as well as the different types of margins allowed to cover the risk of unexpected events are among the most important determinants of budgetary flexibility. They include the amount of money that can be pledged in commitments and payments (set out in the MFF Regulation), and the amount of revenue that can be raised to honour those commitments, in the form of an annual own resources ceiling (stipulated in a separate Council decision). These margins can consist of the difference between the maximum levels of appropriations that can be allocated from the EU budget in a given year and the MFF ceilings for appropriations. Margins can also be created by differences between the totals for appropriations for commitment and payment in the MFF for a given year and those entered in the annual budget.[25] One of the consequences of agreeing low ceilings is a need for more flexibility instruments, over and above the MFF. Low ceilings combined with insufficient margins can substantially reduce the budget's ability to react to unforeseen circumstances and new needs. It creates little room for manoeuvre for annual budgets to adjust and react to such unplanned events, and can undermine the Union's ability to address future challenges.

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23 Medium-term expenditure frameworks [in:] Government at glance 2013, OECD 2013.

24 The Multiannual Financial; Framework (MFF) and its duration, Directorate-General for Internal Policies, Policy Department for Budgetary Affairs, European Parliament, October 2017.

25 European Court of Auditors, Future of the EU finances: reforming how the EU budget operates, February 2018.

3.1.4. Pre-allocated spending

The share of EU spending pre-determined by 'amounts of reference' in co-decided legislation is currently about 80 %. In other words, the bulk of EU expenditure, mostly concerning the budget for cohesion and agriculture policies, is pre-allocated to Member States and fixed for seven years.[26] This rigidity is only partially relaxed by the use of financial instruments and by some legislative flexibility, which allows a maximum 10 % deviation from their overall financial envelopes decided in the legislative act. This means that the cost of necessary adjustments usually falls on the remaining categories of expenditure in the MFF, such as spending on research, youth, competitiveness, or external actions.

3.1.5. Mid-term review and revision

A mid-term review and revision improves flexibility by providing an opportunity to redefine EU spending priorities and introduce changes necessary for a smooth and more realistic implementation of the MFF in the second part of the term. Based on a formal procedure and including an evaluation of the implementation of the multiannual programmes, it can lead to reallocations and/or modifications of the MFF ceilings. Timely implementation and the use of reliable data in the review are important conditions for the usefulness and effectiveness of this exercise.[27]

3.1.6. Decision-making

It goes without saying that rapid decision-making is necessary in emergencies, when the financial resources needed have to be made available without delay. Most of the flexibility instruments available under the 2014-2020 MFF Regulation are mobilised jointly by the Parliament and the Council as part of the annual budgetary procedure. However, any revision of the MFF requires amendment of the 2014-2020 MFF Regulation and, therefore, requires unanimity among the Member States and the consent of the European Parliament. Unanimity has proved to be difficult to achieve in Council. One way to improve the process would be to use article 48(7) of the Treaty on the Functioning of the EU. This allows the European Council, via the 'passerelle clause', to alter the threshold for Council decision-making on the MFF from unanimity to qualified majority voting. Changing the majority required may facilitate decision-making within the Council and allow greater room for negotiations with the Parliament.

3.1.7. Exceptions to the principle of unity on the EU budget

Despite the principle, enshrined in Article 310 TFEU, requiring that all revenues and expenditures of the EU have to be included in one EU budget, the current system of financing EU actions is ever more fragmented. Illustrated as a 'budgetary galaxy', the instruments created outside the EU budget, at intergovernmental level, include budgetary items of different origin, type and purpose, including the European Development Fund, the Financial Stability Facility, the European Stability Mechanism and regional trust funds (e.g. Madad Trust Fund, Emergency Trust Fund for Africa), among others. An important reason for establishing such instruments outside of the EU budget was

[26] For example, in the form of cohesion policy funds for European regions, allocations for the European Agricultural Fund for Rural Development, direct payments to farmers within the common agricultural policy, the European Maritime and Fisheries Fund, and the nuclear decommissioning assistance programme. See: European Commission, Budget pre-allocations [accessed December 2019].

[27] The Multiannual Financial Framework (MFF) and its duration, Directorate-General for Internal Policies, Policy Department for Budgetary Affairs, European Parliament, October 2017.

the lack of resources and sufficient flexibility available within the MFF.[28] It was a way to avoid the rigidity of the system in crises to date, but is nevertheless a controversial solution that raises important questions regarding the fragmentation and differentiation of the EU budget system, as well as around ensuring that robust accountability and rights of democratic scrutiny are in place.[29]

3.2. Flexibility provisions in the 2014-2020 MFF

EU budgetary flexibility instruments can be presented according to two main categories: flexibility instruments allowing the maximum use of margins, and the special flexibility instruments allowing the financing of specified expenditure that cannot be financed within the limits of the ceilings available for one or more MFF headings.[30] The provisions of the 2014-2020 MFF Regulation and the Interinstitutional Agreement on cooperation in budgetary matters and sound financial management specify their scope for intervention, the amounts available, the decision-making process, and their interrelation with other instruments (offsetting).[31]

3.2.1. Flexibility instruments maximising use of margins (between headings and years)

The instruments in this group allow transfers of commitments and payments between certain headings (vertical flexibility), or allow amounts not used in one year to be spent the following year in excess of the corresponding ceilings (horizontal flexibility). In this way, while maximising use of margins and ensuring the full use of available funds, they provide a possibility for financing unforeseen needs. Making use of the margins available, these instruments are budgetary neutral, meaning that they do not increase the overall need for commitments and payments over the entire financial period (Table 1).

Table 1 –Flexibility instruments maximising use of margins

FLEXIBILITY *PROVISION*	SCOPE OF APPLICATION	AMOUNTS AVAILABLE	DECISION-MAKING	INTERRELATION WITH OTHER INSTRUMENTS
Article 13 Contingency margin	- last-resort instrument to react to unforeseen circumstances - possibility to increase commitment and payment	- approx. €4-4.5 billion per year - calculated every year by the Commission (outside the ceilings of the MFF) as part of technical adjustment	Proposed in a draft budget or a draft amending budget, joint approval by the EP and Council.	Obligatory offsetting against margins in the current or following years (reduces the capacity to use the other flexibility

[28] A. D'Alfonso, B. Immenkamp, EU Trust Funds for external action. First uses of a new tool, EPRS, European Parliament, November 2015.

[29] For more see: The next Multiannual Financial Framework (MFF) and the unity of EU budget, Directorate-General for Internal Policies, Policy Department for Budgetary Affairs, European Parliament, November 2017.

[30] This classification of the instruments is based on a study prepared for the Committee on Budgets and the Commission's explanatory memorandum on the proposal for the 2021-2027 MFF regulation. See: The next Multiannual Financial Framework (MFF) and its Flexibility, Directorate-General for Internal Policies, Budgetary Affairs, Policy Department for Budgetary Affairs, European Parliament, November 2017; European Commission, Proposal for a Council Regulation laying down the multiannual financial framework for 2021-2027, Explanatory memorandum, COM(2018) 322 final.

[31] Council regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020; 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, (2013/C 373/01).

	appropriations up to an equivalent of 0.03 % of the Union's GNI	- unused amounts lapse		provisions in subsequent years)
Article 5 Global margin for payments	- automatic upwards adjustment of the payment ceiling for 2015-2020, by an amount equivalent to the difference between executed payments and the ceiling of the year n-1	- Estimated each year by the Commission - maximum levels set: 2018: €7 billion 2019: €11 billion 2020 €13 billion	Adjustment made unilaterally by the European Commission (automatic)	Any upward adjustment has to be fully offset by a corresponding reduction of payment ceiling for year n-1
Article 14 Global margin for commitments (for growth and employment, in particular youth employment, and for migration and security measures)*	- un-used margins for commitment appropriations in 2014-2017 increase commitment appropriations in 2016-2020 - used to support objectives related to growth and employment, in particular youth employment - can support migration and security measures (since the mid-term MFF revision)	- calculated every year by the Commission as part of technical adjustment	Mobilised jointly by the EP and Council in the framework of the budgetary procedure	Accumulation of previous year's unused margins
***ONE-OFF* INSTRUMENTS**				
Article 15 Frontloading of the youth employment initiative, education and research	Frontloading for specified policy objectives relating to youth employment, research, the Erasmus programme (in particular for apprenticeships), and small and medium-sized enterprises	Up to €2 543 million in 2014 and 2015 Youth Employment Initiative €2 143 million Horizon 2020 €200 million Erasmus+ €150 million COSME €50 million	Decided jointly by the European Parliament and the Council as part of the annual budgetary procedure	Amounts frontloaded had to be fully offset against appropriations in subsequent years and did not change the overall financial envelope of the programmes
Article 19 Revision Of commitments for cohesion policy	Possibility to transfer un-used cohesion policy allocations for 2014 to subsequent years in the event of delayed adoption of new cohesion policy rules or programme	€21.1 billion	- Mobilised in the consent procedure on 21 April 2015 - Council Regulation 2015/623 of 20 April 2015	

* Scope as amended by the mid-term revision of the MFF.

Source: EPRS, based on Regulation 1311/2013, Regulation 2017/1123, COM(2017) 473 final.

The instruments maximising the use of the margins were used extensively from the very first years of implementation of the 2014-2020 MFF. The contingency margin, the most general and an instrument of 'last resort', was mobilised twice to increase the commitments (2016 and 2017) and once to increase the payments (2014).[32] It helped to alleviate the abnormal payments backlog and finance actions under Heading 3 'Security and citizenship' and Heading 4 'Global Europe'. Application of this instrument, however, has consequences for the margins in the following years and reduces capacity for using the global margin for payments and global margin for commitments, which have also proved very useful.[33] The global margin for payments enabled alignment of the annual payment ceilings to payment needs and ensured the maximum use of the overall, initially planned payment appropriations. The global margin for commitments, with a scope initially limited to actions supporting economic growth and employment, was mobilised every year between 2016 and 2019. It reinforced such programmes as the European Fund for Strategic Investments (EFSI), Horizon 2020, COSME, CEF, Erasmus+ and the Youth Employment Initiative.

3.2.2. Special flexibility instruments providing financing in specific circumstances (outside the MFF)

A second group of instruments, sometimes referred to as 'instruments outside the MFF', are intended to allow additional commitments and corresponding payment appropriations to be entered in the budget 'over and above' the MFF ceilings, i.e. without a revision of the ceilings (which would require unanimity in Council). Three of these are thematic and support ad hoc specific needs that are not programmable and therefore their financing cannot be integrated in the MFF programmes and funds. One, the Flexibility Instrument, has a broader scope of action and addresses new or emerging situations that cannot be financed under the expenditure ceilings (Table 2).

Table 2 – Flexibility instruments outside the MFF ceilings (2014-2020 MFF)

FLEXIBILITY *PROVISION*	SCOPE OF APPLICATION	AMOUNTS AVAILABLE in 2020/2014-2020	MOBILISATION DECISION	INTERRELATION WITH OTHER INSTRUMENTS
Article 9 Emergency Aid Reserve (EAR)	To finance specific humanitarian operations, civil crisis management and protection in situations resulting from migratory flows in non-EU countries (actions under Heading 4 'Global Europe')	€358.5 million/ €2 301.4 million Unused amount can be carried over to year n+1	Mobilised by the budgetary authority in the framework of annual budgetary procedure	
Article 10 and Regulation 661/2014 European Union Solidarity Fund (EUSF)	Emergency aid following major disaster in a Member State or candidate country, used to rebuild basic infrastructure, emergency services, temporary accommodation etc. (actions under Heading 3 'Security and citizenship')	€597.5 million/ €3 944.7 million Unused amount can be carried over to year n+1 On 1 October each year at least one quarter of the annual amount shall remain available to cover unexpected needs arising in that year, in case of insufficient	Budgetary procedure (Draft amending budget); European Commission proposal for a decision has to be jointly approved by the budgetary authority	Amount lapsed can be transferred to increase the Flexibility Instrument (starting in 2017)

[32] European Commission Communication, Technical adjustment of the financial framework for 2020 in line with movements in GNI (ESA 2010), COM/2019/310 final.

[33] The next Multiannual Financial Framework (MFF) and its Flexibility, Budgetary Affairs..., op. cit.

		funds available in a given year, the following year's funds may be used		
Article 12 Regulation 1309/2013 European Globalisation Adjustment Fund	Specific, one-off support for re-integration of workers into employment in areas, sectors, territories, or labour market regions suffering the shock of serious economic disruption due to globalisation.	€179.3 million/ €1 183.4 million Unused amounts cannot be carried over	Budgetary procedure (transfer); European Commission proposal for a decision has to be jointly approved by the budgetary authority	Amount lapsed can be transferred to increase the Flexibility Instrument (starting in 2017)
Article 11 Flexibility Instrument	Funding for clearly identified expenses which could not be covered by one or more budget headings without exceeding their expenditure ceilings	€717 million/ €4 315 million Unused amount can be carried over up to year n+3		Can be reinforced with unused amounts of the EUSF and the EGAF

*amounts available for 2019 and for the whole period, in current prices, after the 2017 MFF revision and technical adjustments for 2020 (COM(2019) 310 final).

Source: EPRS, based on Regulation 1311/2013, Regulation 2017/1123, COM(2019) 310 final.

In this category of instruments, the Flexibility Instrument was the most used in 2014-2020. Exhausted as early as 2016, to finance action to mitigate the migration crisis, the instrument had to be reinforced during the revision of the MFF in 2017, drawing on unused European Globalisation Adjustment Fund (EGAF) and European Union Solidarity Fund (EUSF) allocations. The instrument continues to be useful in addressing migration and security challenges (€1 164.3 million mobilised in 2019, and €778.1 million in the 2020 annual budgets).

Payment appropriations under special instruments – within or outside MFF ceilings?

Since the beginning of the 2014-2020 MFF, the Parliament and the Council diverge on interpretation of the MFF Regulation, partly concerning whether payments related to the use of the special instruments are entered within or outside the MFF ceilings. Article 3.2 of the MFF Regulation refers to commitment appropriations, but does not mention how payment appropriations should be treated.

While the Parliament is of the view that both the commitments and payments should be established over and above the ceiling, the Council argues that payments should be entered to the budget within the ceilings. The Council's Legal Service issued an opinion stating that the Budgetary Authority will decide on a case-by-case basis whether some or all of the corresponding payments are to be counted above the MFF ceilings.

To date, the European Commission has followed the Parliament's view. In the annually published technical adjustments (with annex) to the financial framework, the Commission proposed to mobilise the instruments for an equal amount in commitments and payments. This issue is important for defining the margin in payments and calculating the actual level of the MFF payment ceiling.

3.2.3. Flexibility provisions used to date in the 2014-2020 MFF

The flexibility provisions introduced in the 2014-2020 MFF proved very useful. Each year the budgetary authority has had to resort to the flexibility measures in order to provide adequate financing for increasing needs (Table 3, Figure 2 and 3).

Table 3 – Flexibility instruments maximising use of margins and the Flexibility Instrument used to date in the 2014-2020 MFF

Year	**Amount mobilised** (€ million, commitment appropriations unless otherwise indicated)	**Purpose of flexibility instrument**
Contingency Margin		
2014	1 812.2 (payment appropriations)	To reduce the backlog in payments in 2014.
2016	240.1	Heading 3 'Security and citizenship': the emergency support instrument within the Union, Asylum, Migration and Integration Fund (AMIF), Internal Security Fund (ISF).
2017	1 906.2	Heading 3 'Security and citizenship' (€1 176) Heading 4 'Global Europe' (€730.1) to tackle internal security crises and the current humanitarian, migratory and refugee challenges.
Flexibility Instrument		
2014	89.3	Heading 1b 'Economic, social and territorial cohesion'
2015	149.4	Heading 1b 'Economic, social and territorial cohesion' (€83.3) Heading 3 'Security and citizenship' to finance immediate measures for managing the refugee crisis (under the European Agenda on Migration) (€66.1)
2016	1 530	Reinforcement of Heading 3 'Security and citizenship' to address the on-going migration, refugee and security crisis.
2017	805	Migration and security challenges under Heading 3 'Security and citizenship' Heading 4 'Global Europe'
2018	837.2	Heading 3 'Security and Citizenship'
2019	1 164.3	Heading 1a 'Competitiveness for growth and jobs' (€178.7 for Horizon 2020 and Erasmus+), Heading 3 'Security and Citizenship' to address migration and security challenges (€985.6)
2020	778.1	Heading 3 'Security and Citizenship' (to finance support for measures to manage the migration, refugee and security crisis)

Global Margin for Commitments		
2016	543	Heading 1a 'Competitiveness for growth and jobs' to finance the European Fund for Strategic Investments (EFSI)
2017	1 939.1	Heading 1a 'Competitiveness for growth and jobs' (€1 439.1 to finance Horizon 2020, COSME, CEF, Erasmus+). Heading 1b 'Economic, social and territorial cohesion' (€500)
2018	1 355.6	Heading 1a: 'Competitiveness for growth and jobs' (€762.5) Heading 1b 'Economic, social and territorial cohesion' (€351.2) Heading 4 'Global Europe' (€243.8)
2019	1 576	Heading 1a'Competitiveness for growth and jobs' (€174.7) Heading 1b'Economic, social and territorial cohesion' (€350) Heading 4 'Global Europe' (€1 051.3)
2020	269.6	Heading 1a 'Competitiveness for growth and jobs' (€93.8) Heading 1b 'Economic, social and territorial cohesion' (€175.8)
Revision in case of late adoption of rules of programmes under shared management		
2015	21 100	Transfer of unused allocations for 2014, due to the late agreement on the MFF and delayed start of implementation (Headings 1b, 2 and 3)

Table 3 does not include funds mobilised under the European Globalisation Adjustment Fund, the EU Solidarity Fund and the Emergency Aid Reserve, as they are instruments more frequently applied to tackle specific problems.

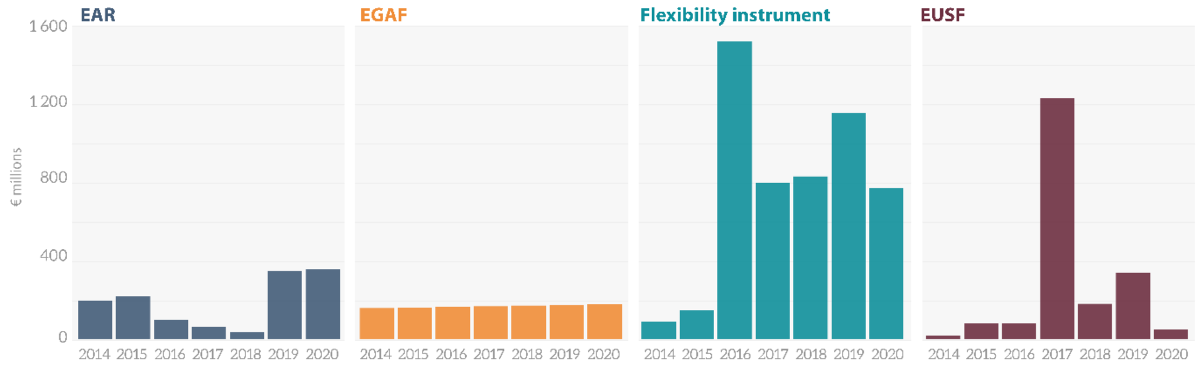
Data source: European Commission, annual budgets 2014-2020.

In the 2014-2020 MFF, the flexibility provisions were applied to finance actions under Heading 1a 'Competitiveness for growth and jobs, 1b 'Economic, social and territorial cohesion', Heading 3 'Security and citizenship' and Heading 4 'Global Europe'. The programmes reinforced thanks to the different flexibility instruments and mechanisms include: the European Fund for Strategic Investments (EFSI), Youth Employment Initiative (YEI), Asylum, Migration and Integration Fund (AMIF) and Internal Security Fund (ISF). Apart from in 2014, the most frequent additional resources mobilised from the flexibility instruments were aimed at providing adequate financing to address migration and security challenges under Heading 3. For example, in 2018 and 2019, the flexibility provisions of the MFF covered around one quarter of expenditure under Heading 3. In 2020, the gap between the agreed allocation and the expenditure ceiling amounted to €778.1 million and represented around 20 % of the total envelope for the heading. To date, in total, the budgetary authority agreed to use €4.7 billion under the Flexibility Instrument and €1.4 billion under the Contingency Margin for this purpose.

Apart from the Flexibility Instrument, the adoption of the 2020 annual budget, the last in the 2014-2020 MFF, was also linked to mobilisation of the global margin for commitments. This allowed the EU to finance necessary actions that could not be financed under the tight Heading 1a

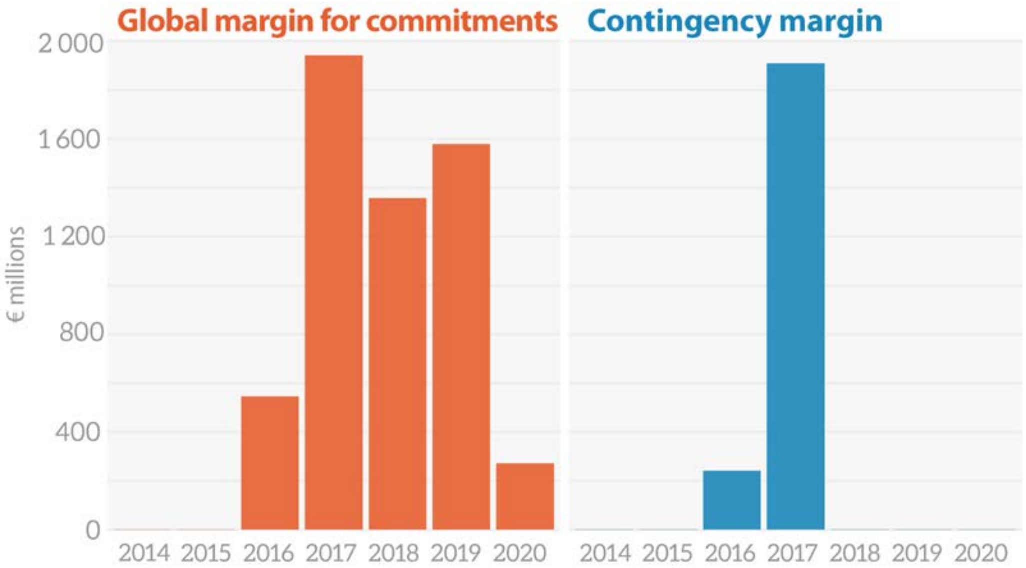
'Competitiveness for growth and jobs' (€93.8 million) and 1b 'Economic, social and territorial cohesion' (€175.8 million).[34]

Figure 2 – Special flexibility instruments (outside the MFF) mobilised in 2014-2020



Data source: European Commission, annual budgets 2014-2020

Figure 3 – Flexibility instruments maximising use of margins mobilised in the 2014-2020 MFF



Data source: European Commission, annual budgets 2014-2020

3.2.4. Flexibility within headings and programme implementation (legislative flexibility)

Budgetary flexibility can be also provided by mechanisms that allow amounts to be transferred within or between funding programmes or combinations of different forms of implementation (for example, by co-financing projects from grants and financial instruments). Resources can consequently be directed where they are most needed, thereby optimising use of the budget. These kinds of mechanisms are based on the provisions included in acts such as the Interinstitutional

[34] As regards other special instruments, the agreement included the offsetting of the Contingency Margin mobilised in 2017 against the unallocated margins under Heading 5 'Administration'; set the level of commitments appropriations for the European Globalisation Adjustment Fund (EGF), the European Solidarity Fund and for the Emergency Aid Reserve (EAR) in 2020, as in the draft budget. For details see: A. D'Alfonso, A. Delivorias, M. Sapala, C. Stamegna, The Economic and Budgetary Outlook for the EU 2020, EPRS, European Parliament, January 2020.

Agreement (IIA), the EU Financial Regulation,[35] and programme and fund-specific regulations (i.e. implementation rules for spending programmes and funds), and is usually referred to as 'legislative flexibility'. This broad category of flexibility mechanisms includes, for example:

- Possible modification of multi-annual spending programmes' financial envelopes (except cohesion policy and large-scale programmes), by up to a margin of 10 % (5 % in the 2007-2013 MFF) from the amount agreed for the entire duration of the programme concerned. As specified in the Interinstitutional Agreement (paragraph 17), such modification can be decided by the Parliament, Council and Commission, when drawing up the annual budget and cannot concern pre-allocated spending under EU cohesion policy and large scale programmes such as Galileo or the ITER fusion project. Strongly supported by the European Parliament, this option has been used regularly to reinforce several programmes under subheading 1a, such as Horizon 2020, COSME, Erasmus+, and those under Heading 4, such as Humanitarian Aid, or the Development Cooperation Instrument.
- Options to re-programme EU funds or combine different sources of funding and financial instruments envisaged under the basic acts for spending programmes and funds. The Common Provisions Regulation (CPR),[36] for example, provides for budgetary flexibility in planning and implementation of the cohesion funds and allows the Member States to adapt their allocations and programmes to their needs (for instance, by creation of a performance reserve (article 20), or a possibility to finance operational programmes jointly from different funds (article 98). Another example is a possibility to make limited transfers between pillars of the common agricultural policy.
- Possible combination of project finance, by way of loans, guarantees, equity and other risk-bearing instruments, with contributions from the cohesion funds.

4. Budgetary flexibility in the debate on the 2021-2027 MFF

The EU budget's ability to react swiftly to unexpected crisis has already featured as an important issue during the debates preceding the presentation of the MFF package for 2021-2027.[37] The report of the High Level Group on Own Resources, published in 2016, considered budgetary flexibility a significant weakness and an area to be further developed and improved in the next MFF. In the Reflection paper on the future EU finances, presented in 2017, the European Commission declared that more flexibility would be one of its key principles in preparation of the next long-term budget.[38] The European Commission ambition was to improve mechanisms that could ensure the MFF could adapt better to unexpected needs and unstable geopolitical and domestic conditions, to allow a larger non-allocated share of the budget, to make sure that budget allocations match EU priorities, and that the budgetary resources are used more effectively. However, rather than profoundly changing the overall structure or designing new instruments in its proposal for the 2021-2027 MFF,

35 Regulation (EU, Euratom) 2018/1046 of 18 July 2019 on the financial rules applicable to the general budget of the Union.

36 Regulation (EU) No 1303/2013 of 17 December 2013, laying down common provisions for 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 for the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund.

37 M. Parry, M. Sapala, Post-2020 MFF and own resources: Ahead of the Commission's proposal, EPRS, European Parliament, April 2018.

38 European Commission, Reflection paper on the future EU finances, June 2017.

the Commission focused on 'consolidating, enhancing and streamlining the flexibility mechanisms already available in the 2014-2020 MFF'.[39]

A comparison of the Commission's proposals with Parliament's position, set out in its 14 November 2018 resolution,[40] shows that the two institutions broadly agree when it comes to enhancing the MFF's flexibility (see Table 4 and Annex 1). Nevertheless, the Parliament would like to introduce additional modifications to the flexibility provisions, most of which would broaden the scope of instruments or increase the amounts available, improve the possibilities to re-use lapsed or de-committed amounts, and provide finance for new policy objectives and unexpected needs without having recourse to intergovernmental financing methods.

Table 4 – Proposals for the special flexibility instruments (outside the MFF) in the 2021-2027 MFF

PROPOSAL FOR THE 2021-2027 MFF (annual amounts, € million)	Commission proposal	European Parliament position	Council presidency negotiating box (December 2019)
Emergency Aid Reserve	600	1 000	920 (Solidarity and Emergency Aid Reserve)
EU Solidarity Fund	600	1 000	
European Globalisation Adjustment Fund	200	200	186
Flexibility Instrument	1 000	2 000	772

Data source: European Commission (COM(2018) 322 final); European Parliament resolution of 14 November 2018; Finnish presidency of the Council (Note 14518/1/19 REV 1); European Commission technical adjustments for 2020 (COM(2019) 310 final).

4.1. European Commission and European Parliament views on flexibility in the 2021-2027 MFF

Annex 1 gives an overview of the main flexibility provisions in the European Commission proposal, as well as the European Parliament position on the 2021-2027 MFF. The Commission proposes to remove some of the constraints on the mechanisms improving flexibility between headings and years, such as the maximum annual levels for the global margin for payments. This change would improve use of the instrument, in line with the Parliament's position. Furthermore, the annual amounts for all special instruments would increase (although not sufficiently for the Parliament), and revise the scope of some of them. In addition, the Commission, siding with the Parliament, clarified that both commitments and payments of the instruments should be counted over and above the MFF ceilings.

One of the proposed changes concerns the global margin for commitments. This would be replaced by a Union reserve and financed from margins remaining in year n-1 and, as of 2023, of de-committed amounts from EU programmes and funds made available during year n-2. Contrary to the 2014-2020 MFF, the Commission has not specified the policy areas to which this instrument should apply.[41] Such a permanent and general EU crisis reserve would avoid the need for ad hoc solutions such as the trust funds. Parliament would like to see this instrument strengthened in

[39] European Commission, Proposal for a Council Regulation laying down the multiannual financial framework for the years 2021-2027, COM(2018) 322 final, Brussels 2 May 2018 (Explanatory memorandum).

[40] European Parliament resolution of 14 November 2018 on the Multiannual Financial Framework 2021-2027 – Parliament's position with a view to an agreement.

[41] The European Parliament proposed the Union reserve as early as 2016, and the Commission subsequently included the measure in the mid-term review of the 2014-2020 MFF. However, Member States rejected the proposed reserve in the Council.

comparison to the Commission proposal. Among other modifications, Parliament demands replenishing the Union reserve for commitments with an amount equivalent to the revenue from fines and penalties.

Furthermore, the Commission proposes to broaden the geographical scope of the action of the Emergency Aid Reserve (EAR) to include both operations both outside and within the EU (50 % of the allocation for each in the first nine months of a year). This would optimise budget allocations and provide urgent budgetary reinforcement for MFF programmes such as the Asylum and Migration Fund, Internal Security Fund, rescEU/Union Civil Protection Mechanism, or food safety under the single market programme. As with other special flexibility instruments, the scale of financial reinforcement for the EAR the Commission proposes (+74 %) is not satisfactory for the European Parliament (which proposes +190 %).

As far as the flexibility built into the legislation for EU spending programmes is concerned, the Commission proposes various measures based on the principles of simplification, complementarity and synergy. For example, allowing for multi-annual spending programme financial envelopes to be modified within the same heading would increase, from the current 10 % to 15 % of the amount agreed for the entire duration of the programme (with the exception of the pre-allocated programmes and the large scale projects – point 16 of the proposed Interinstitutional Agreement).[42]. Other changes, aimed at enhanced flexibility within and between programmes, are specified in the legislative proposals for individual funds and programmes, such as under the cohesion funds, where the Common Provisions Regulation provides for (specifically limited) reprogramming of funds between priorities or between categories of regions eligible for EU assistance in a given Member State (article 14, 19(5) and 105). Similarly, measures increasing flexibility were also proposed for other spending programmes, including the Asylum and Migration Fund, the Border Management and Visa Instrument, between the two pillars of the common agricultural policy, and InvestEU (Member States compartment). For some programmes, such as the new Neighbourhood, Development and International Cooperation Instrument (NDICI), the Commission proposed built-in reserves (thematic facility) to be used for emerging challenges or new priorities.[43]

Other modifications to the MFF's architecture that could improve the agility of the EU's spending are either limited in scope, or their impact is difficult to assess. The Commission proposed no changes to such determinants of budgetary flexibility as the MFF's duration and the intervals for mid-term review and revision. Nor would the decision-making required to mobilise the funding instruments be significantly simplified. Furthermore, contrary to Parliament's expectations, the Commission has not proposed measures allowing amounts received from competition fines to be re-used.

Changes that could have an impact on the MFF's overall flexibility include:

- The new structure of the MFF headings and programmes – the number of headings has increased from 5 to 7 and the number of programmes was reduced from 58 to 37. As noted above, changes in the structure may determine the possibilities for transfers between and within headings and between programmes and funds. One, potentially significant, change in this regard concerns the budget for cohesion policy and consists of

42 Proposal for an Interinstitutional Agreement between the European Parliament, The Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, COM(2018) 323 final, Brussels, 2 May 2018.

43 For details, see the proposals for regulations for spending programmes or the annex to the European Commission communication, A Modern budget for a Union that protects, Empowers and defends. The multiannual financial framework 2021-2027, COM/2018/321 final.

merging funds under the European Social Fund+ and ring fencing the allocation for economic, social and territorial cohesion under a sub-ceiling instead of a subheading.[44] The European Parliament accepts the overall structure proposed by the Commission.

- The margins left under the headings are, in general, higher than in the current MFF. When looking at individual headings, the biggest margin in relation to the heading allocation (6.6 %) is left under Heading 4 'Migration and border management' and Heading 5 'Security and defence'. These spending areas came under the greatest pressure in the 2014-2020 MFF. The Parliament, however, is of the opinion that margins should increase in all MFF headings.
- The gap between commitment and payment appropriations has narrowed (shrinking from 5.5 % in the 2014-2020 MFF to 2.6 % in the 2021-2027 MFF), which could reduce the risk of payment backlogs. Given the payments crisis of the first years of the 2014-2020 MFF, and the unprecedented volume of outstanding commitments expected at the end of the 2020 annual budget, the European Parliament demands an appropriate – global and annual – level of payment ceilings.
- The share of pre-allocated amounts in the total MFF, i.e. fixed for seven years in the framework of cohesion and agriculture budgets, decreases from 73 % currently, to about 64 % under the proposal.
- Due to the incorporation of the European Development Fund (EDF) into the EU budget,[45] the ceilings established in the own resources decision needed to be increased, both for payment and commitments to 1.29 % and 1.35 % of the EU-27 GNI respectively. This could provide more availability and flexibility under the own resources ceiling.

The proposed budgetisation of the European Development Fund is in line with a long-standing European Parliament demand. Under Parliament's negotiating position on the 2021-2027 MFF, this and other off-budget items should be shown in the EU budget, to ensure proper oversight of public finances and transparent decision-making. Parliament is against the creation of intergovernmental financing instruments that circumvent budgetary procedure and weaken its prerogatives. In some instances, therefore, Parliament has modified the procedures leading to mobilisation of the flexibility instruments to ensure that Parliament and the Council take decisions jointly.

The European Court of Auditors assessed some of the proposals described above positively. From the point of view of increasing budgetary capacity to react to unforeseen circumstances, the Court approves raising the own resources ceiling, reducing the difference between payment and commitment appropriations, removing the limits on the global margin of payments and increasing the size and scope of special instruments and the global margin for commitments.[46]

4.2. Flexibility in the 2021-2027 MFF according to the 'negotiating box'

The Council has not yet presented its position on the proposal for the 2021-2027 MFF. The result of the work conducted at the technical level and in the General Affairs Council under the leadership of successive Council presidencies is included in a draft 'negotiating box'. This 'living' document

[44] For more detail, see M. Sapała, Cohesion fund, values and economic and monetary union in the 2021-2027 MFF, EPRS, European Parliament, May 2019.

[45] The EDF (€30.5 billion) is an intergovernmental tool for development cooperation with African, Caribbean and Pacific Group of States (ACP), which is currently not included in the EU budget. For more on the question EDF budgetisation, see A. D'Alfonso, European Development Fund. Joint cooperation and the EU budget: out or in?, EPRS, European Parliament, November 2014.

[46] European Court of Auditors, ECA remarks in brief on the Commission's legislative proposals for the next multiannual financial framework, February 2019.

includes a number of horizontal and specific issues the negotiations need to address and that are likely to require political guidance from EU leaders in the European Council.

The latest version of the document, dated 5 December 2019, gives an indication of the ideas concerning budgetary flexibility that are under consideration in the Council (Table 4).[47] According to the document, the Council recognises that 'the Union must have the capacity to respond to exceptional circumstances, whether internal or external' and mentions flexibility among the guiding principles for the 2021-2027 MFF. However, the document rejects the idea of a mid-term review of the MFF. This is contrary to both the Commission's proposal and the Parliament's position. The latter calls for a compulsory and legally binding mid-term revision, following a review of the MFF's functioning.

Furthermore, the Council ponders reorganisation of the structure of the flexibility provisions and the creation of two main types of flexibility instrument:[48]

- Thematic special instruments, providing additional financial response to specific unforeseen events, under clearly determined circumstances. This category includes two instruments: the European Globalisation Adjustment Fund (€186 million annually), and the Solidarity and Emergency Aid Reserve (SEAR) (€920 million annually). In line with the Commission and Parliament's view, a broader EGAF scope would include digitisation and automation as causes of unemployment, and two 2014-2020 MFF instruments, the EU Solidarity Fund and Emergency Aid Reserve would merge to create the SEAR. The new instrument would cover the EU Member States, accession countries and other third countries experiencing emergencies and humanitarian crises.
- Non-thematic special instruments, including two instruments, a Single Margin Instrument (SMI) and a Flexibility Instrument. A new SMI would merge the existing global margin for commitments, global margin for payments and contingency margin. The use of this instrument is subject to many conditions and limitations. Designed as a last resort measure, the Flexibility Instrument would allow financing of specific unforeseen expenditure in commitments and corresponding payments where financing would otherwise be impossible. The annual ceiling would be set at €772 million and would be available up to year n+2.

The section of the draft 'negotiating box' dedicated to budgetary margins and programming furthermore refers to aspects of legislative flexibility, such as the proposal to increase possible deviation from the reference amounts for multiannual programmes from 10 % to 15 %, as well as the in-built flexibility of the programmes and funds covered by the Common Provisions Regulation, InvestEU and NDICI.

5. Lessons learned and way forward

The architecture of the EU budget's flexibility instruments and mechanisms is very complex. The level of the budget's flexibility or rigidity depends on existence of specific instruments and is determined by a number of additional features of the budgetary system. As a result, striking a balance between flexibility and predictability in the long-term EU budget is a very challenging task and remains a contentious part of the budgetary processes. From the analysis above, and based on

[47] Based on points 120-125 of the 'negotiating box', as presented by the Finnish Presidency of the Council on 5 December 2019 (14518/1/19 REV 1).

[48] All amounts presented in 2018 prices.

a study conducted for the European Parliament's Committee on Budgets,[49] several important lessons can be drawn on the use of flexibility provisions in the 2014-2020 MFF. For example:

- Flexibility allows more efficient resource allocation. It can be helpful when there is a need to respond swiftly to unforeseen crisis (particularly for the instruments over and above the ceilings), and when there is a need to change spending priorities due to political or economic processes.
- The smaller the EU budget (the lower the MFF ceilings), the more flexibility is required. Therefore, an appropriate level of margins maintained below these ceilings is vital to providing that flexibility.
- Execution of the annual budgets under the 2014-2020 MFF came close to the spending limits. Without sufficient margins, flexibility was constrained, underlining the necessity of the Flexibility Instrument, which covers clearly identified expenditure that cannot be financed within the limits of the ceilings set.
- Clarifying the treatment of payments derived from the use of special flexibility instruments (see section 3.2.2.) is of crucial importance for the proper calculation of the payment ceiling – and to avoid another payment crisis.
- Mid-term review of the MFF and the possibility to redefine spending priorities, including options for reallocation and modification of ceilings, is an important flexibility tool, especially when the duration of the MFF is relatively long and does not match the main EU institutions' political cycles.

These assumptions are, to varying degrees, reflected in the European Commission's proposal and the European Parliament's negotiating position for the 2021-2027 MFF. The latest version of the 'negotiating box', presented by the Finnish Presidency of the Council, gives an idea of the options discussed at the level of the Member States. However, given the lengthy period of negotiation, following more or less the same timeline as those for the 2014-2020 MFF, it can be expected that the flexibility issue will again be decided in the final stages of the process. Meanwhile, the results of the European elections and the first months of the post-electoral period have already brought new elements and new budgetary demands to the debate on the 2021-2027 MFF. It is likely that this will strengthen the need for a more agile and adjustable EU financial system. It has yet to be seen whether the issue, following the pattern of the 2014-2020 MFF negotiations, will play a key role in reaching an agreement.

[49] The next Multiannual Financial Framework (MFF) and its Flexibility, Policy Department for Budgetary Affairs, Directorate-General for Internal Policies, European Parliament, November 2017.

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Annex 1 – Flexibility in the 2021-2027 MFF: European Commission proposal and the European Parliament position

Flexibility/article in the proposal	European Commission proposal	European Parliament negotiating position
Instruments to maximise the use of margins and ceilings (all amounts in 2018 prices)		
Global margin for commitments **(Article 12)**	Replaced by a Union reserve	To be replaced by Union reserve for commitments
	Available for 2022-2027	To be available for 2021-2027 (including those resulting from commitments made in the current MFF)
	Financed from margins remaining in year n-1 and, as of 2023, of decommitments under EU programmes and funds made during year n-2	Financed from unexecuted commitments in year n-1, decommitments made during year n-2, suspended budgetary commitments of year n-3 (suspension linked to macroeconomic conditionality and the rule of law) and revenue from fines and penalties
	Scope of application not limited to any individual heading or type of action (contrary to the current MFF where the margin was used to support growth and employment goals)	At the end of the last year of the MFF (2027), amounts left in the reserve should be carried over to the next MFF, up to 2030
Global margin for payments **(Article 4)**	Financed from the difference between payments executed and the ceiling in year n-1	Supports the proposal, global margin for payments should enable a full carry-over of payment margins across the MFF, without limitations
	Instrument without restrictions on the amount of adjustment of ceilings (as of 2022).	
Contingency margin **(Article 14)**	A last resort instrument maintained at the level of 0.03 % of EU GNI	Maximum annual allocation should be adjusted upward, to 0.05 % of EU GNI
	Amounts mobilised to be fully offset against the margins in one or more MFF headings for the current or future financial years	Without compulsory offsetting
	Application of the contingency margin shall not exceed the MFF ceilings	Can be mobilised for both commitments and payments, or for payments only

Special flexibility instruments outside the MFF		
	Both commitments and payments of the instruments should be counted over and above the MFF ceilings	The proposal is in line with the EP position The lapsed amounts of special instruments should be made available for all special instruments, and not just the Flexibility Instrument
Flexibility Instrument (Article 13)	Increase of the annual amount to €1 billion (+45 %)	Increase the annual amount to €2 billion (+190%)
	Possibility to use lapsed amounts from the other instruments in this category (Emergency Aid Reserve, and European Solidarity Fund and European Globalisation Adjustment Fund)	Possibility to use lapsed amounts from the other special flexibility instruments
	Maintain possibility to use unused amounts from previous years up to year n+3	
	Maintain mobilisation procedure	
Emergency Aid Reserve (Article 11)	Allocation increased to €600 million per year (+74%)	Allocation increased to €1 billion per year (+190%)
	Would cover the EU Member States in addition to countries outside the EU borders	Support for enlarged geographical scope
	Not aimed at addressing the consequences of market related crises in agriculture	Restriction on the interventions aimed at addressing crises in agriculture should be removed
	As per the situation now, the unused amounts should be made available from one year to the next (n+1)	
	By 1 October of each year, at least one quarter of the annual amount should remain available for any needs arising until the end of the year	A contingency of at least €150 million should remain by 1 October of each year
EU Solidarity Fund (Article 10)	Annual amount to increase to €600 million (+4.5 %)	Allocation should be increase to €1 billion per year (+74%). Appropriations for the fund should be entered in the budget as a provision. Joint mobilisation of the instrument by the Parliament and the Council (including a proposal for a transfer to the relevant budgetary lines)

European Globalisation Adjustment Fund (Article 9)	Increase the annual amount of the European Globalisation Adjustment Fund to €200 million (+ 16.1 %) Broader scope for the interventions covered by the fund (to include new factors for unemployment and job displacements, such as digitalisation and automation) and to revise the EGF regulation accordingly Mobilisation and use of lapsed amounts would remain the same	Supports the proposed annual amount and a broadened scope of intervention Joint mobilisation by the Parliament and the Council (including a proposal for a transfer to the relevant budgetary lines)
	Legislative flexibility	
Flexibility within headings **(Interinstitutional Agreement, paragraph 16)**	Flexibility within headings: when drawing up the draft budget, the EU budget authority can deviate by up to 15 % (10 % currently) from the reference amount (the financial envelope for the programme laid down in the programme-specific regulation), thereby increasing the flexibility within headings	European Commission proposal is in line with the Parliament's position
Flexibility based on sectoral legislation (fund-specific)	Changes increasing flexibility, for example in the management of cohesion funds, Asylum and Migration Fund, Border Management and Visa Instrument, between two pillars of the common agricultural policy, NDICI etc.	Parliament's position depends on the programme or fund concerned and is included in individual positions on legislative proposals

Flexibility based on the MFF parameters		
Duration	Seven-year MFF covering 2021 to 2027	Seven-year period accepted as a transitional solution for the last time The EP is in favour of progressive transition to a 5+5 period, with a mandatory mid-term revision Expects the detailed arrangements to be endorsed at the time of the mid-term revision in 2023
Mid-term review/revision	Mid-term **review** should take place before the end of 2023 and may, as appropriate, be accompanied by proposal for **revision** of the regulation (the proposal does not change the current rule)	Legally binding and compulsory mid-term revision based on a review of the functioning of the MFF should be proposed by the Commission no later than 1 July 2023 Pre-allocated national envelopes cannot be reduced Specific aspects to be taken into account in the review include climate objectives, mainstreaming of UN Sustainable Development Goals and gender budgeting, as well as the impact of simplification measures for beneficiaries

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The 1988 introduction of multiannual financial frameworks (MFF) in the European Union (EU) budgetary system has improved financial predictability and facilitated the development of multiannual spending programmes, but has had to be balanced by measures that provided some flexibility and ability to react to unexpected situations. Over the years, these flexibility instruments and mechanisms have developed and proved to be useful. Occasions to use them were frequent, as the crises and challenges faced by the EU required actions that could not be financed under the tight expenditure ceilings of the agreed MFFs.

Experience of implementation of the 2014-2020 MFF demonstrated that, with neither relevant flexibility mechanisms nor the possibility to revise the MFF in the mid-term, achieving policy goals and reacting adequately to unexpected events and crises, especially in the area of migration and security, would be impossible.

The flexibility of the EU budgets has already featured as an important issue in the negotiations of the 2021-2027 MFF. The views of the main actors – the European Commission, the Parliament and the Council – on enhancing and designing such flexibility instruments diverge. It has yet to be seen if the issue, following the pattern of the 2014-2020 MFF negotiations, will play a key role in reaching an agreement.

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