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I

(Legislative acts)

REGULATIONS

REGULATION (EU, Euratom) 2020/2092 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 16 December 2020****on a general regime of conditionality for the protection of the Union budget**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular point (a) of Article 322(1) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the Court of Auditors ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, enshrined in Article 2 of the Treaty on European Union (TEU). As recalled by Article 2 TEU, those values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.
- (2) In its conclusions of 21 July 2020, the European Council stated that the financial interests of the Union are to be protected in accordance with the general principles embedded in the Treaties, in particular the values set out in Article 2 TEU. It also underlined the importance of the protection of the financial interests of the Union and the importance of respect for the rule of law.
- (3) The rule of law requires that all public powers act within the constraints set out by law, in accordance with the values of democracy and the respect for fundamental rights as stipulated in the Charter of Fundamental Rights of the European Union (the 'Charter') and other applicable instruments, and under the control of independent and impartial courts. It requires, in particular, that the principles of legality ⁽³⁾ implying a transparent, accountable-

⁽¹⁾ OJ C 291, 17.8.2018, p. 1.

⁽²⁾ Position of the European Parliament of 4 April 2019 (not yet published in the Official Journal) and position of the Council at first reading of 14 December 2020. Position of the European Parliament of 16 December 2020 (not yet published in the Official Journal).

⁽³⁾ Judgment of the Court of Justice of 29 April 2004, CAS Succhi di Frutta, C-496/99 P, ECLI:EU:C:2004:236, paragraph 63.

mocratic and pluralistic law-making process; legal certainty ⁽⁴⁾; prohibition of arbitrariness of the executive powers ⁽⁵⁾; effective judicial protection, including access to justice, by independent and impartial courts ⁽⁶⁾; and separation of powers, ⁽⁷⁾ be respected ⁽⁸⁾.

- (4) The accession criteria established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995 are the essential conditions that a candidate country has to satisfy to become a Member State of the Union. Those criteria are now enshrined in Article 49 TEU.
- (5) Once a candidate country becomes a Member State, it joins a legal structure that is based on the fundamental premiss that each Member State shares with all the other Member States, and recognises that they share with it, a set of common values on which the Union is founded, as stated in Article 2 TEU. That premiss implies and justifies the existence of mutual trust between the Member States that those values will be recognised and, therefore, that the law of the Union that implements them will be respected. ⁽⁹⁾ The laws and practices of Member States should continue to comply with the common values on which the Union is founded.
- (6) While there is no hierarchy among Union values, respect for the rule of law is essential for the protection of the other fundamental values on which the Union is founded, such as freedom, democracy, equality and respect for human rights. Respect for the rule of law is intrinsically linked to respect for democracy and for fundamental rights. There can be no democracy and respect for fundamental rights without respect for the rule of law and vice versa.
- (7) Whenever Member States implement the Union budget, including resources allocated through the European Union Recovery Instrument established pursuant to Council Regulation (EU) 2020/2094 ⁽¹⁰⁾, and through loans and other instruments guaranteed by the Union budget, and whatever method of implementation they use, respect for the rule of law is an essential precondition for compliance with the principles of sound financial management enshrined in Article 317 of the Treaty on the Functioning of the European Union (TFEU).
- (8) Sound financial management can only be ensured by Member States if public authorities act in accordance with the law, if cases of fraud, including tax fraud, tax evasion, corruption, conflict of interest or other breaches of the law are effectively pursued by investigative and prosecution services, and if arbitrary or unlawful decisions of public authorities, including law-enforcement authorities, can be subject to effective judicial review by independent courts and by the Court of Justice of the European Union.
- (9) The independence and impartiality of the judiciary should always be guaranteed, and investigation and prosecution services should be able to properly execute their functions. The judiciary, and investigation and prosecution services should be endowed with sufficient financial and human resources and procedures to act effectively and in a manner that fully respects the right to a fair trial, including respect for the rights of defence. Final judgments should be implemented effectively. Those conditions are required as a minimum guarantee against unlawful and arbitrary decisions of public authorities that could harm the financial interests of the Union.

⁽⁴⁾ Judgment of the Court of Justice of 12 November 1981, *Amministrazione delle finanze dello Stato v Srl Meridionale Industria Salumi and others Ditta Italo Orlandi & Figlio and Ditta Vincenzo Divella v Amministrazione delle finanze dello Stato*. Joined cases 212 to 217/80, ECLI:EU:C:1981:270, paragraph 10.

⁽⁵⁾ Judgment of the Court of Justice of 21 September 1989, *Hoechst*, Joined cases 46/87 and 227/88, ECLI:EU:C:1989:337, paragraph 19.

⁽⁶⁾ Judgment of the Court of Justice of 27 February 2018, *Associação Sindical dos Juizes Portugueses v Tribunal de Contas C-64/16*, ECLI:EU:C:2018:117, paragraphs 31, 40-41; judgment of the Court of Justice of 25 July 2018, *LM*, C-216/18 PPU, ECLI:EU:C:2018:586, paragraphs 63-67.

⁽⁷⁾ Judgment of the Court of Justice of 10 November 2016, *Kovalkovas*, C-477/16, ECLI:EU:C:2016:861, paragraph 36; Judgment of the Court of Justice of 10 November 2016, *PPU Poltorak*, C-452/16, ECLI:EU:C:2016:858, paragraph 35; and Judgment of the Court of Justice of 22 December 2010, *DEB*, C-279/09, ECLI:EU:C:2010:811, paragraph 58.

⁽⁸⁾ Communication from the Commission 'A new EU Framework to strengthen the Rule of Law', COM(2014)0158 final, Annex I.

⁽⁹⁾ Opinion 2/13, EU:C:2014:2454, paragraph 168.

⁽¹⁰⁾ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (see page 23 of this Official Journal).

- (10) The independence of the judiciary presupposes, in particular, that the judicial body concerned is able to exercise, both under the relevant rules and in practice, its judicial functions wholly autonomously, without being subject to any hierarchical constraint or subordinated to any other body, and without taking orders or instructions from any source whatsoever, thus being protected against external interventions or pressure liable to impair the independent judgment of its members and to influence their decisions. The guarantees of independence and impartiality require rules, particularly as regards the composition of the body and the appointment, length of service and the grounds for rejection and dismissal of its members, in order to dismiss any reasonable doubt in the minds of individuals as to the imperviousness of that body to external factors and its neutrality with respect to the interests before it.
- (11) Respect for the rule of law is essential not only for Union citizens, but also for business initiatives, innovation, investment, economic, social and territorial cohesion, and the proper functioning of the internal market, which will flourish most where a solid legal and institutional framework is in place.
- (12) Article 19 TEU, which gives concrete expression to the value of the rule of law set out in Article 2 TEU, requires Member States to provide effective judicial protection in the fields covered by Union law, including those relating to the implementation of the Union budget. The very existence of effective judicial review designed to ensure compliance with Union law is the essence of the rule of law and requires independent courts ⁽¹¹⁾. Maintaining the independence of the courts is essential, as confirmed by the second paragraph of Article 47 of the Charter ⁽¹²⁾. This is true, in particular, for the judicial review of the validity of measures, contracts or other instruments giving rise to public expenditure or debts, inter alia, in the context of public procurement procedures which may also be brought before the courts.
- (13) There is therefore a clear relationship between respect for the rule of law and the efficient implementation of the Union budget in accordance with the principles of sound financial management.
- (14) The Union has developed a variety of instruments and processes that promote the rule of law and its application, including financial support for civil society organisations, the European Rule of Law Mechanism and the EU Justice Scoreboard, and provide an effective response from Union institutions to breaches of the rule of law through infringement proceedings and the procedure provided for in Article 7 TEU. The mechanism provided for in this Regulation complements these instruments by protecting the Union budget against breaches of the principles of the rule of law affecting its sound financial management or the protection of the financial interests of the Union.
- (15) Breaches of the principles of the rule of law, in particular those that affect the proper functioning of public authorities and effective judicial review, can seriously harm the financial interests of the Union. This is the case for individual breaches of the principles of the rule of law and even more so for breaches that are widespread or due to recurrent practices or omissions by public authorities, or to general measures adopted by such authorities.
- (16) The identification of breaches of the principles of the rule of law requires a thorough qualitative assessment by the Commission. That assessment should be objective, impartial and fair, and should take into account relevant information from available sources and recognised institutions, including judgments of the Court of Justice of the European Union, reports of the Court of Auditors, the Commission's annual Rule of Law Report and EU Justice Scoreboard, reports of the European Anti-Fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO) as relevant, and conclusions and recommendations of relevant international organisations and networks, including Council of Europe bodies such as the Council of Europe Group of States against Corruption (GRECO) and the Venice Commission, in particular its rule-of-law checklist, and the European networks of supreme courts and councils for the judiciary. The Commission could consult the European Union Agency for Fundamental Rights and the Venice Commission if necessary for the purpose of preparing a thorough qualitative assessment.

⁽¹¹⁾ Case C-64/16, para 32-36.

⁽¹²⁾ Case C-64/16, para 40-41.

- (17) Measures under this Regulation are necessary in particular in cases where other procedures set out in Union legislation would not allow the Union budget to be protected more effectively. Union financial legislation and the applicable sector-specific and financial rules provide for various possibilities to protect the Union budget, including interruptions, suspensions or financial corrections linked to irregularities or serious deficiencies in management and control systems. The measures to be adopted in the event of breaches of the principles of the rule of law and the procedure to be followed to adopt such measures should be determined. Such measures should include the suspension of payments and of commitments, the suspension of the disbursement of instalments or the early repayment of loans, a reduction of funding under existing commitments, and a prohibition on entering into new commitments with recipients or to enter into new agreements on loans or other instruments guaranteed by the Union budget.
- (18) The principle of proportionality should apply when determining the measures to be adopted, in particular taking into account the seriousness of the situation, the time which has elapsed since the relevant conduct started, the duration and recurrence of the conduct, the intention, the degree of cooperation of the Member State concerned in putting an end to the breaches of the principles of the rule of law, and the effects on the sound financial management of the Union budget or the financial interests of the Union.
- (19) It is essential that the legitimate interests of final recipients and beneficiaries are properly safeguarded when measures are adopted in the event of breaches of the principles of the rule of law. When considering the adoption of measures, the Commission should take into account their potential impact on final recipients and beneficiaries. Taking into consideration that in shared management payments from the Commission to Member States are legally independent from payments by national authorities to beneficiaries, appropriate measures under this Regulation should not be considered to affect the availability of funding for payments towards beneficiaries according to the payment deadlines set out under the applicable sector-specific and financial rules. Decisions adopted under this Regulation and obligations towards final recipients or beneficiaries set out in this Regulation are part of applicable Union law with respect to implementing funding in shared management. The Member States concerned by the measures should regularly report to the Commission on compliance with their obligations towards final recipients or beneficiaries. Reporting on compliance with payment obligations towards beneficiaries set out in the applicable sector-specific and financial rules should allow the Commission to verify that decisions under this Regulation do not impact in any way, directly or indirectly, payments to be made under the applicable sector-specific and financial rules.

To strengthen the protection of the final recipients or beneficiaries, the Commission should provide information and guidance via a website or internet portal, together with adequate tools to inform the Commission about any breach of the legal obligation of government entities and Member States to continue making payments after measures pursuant to this Regulation are adopted. The Commission should follow up on such information to verify whether the applicable rules have been respected, in particular Article 63, point (b) of Article 68(1) and Article 98 of Regulation (EU) .../... of the European Parliament and of the Council of ... laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument ⁽¹³⁾. Where necessary, in order to ensure that any amount due by government entities or Member States is effectively paid to final recipients or beneficiaries, the Commission should recover payments made, or, where appropriate, make a financial correction by reducing Union support to a programme in line with the applicable sector-specific and financial rules.

- (20) In order to ensure uniform conditions for the implementation of this Regulation and in view of the importance of the financial effects of measures adopted pursuant to this Regulation, implementing powers should be conferred on the Council, which should act on the basis of a Commission proposal.

⁽¹³⁾ Not yet published in the Official Journal.

- (21) Before proposing the adoption of any measure pursuant to this Regulation, the Commission should inform the Member State concerned why it considers that breaches of the principles of the rule of law might exist in that Member State. The Commission should inform the European Parliament and the Council without delay about any such notification and its contents. The Member State concerned should be allowed to submit its observations. The Commission should take those observations into account.
- (22) When setting time limits in accordance with this Regulation for the Member State concerned, the Commission should take into account, in particular, the amount of information provided and requested, the complexity of the relevant facts and of their assessment, as well as the administrative capacity of the Member State concerned.
- (23) Where the Commission, after analysing the observations of the Member State concerned, considers that the conditions for the adoption of measures are fulfilled, it should submit a proposal for the adoption of appropriate measures to the Council. The Council should act upon the proposal of the Commission to adopt appropriate measures by means of an implementing decision within a period of one month, which may exceptionally be extended by a maximum of two additional months. With a view to ensuring that the Council takes the decision within those time limits, the Commission should make the most appropriate use of its rights under Article 237 TFEU and the Council's Rules of Procedure ⁽¹⁴⁾.
- (24) After the adoption of any measures pursuant to this Regulation, the Commission should regularly monitor the situation in the Member State concerned. The Commission should reassess the situation when the Member State concerned adopts new remedial measures, or in any case at the latest one year after the adoption of the measures.
- (25) The Council should, acting on a proposal from the Commission, lift measures that have a suspensive effect if the situation leading to the imposition of those measures has been sufficiently remedied.
- (26) The procedure for adopting and lifting the measures should respect the principles of objectivity, non-discrimination and equal treatment of Member States and should be conducted according to a non-partisan and evidence-based approach. If, exceptionally, the Member State concerned considers that there are serious breaches of those principles, it may request the President of the European Council to refer the matter to the next European Council. In such exceptional circumstances, no decision concerning the measures should be taken until the European Council has discussed the matter. This process shall, as a rule, not take longer than three months after the Commission has submitted its proposal to the Council.
- (27) The Commission should keep the European Parliament informed of any measures proposed, adopted and lifted pursuant to this Regulation.
- (28) The Commission should report to the European Parliament and the Council on the application of this Regulation. When reporting to the European Parliament and the Council, the Commission should consider, in addition to the effectiveness of the measures adopted, the overall effectiveness of the procedure set out in this Regulation and the complementarity of this instrument with others.
- (29) This Regulation should not affect the competence of the EPPO or the obligations of the Member States which do not participate in the enhanced cooperation established by Council Regulation (EU) 2017/1939 ⁽¹⁵⁾,

⁽¹⁴⁾ Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

⁽¹⁵⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes the rules necessary for the protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) 'the rule of law' refers to the Union value enshrined in Article 2 TEU. It includes the principles of legality implying a transparent, accountable, democratic and pluralistic law-making process; legal certainty; prohibition of arbitrariness of the executive powers; effective judicial protection, including access to justice, by independent and impartial courts, also as regards fundamental rights; separation of powers; and non-discrimination and equality before the law. The rule of law shall be understood having regard to the other Union values and principles enshrined in Article 2 TEU;
- (b) 'government entity' means a public authority at any level of government, including national, regional and local authorities, as well as Member State organisations within the meaning of point (42) of Article 2 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁶⁾ (the 'Financial Regulation').

Article 3

Breaches of the principles of the rule of law

For the purposes of this Regulation, the following may be indicative of breaches of the principles of the rule of law:

- (a) endangering the independence of the judiciary;
- (b) failing to prevent, correct or sanction arbitrary or unlawful decisions by public authorities, including by law-enforcement authorities, withholding financial and human resources affecting their proper functioning or failing to ensure the absence of conflicts of interest;
- (c) limiting the availability and effectiveness of legal remedies, including through restrictive procedural rules and lack of implementation of judgments, or limiting the effective investigation, prosecution or sanctioning of breaches of law.

Article 4

Conditions for the adoption of measures

1. Appropriate measures shall be taken where it is established in accordance with Article 6 that breaches of the principles of the rule of law in a Member State affect or seriously risk affecting the sound financial management of the Union budget or the protection of the financial interests of the Union in a sufficiently direct way.

⁽¹⁶⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

2. For the purposes of this Regulation, breaches of the principles of the rule of law shall concern one or more of the following:

- (a) the proper functioning of the authorities implementing the Union budget, including loans and other instruments guaranteed by the Union budget, in particular in the context of public procurement or grant procedures;
- (b) the proper functioning of the authorities carrying out financial control, monitoring and audit, and the proper functioning of effective and transparent financial management and accountability systems;
- (c) the proper functioning of investigation and public prosecution services in relation to the investigation and prosecution of fraud, including tax fraud, corruption or other breaches of Union law relating to the implementation of the Union budget or to the protection of the financial interests of the Union;
- (d) the effective judicial review by independent courts of actions or omissions by the authorities referred to in points (a), (b) and (c);
- (e) the prevention and sanctioning of fraud, including tax fraud, corruption or other breaches of Union law relating to the implementation of the Union budget or to the protection of the financial interests of the Union, and the imposition of effective and dissuasive penalties on recipients by national courts or by administrative authorities;
- (f) the recovery of funds unduly paid;
- (g) effective and timely cooperation with OLAF and, subject to the participation of the Member State concerned, with EPPO in their investigations or prosecutions pursuant to the applicable Union acts in accordance with the principle of sincere cooperation;
- (h) other situations or conduct of authorities that are relevant to the sound financial management of the Union budget or the protection of the financial interests of the Union.

Article 5

Measures for the protection of the Union budget

1. Provided that the conditions set out in Article 4 of this Regulation are fulfilled, one or more of the following appropriate measures may be adopted in accordance with the procedure set out in Article 6 of this Regulation:

- (a) where the Commission implements the Union budget in direct or indirect management pursuant to points (a) and (c) of Article 62(1) of the Financial Regulation, and where a government entity is the recipient:
 - (i) a suspension of payments or of the implementation of the legal commitment or a termination of the legal commitment pursuant to Article 131(3) of the Financial Regulation;
 - (ii) a prohibition on entering into new legal commitments;
 - (iii) a suspension of the disbursement of instalments in full or in part or an early repayment of loans guaranteed by the Union budget;
 - (iv) a suspension or reduction of the economic advantage under an instrument guaranteed by the Union budget;
 - (v) a prohibition on entering into new agreements on loans or other instruments guaranteed by the Union budget;
- (b) where the Commission implements the Union budget under shared management with Member States pursuant to point (b) of Article 62(1) of the Financial Regulation:
 - (i) a suspension of the approval of one or more programmes or an amendment thereof;
 - (ii) a suspension of commitments;
 - (iii) a reduction of commitments, including through financial corrections or transfers to other spending programmes;
 - (iv) a reduction of pre-financing;
 - (v) an interruption of payment deadlines;
 - (vi) a suspension of payments.

2. Unless the decision adopting the measures provides otherwise, the imposition of appropriate measures shall not affect the obligations of government entities referred to in point (a) of paragraph 1 or of Member States referred to in point (b) of paragraph 1 to implement the programme or fund affected by the measure, and in particular the obligations they have towards final recipients or beneficiaries, including the obligation to make payments under this Regulation and the applicable sector-specific or financial rules. When implementing Union funds under shared management, Member States concerned by measures adopted pursuant to this Regulation shall report to the Commission on their compliance with those obligations every three months from the adoption of those measures.

The Commission shall verify whether applicable law has been complied with and, where necessary, take all appropriate measures to protect the Union budget, in line with sector-specific and financial rules.

3. The measures taken shall be proportionate. They shall be determined in light of the actual or potential impact of the breaches of the principles of the rule of law on the sound financial management of the Union budget or the financial interests of the Union. The nature, duration, gravity and scope of the breaches of the principles of the rule of law shall be duly taken into account. The measures shall, insofar as possible, target the Union actions affected by the breaches.

4. The Commission shall provide information and guidance for the benefit of final recipients or beneficiaries on the obligations by Member States referred to in paragraph 2 via a website or an internet portal. The Commission shall also provide, on the same website or internet portal, adequate tools for final recipients or beneficiaries to inform the Commission about any breach of these obligations that, in the view of these final recipients or beneficiaries, directly affects them. This paragraph shall be applied in a manner that ensures the protection of persons reporting on breaches of Union law, in line with the principles set out in Directive (EU) 2019/1937 of the European Parliament and of the Council⁽¹⁷⁾. Information provided by final recipients or beneficiaries in accordance with this paragraph shall be accompanied by proof that the concerned final recipient or beneficiary has lodged a formal complaint with the relevant authority of the Member State concerned.

5. On the basis of the information provided by the final recipients or beneficiaries in accordance with paragraph 4 of this Article, the Commission shall do its utmost to ensure that any amount due from government entities or Member States as referred to in paragraph 2 of this Article is effectively paid to final recipients or beneficiaries, in accordance with in particular Article 63, point (b) of Article 68(1) and Article 98 of Regulation (EU) .../... of the European Parliament and of the Council of ... laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument.

Article 6

Procedure

1. Where the Commission finds that it has reasonable grounds to consider that the conditions set out in Article 4 are fulfilled, it shall, unless it considers that other procedures set out in Union legislation would allow it to protect the Union budget more effectively, send a written notification to the Member State concerned, setting out the factual elements and specific grounds on which it based its findings. The Commission shall inform the European Parliament and the Council without delay of such notification and its contents.

2. In light of the information received pursuant to paragraph 1, the European Parliament may invite the Commission for a structured dialogue on its findings.

3. When assessing whether the conditions set out in Article 4 are fulfilled, the Commission shall take into account relevant information from available sources, including decisions, conclusions and recommendations of Union institutions, other relevant international organisations and other recognised institutions.

⁽¹⁷⁾ Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

4. The Commission may request any additional information it requires to carry out the assessment referred to in paragraph 3, both before and after having sent the written notification pursuant to paragraph 1.
5. The Member State concerned shall provide the required information and may make observations on the findings set out in the notification referred to in paragraph 1 within a time limit to be specified by the Commission, which shall be at least one month and not more than three months from the date of notification of the findings. In its observations, the Member State may propose the adoption of remedial measures to address the findings set out in the Commission's notification.
6. The Commission shall take into account the information received and any observations made by the Member State concerned, as well as the adequacy of any proposed remedial measures, when deciding whether to submit a proposal for an implementing decision on the appropriate measures. The Commission shall carry out its assessment within an indicative time limit of one month from the receipt of any information from the Member State concerned or of its observations, or, when no information or observations are received, from the expiry of the time limit set in accordance with paragraph 5, and in any event within a reasonable time frame.
7. Where the Commission intends to make a proposal pursuant to paragraph 9, it shall, before doing so, give the Member State the opportunity to submit its observations, in particular on the proportionality of the envisaged measures, within one month.
8. When assessing the proportionality of the measures to be imposed, the Commission shall take into account the information and guidance referred to in paragraph 3.
9. Where the Commission considers that the conditions of Article 4 are fulfilled and that the remedial measures, if any, proposed by the Member State under paragraph 5 do not adequately address the findings in the Commission's notification, it shall submit a proposal for an implementing decision on the appropriate measures to the Council within one month of receiving the Member State's observations or, in the event that no observations are made, without undue delay and in any case within one month of the deadline set in paragraph 7. The proposal shall set out the specific grounds and evidence on which the Commission based its findings.
10. The Council shall adopt the implementing decision referred to in paragraph 9 of this Article within one month of receiving the Commission's proposal. If exceptional circumstances arise, the period for the adoption of that implementing decision may be extended by a maximum of two months. With a view to ensuring a timely decision, the Commission shall make use of its rights under Article 237 TFEU, where it deems it appropriate.
11. The Council, acting by a qualified majority, may amend the Commission's proposal and adopt the amended text by means of an implementing decision.

Article 7

Lifting of measures

1. The Member State concerned may, at any time, adopt new remedial measures and submit to the Commission a written notification including evidence to show that the conditions of Article 4 are no longer fulfilled.
2. At the request of the Member State concerned, or on its own initiative and at the latest one year after the adoption of measures by the Council, the Commission shall reassess the situation in the Member State concerned, taking into account any evidence submitted by the Member State concerned, as well as the adequacy of any new remedial measures adopted by the Member State concerned.

Where the Commission considers that the conditions of Article 4 are no longer fulfilled, it shall submit to the Council a proposal for an implementing decision lifting the adopted measures.

Where the Commission considers that the situation leading to the adoption of measures has been remedied in part, it shall submit to the Council a proposal for an implementing decision adapting the adopted measures.

Where the Commission considers that the situation leading to the adoption of measures has not been remedied, it shall address to the Member State concerned a reasoned decision and inform the Council thereof.

When the Member State concerned submits a written notification pursuant to paragraph 1, the Commission shall submit its proposal or adopt its decision within one month of receiving that notification. This period may be extended in duly justified circumstances, in which case the Commission shall without delay inform the Member State concerned of the reasons for the extension.

The procedure set out in paragraphs 3, 4, 5, 6, 9, 10 and 11 of Article 6 shall apply by analogy as appropriate.

3. Where measures concerning the suspension of the approval of one or more programmes or amendments thereof referred to in point (i) of Article 5(1)(b) or the suspension of commitments referred to in point (ii) of Article 5(1)(b) are lifted, amounts corresponding to the suspended commitments shall be entered in the Union budget subject to Article 5 of Council Regulation (EU, Euratom) 2020/2093 ⁽¹⁸⁾. Suspended commitments of year *n* may not be entered in the budget beyond year *n*+2.

Article 8

Informing the European Parliament

The Commission shall immediately inform the European Parliament of any measures proposed, adopted or lifted pursuant to Articles 5, 6 and 7.

Article 9

Reporting

The Commission shall report by 12 January 2024 to the European Parliament and the Council on the application of this Regulation, in particular on the effectiveness of the measures adopted.

Article 10

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

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

Done at Brussels, 16 December 2020.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
M. ROTH

⁽¹⁸⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (see page 11 of this Official Journal).

COUNCIL REGULATION (EU, Euratom) 2020/2093
of 17 December 2020
laying down the multiannual financial framework for the years 2021 to 2027

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 312 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

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

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Taking into account the need for an adequate level of predictability for preparing and implementing medium-term investments, the duration of the multiannual financial framework (MFF) should be set at seven years starting on 1 January 2021.
- (2) The economic impact of the COVID-19 crisis requires the Union to provide a long-term financial framework paving the way to a fair and inclusive transition to a green and digital future, supporting the Union's longer-term strategic autonomy and making it resilient to shocks in the future.
- (3) The annual ceilings for commitment appropriations by category of expenditure and the annual ceilings for payment appropriations established by this Regulation are to respect the applicable ceilings for commitments and own resources, which are set in accordance with the Council decision on the system of own resources of the European Union in force that has been adopted in accordance with the third paragraph of Article 311 of the Treaty on the Functioning of the European Union (TFEU) (the 'Own Resources Decision').
- (4) Where it is necessary to mobilise the guarantees given under the general budget of the Union for financial assistance to Member States authorised in accordance with Article 220(1) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽²⁾ (the 'Financial Regulation'), the necessary amount should be mobilised over and above the ceilings for commitment and payment appropriations of the MFF, while respecting the own resources ceiling.
- (5) The MFF should not take account of budget items financed by assigned revenue within the meaning of the Financial Regulation.

⁽¹⁾ Consent of 16 December 2020 (not yet published in the Official Journal).

⁽²⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (6) The MFF should be laid down in 2018 prices. The rules for annual technical adjustments to the MFF to recalculate the ceilings and margins available should also be laid down.
- (7) Rules should be laid down for other situations that might require the MFF to be adjusted. Such adjustments might be related to the delayed adoption of new rules or programmes under shared management, to measures linked to sound economic governance or to measures adopted under the Regulation of the European Parliament and of the Council on a general regime of conditionality for the protection of the Union budget. Rules should also be laid down for a mechanism for programme-specific adjustment.
- (8) Specific and maximum possible flexibility should be implemented to allow the Union to fulfil its obligations in compliance with Article 323 TFEU.
- (9) The following thematic special instruments are necessary to allow the Union to react to specified unforeseen circumstances or consequences and thereby allow the budgetary procedure to run smoothly: the European Globalisation Adjustment Fund, the Solidarity and Emergency Aid Reserve and the Brexit Adjustment Reserve. The Solidarity and Emergency Aid Reserve is not aimed at addressing the consequences of market related crises affecting the agricultural production or distribution.
- (10) The following non-thematic special instruments are necessary to further enhance flexibility: the Single Margin Instrument and the Flexibility Instrument. The Single Margin Instrument should enable shifting margins available below the ceilings for commitment and payment appropriations respectively between financial years and, for commitment appropriations, between MFF headings, without exceeding the total amounts of the MFF ceilings for commitment and payment appropriations for the entire period of the MFF. The Flexibility Instrument should allow the financing of specific unforeseen expenditure for a given financial year.
- (11) Specific provision should be made for the possibility to enter commitment and corresponding payment appropriations into the budget over and above the ceilings set out in the MFF where it is necessary to use special instruments.
- (12) It is necessary to provide for a revision of the MFF in the event of revision of the Treaties with budgetary implications, of the reunification of Cyprus or of the enlargement of the Union, as well as in the light of the implementation of the budget.
- (13) This Regulation might also need to be revised in relation to unforeseen circumstances that cannot be dealt with within the limits set out in the MFF. It is therefore necessary to provide for the revision of the MFF in such cases.
- (14) Specific rules are also necessary for dealing with large-scale projects the lifetime of which extends well beyond the period set for the MFF. It is necessary to establish maximum amounts for the contributions from the general budget of the Union to those projects, thereby ensuring that they do not have any impact on other projects financed from that budget.
- (15) It is necessary to lay down general rules on interinstitutional cooperation in the budgetary procedure, while respecting the budgetary powers of the European Parliament, the Council and the Commission (the 'Institutions') as laid down in the Treaties as well as transparency requirements.
- (16) The Commission should present a proposal for a new multiannual financial framework before 1 July 2025, to enable the institutions to adopt it sufficiently in advance of the start of the subsequent multiannual financial framework. In accordance with Article 312(4) TFEU, the ceilings corresponding to the last year of the MFF set out in this Regulation are to continue to apply in the event that a new multiannual financial framework is not adopted before the end of the term of the MFF laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Multiannual financial framework

This Regulation lays down the multiannual financial framework for the years 2021 to 2027 (MFF).

Article 2

Compliance with the ceilings of the MFF

1. The European Parliament, the Council and the Commission (the 'Institutions') shall, during each budgetary procedure and when implementing the budget for the year concerned, comply with the annual expenditure ceilings set out in Annex I (the 'MFF ceilings').

The sub-ceiling for heading 3 as set out in Annex I is established without prejudice to the flexibility between the two pillars of the Common Agricultural Policy (CAP). The adjusted ceiling to be applied to pillar I of the CAP following the transfers between the European Agricultural Fund for Rural Development and direct payments shall be laid down in the relevant legal act and the MFF shall be adjusted accordingly under the technical adjustment provided for in Article 4 of this Regulation.

2. Where it is necessary to use the resources from the special instruments provided for in Articles 8, 9, 10 and 12, commitment and corresponding payment appropriations shall be entered in the budget over and above the relevant MFF ceilings.

Where it is necessary to use the resources from the Single Margin Instrument as laid down in Article 11, commitment and corresponding payment appropriations shall be entered in the budget over and above the relevant MFF ceilings for a given year.

3. Where it is necessary to mobilise a guarantee for financial assistance to Member States authorised in accordance with Article 220(1) of the Financial Regulation, the necessary amount shall be mobilised over and above the MFF ceilings.

Article 3

Respect of own resources ceiling

1. For each of the years covered by the MFF, the total appropriations for payments required, after annual adjustment and taking account of any other adjustments and revisions as well as the application of Article 2(2) and (3), shall not be such as to produce a call-in rate for own resources that exceeds the own resources ceiling set out in the Council decision on the system of own resources of the European Union in force that has been adopted in accordance with the third paragraph of Article 311 TFEU (the 'Own Resources Decision').

2. Where necessary, the MFF ceilings shall be lowered in order to ensure compliance with the own resources ceiling set out in the Own Resources Decision.

CHAPTER 2

ADJUSTMENTS TO THE MFF

Article 4

Technical adjustments

1. Each year the Commission, acting ahead of the budgetary procedure for year n+1, shall make the following technical adjustments to the MFF:
 - (a) a revaluation, at year n+1 prices, of the ceilings and of the overall figures for appropriations for commitments and appropriations for payments;
 - (b) a calculation of the margin available under the own resources ceiling set out in the Own Resources Decision;
 - (c) a calculation of the amount of commitment appropriations available under the Single Margin Instrument as referred to in point (a) of the first subparagraph of Article 11(1), as well as of the total maximum amount referred to in point (a) of the first subparagraph of Article 11(2);
 - (d) a calculation of the adjustment of the ceiling for payment appropriations under the Single Margin Instrument as referred to in point (b) of the first subparagraph of Article 11(1), as well as of the maximum amount referred to in point (b) of the first subparagraph of Article 11(2);
 - (e) a calculation of the additional allocations for specific programmes referred to in Article 5(1) and the result of the annual adjustment referred to in Article 5(2).
2. The Commission shall make the technical adjustments referred to in paragraph 1 on the basis of a fixed deflator of 2 % per year.
3. The Commission shall communicate the results of the technical adjustments referred to in paragraph 1 and the underlying economic forecasts to the European Parliament and to the Council.
4. Without prejudice to Articles 6 and 7, no further technical adjustments shall be made in respect of the year concerned, either during the year or as *ex post* corrections during subsequent years.

Article 5

Programme-specific adjustment

1. An amount equivalent to the revenue from fines imposed under Council Regulations (EC) No 1/2003 ⁽³⁾ and (EC) No 139/2004 ⁽⁴⁾ by Union institutions, which is entered in the budget of the year n-1 in accordance with Article 107 of the Financial Regulation, after deduction of the amount for the year n-1 referred to in Article 141(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ⁽⁵⁾, shall be available for an additional allocation of:
 - (a) commitment appropriations for year n+1, starting for the year 2022 and ending in 2027, to the programmes listed in Annex II, in accordance with percentages set out for those programmes in the column 'Distribution key' of the table in Annex II; and
 - (b) payment appropriations for year n+1, starting for the year 2022 and ending in 2027.

The total amount of additional allocations for the period 2022 to 2027 for commitment and payment appropriations respectively shall be EUR 11 000 million (in 2018 prices). For each of the years 2022 to 2026, the annual amount of additional allocations for commitment and payment appropriations respectively shall be at least EUR 1 500 million (in 2018 prices) and shall not exceed EUR 2 000 million (in 2018 prices).

⁽³⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

⁽⁴⁾ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

⁽⁵⁾ OJ L 29, 31.1.2020, p. 7.

The total amount of additional allocations for commitment appropriations for the programmes in the period 2022 to 2027 is set out in the column 'Total additional allocation of commitment appropriations under Article 5' of the table in Annex II.

2. The ceilings for commitment appropriations of the relevant headings for year n+1, starting for the year 2022 and ending in 2027, shall be adjusted upwards with the amounts corresponding to the additional allocations set out in paragraph 1, in accordance with the percentages set out for those headings in the column 'Distribution key' of the table in Annex II. The ceiling for payment appropriations for year n+1, starting for the year 2022 and ending in 2027, shall be automatically adjusted upwards with the amounts corresponding to the additional allocations set out in paragraph 1.

Article 6

Adjustments related to measures linked to sound economic governance or to a general regime of conditionality for the protection of the Union budget

1. In the case of the lifting of a suspension of budgetary commitments concerning Union funds in accordance with the relevant basic acts in the context of measures linked to sound economic governance or to measures adopted under the Regulation of the European Parliament and of the Council on a general regime of conditionality for the protection of the Union budget, the amounts corresponding to the suspended commitments shall be transferred to the following years and the corresponding MFF ceilings shall be adjusted accordingly.

2. The Commission shall communicate the result of any adjustments under paragraph 1 to the European Parliament and to the Council.

3. Suspended commitments of year n may not be entered in the general budget of the Union beyond year n+2.

Article 7

Adjustment following new rules or programmes under shared management

1. In the event of the adoption after 1 January 2021 of new rules or programmes under shared management for the Structural Funds, the Cohesion Fund, the Just Transition Fund, the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund, the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument under the Integrated Border Management Fund, the amounts corresponding to the allocations not used in 2021 shall be transferred in equal proportions to each of the years 2022 to 2025, and the corresponding MFF ceilings shall be adjusted accordingly.

2. The Commission shall communicate the result of any adjustments under paragraph 1 to the European Parliament and to the Council.

CHAPTER 3

SPECIAL INSTRUMENTS

SECTION 1

Thematic special instruments

Article 8

European Globalisation Adjustment Fund

1. The European Globalisation Adjustment Fund, the objectives and scope of which are set out in Regulation of the European Parliament and of the Council on the European Globalisation Adjustment Fund, shall not exceed a maximum annual amount of EUR 186 million (in 2018 prices).

2. The appropriations for the European Globalisation Adjustment Fund shall be entered in the general budget of the Union as a provision.

Article 9

Solidarity and Emergency Aid Reserve

1. The Solidarity and Emergency Aid Reserve may be used to finance:
 - (a) assistance to respond to emergency situations resulting from major disasters that are covered by the European Union Solidarity Fund, the objectives and scope of which are set out in Council Regulation (EC) No 2012/2002 ⁽⁶⁾; and
 - (b) rapid responses to specific emergency needs within the Union or in third countries following events which could not be foreseen when the budget was established, in particular for emergency responses and support operations following natural disasters not covered by point (a), man-made disasters, humanitarian crises in cases of large-scale public health, veterinary or phytosanitary threats, as well as in situations of particular pressure at the Union's external borders resulting from migratory flows, where circumstances so require.
2. The Solidarity and Emergency Aid Reserve shall not exceed a maximum annual amount of EUR 1 200 million (in 2018 prices). Any portion of the annual amount not used in year n may be used up to year n+1. The portion of the annual amount stemming from the previous year shall be drawn on first. Any portion of the annual amount from year n which is not used in year n+1 shall lapse.
3. The appropriations for the Solidarity and Emergency Aid Reserve shall be entered in the general budget of the Union as a provision.
4. On 1 October of each year, at least one quarter of the annual amount referred to in paragraph 2 shall remain available in order to cover needs arising until the end of that year.

Without prejudice to the first subparagraph, the following maximum percentages of the overall amount available until 1 September of each year may be mobilised:

- 50 % for assistance under point (a) of paragraph 1; the amount resulting from that calculation shall be reduced by any amount mobilised in the previous year in application of paragraph 5,
- 35 % for assistance to third countries under point (b) of paragraph 1,
- 15 % for assistance within the Union under point (b) of paragraph 1.

Without prejudice to the first subparagraph, as of 1 September of each year, the remaining part of the amount available may be used for any assistance referred to in the second subparagraph to cover needs arising until the end of that year.

5. In exceptional cases and if the remaining financial resources available in the Solidarity and Emergency Aid Reserve are not sufficient to cover the amounts considered necessary for assistance under point (a) of paragraph 1 in the year of occurrence of a disaster as referred to in that point, the Commission may propose that the difference be financed through the annual amounts available for the Solidarity and Emergency Aid Reserve in the following year, up to a maximum amount of EUR 400 million (in 2018 prices).

Article 10

Brexit Adjustment Reserve

1. A Brexit Adjustment Reserve shall provide assistance to counter unforeseen and adverse consequences in Member States and sectors that are worst affected by the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, subject to and in accordance with the conditions set out in the relevant instrument.

⁽⁶⁾ Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund (OJ L 311, 14.11.2002, p. 3).

2. The Brexit Adjustment Reserve shall not exceed an amount of EUR 5 000 million (in 2018 prices).
3. The appropriations for the Brexit Adjustment Reserve shall be entered into the general budget of the Union as a provision.

SECTION 2

Non-thematic special instruments

Article 11

Single Margin Instrument

1. The Single Margin Instrument shall comprise:
 - (a) as of 2022, amounts corresponding to margins left available below the MFF ceilings for commitment appropriations of year n-1 to be made available over and above the MFF ceilings for commitment appropriations for the years 2022 to 2027;
 - (b) as of 2022, amounts equivalent to the difference between the executed payments and the MFF payment ceiling of year n-1 to adjust upwards the payment ceiling for the years 2022 to 2027; and
 - (c) additional amounts which may be made available over and above the MFF ceilings in a given year for commitment or payment appropriations, or both, as the case may be, provided that they are fully offset against the margins in one or more MFF headings for the current or future financial years as regards commitment appropriations and are fully offset against the margins under the payment ceiling for future financial years as regards payment appropriations.

Amounts may only be mobilised under point (c) of the first subparagraph if the amounts available pursuant to points (a) and (b) of that subparagraph, as applicable, are insufficient, and in any case as a last resort to react to unforeseen circumstances.

Recourse to point (c) of the first subparagraph shall not result in exceeding the total amounts of the MFF ceilings for commitment and payment appropriations for the current financial year and future financial years. Any amounts offset in accordance with that point shall therefore not be further mobilised in the context of the MFF.

2. Recourse to the Single Margin Instrument under points (a) and (c) of the first subparagraph of paragraph 1 shall not exceed, in any given year, a total of:
 - (a) 0,04 % of the gross national income of the Union in commitment appropriations, as calculated in the annual technical adjustment of the MFF referred to in Article 4;
 - (b) 0,03 % of the gross national income of the Union in payment appropriations, as calculated in the annual technical adjustment of the MFF referred to in Article 4.

Recourse to the Single Margin Instrument in any given year shall be consistent with the own resources ceilings set out in the Own Resources Decision.

3. The annual adjustments referred to in point (b) of the first subparagraph of paragraph 1 shall not exceed the following maximum amounts (in 2018 prices) for the years 2025 to 2027 as compared to the original payment ceiling of the relevant years:

- 2025 – EUR 8 000 million,
- 2026 – EUR 13 000 million,
- 2027 – EUR 15 000 million.

Amounts referred to in the second subparagraph of Article 5(2) shall be in addition to the maximum amounts referred to in the first subparagraph of this paragraph.

Any upward adjustment shall be fully offset by a corresponding reduction of the payment ceiling for year n-1.

4. Amounts referred to in points (a) and (c) of the first subparagraph of paragraph 1 of this Article may be mobilised by the European Parliament and the Council in the framework of the budgetary procedure provided for in Article 314 TFEU to allow the financing of expenditure which could not be financed within the limits of the relevant MFF ceilings available in a given year.

The upward adjustment referred to in point (b) of the first subparagraph of paragraph 1 of this Article shall be carried out by the Commission, starting in 2022, as part of the technical adjustment referred to in Article 4.

Article 12

Flexibility Instrument

1. The Flexibility Instrument may be used for the financing, for a given financial year, of specific unforeseen expenditure in commitment appropriations and corresponding payment appropriations that cannot be financed within the limits of the ceilings available for one or more other headings. The ceiling for the annual amount available for the Flexibility Instrument shall be EUR 915 million (in 2018 prices).

2. The unused portion of the annual amount of the Flexibility Instrument may be used up to year $n+2$. Any portion of the annual amount stemming from previous years shall be used first, in order of age. Any portion of the annual amount from year n which is not used by year $n+2$ shall lapse.

CHAPTER 4

REVISION OF THE MFF

Article 13

Revision of the MFF

1. Without prejudice to Article 3(2) and Articles 14 to 17, in the event of unforeseen circumstances, the MFF may be revised in compliance with the own resources ceiling set out in the Own Resources Decision.

2. As a general rule, any proposal for a revision of the MFF in accordance with paragraph 1 shall be presented and adopted before the start of the budgetary procedure for the year or the first of the years concerned.

3. Any proposal for a revision of the MFF in accordance with paragraph 1 shall examine the scope for reallocating expenditure between the programmes covered by the heading concerned by the revision, with particular reference to any expected underutilisation of appropriations.

4. Any revision of the MFF in accordance with paragraph 1 shall take into account the scope for offsetting any raising of the ceiling for one heading by the lowering of the ceiling for another heading.

5. Any revision of the MFF in accordance with paragraph 1 shall maintain an appropriate relationship between commitment and payment appropriations.

Article 14

Revision related to implementation

When notifying the European Parliament and the Council of the results of the technical adjustments to the MFF, the Commission shall, where appropriate, submit any proposal to revise the total appropriations for payments which it considers necessary, in the light of implementation, to ensure a sound management of the yearly payment ceilings, and in particular their orderly progression in relation to the appropriations for commitments.

*Article 15***Revision in the event of a revision of the Treaties**

In the event of a revision of the Treaties with budgetary implications, the MFF shall be revised accordingly.

*Article 16***Revision in the event of enlargement of the Union**

In the event of an accession or accessions to the Union, the MFF shall be revised to take account of the expenditure requirements resulting therefrom.

*Article 17***Revision in the event of the reunification of Cyprus**

In the event of the reunification of Cyprus, the MFF shall be revised to take account of the comprehensive settlement of the Cyprus problem and the additional financial needs resulting from the reunification.

CHAPTER 5

CONTRIBUTION TO THE FINANCING OF LARGE-SCALE PROJECTS*Article 18***Contribution to the financing of large-scale projects**

1. A maximum amount of EUR 13 202 million (in 2018 prices) shall be available from the general budget of the Union for the period 2021 to 2027 for large-scale projects under the Regulation of the European Parliament and of the Council establishing the space programme of the Union and the European Union Agency for the Space Programme.
2. A maximum amount of EUR 5 000 million (in 2018 prices) shall be available from the general budget of the Union for the period 2021 to 2027 for the International Thermonuclear Experimental Reactor project (ITER).

CHAPTER 6

INTERINSTITUTIONAL COOPERATION IN THE BUDGETARY PROCEDURE*Article 19***Interinstitutional cooperation in the budgetary procedure**

1. The Institutions shall take measures to facilitate the annual budgetary procedure.
2. The Institutions shall cooperate in good faith throughout the procedure with a view to reconciling their positions. The Institutions shall, at all stages of the procedure, cooperate through appropriate interinstitutional contacts in order to monitor the progress of the work and analyse the degree of convergence.
3. The Institutions shall ensure that their respective calendars of work are coordinated as far as possible, in order to enable proceedings to be conducted in a coherent and convergent way, leading to the final adoption of the general budget of the Union.

4. Trilogues may be held at all stages of the procedure and at different levels of representation, depending on the nature of the expected discussions. Each institution, in accordance with its own rules of procedure, shall designate its participants for each meeting, set out its mandate for the negotiations and inform the other institutions in good time of the arrangements for the meetings.

Article 20

Unity of the budget

All expenditure and revenue of the Union and the European Atomic Energy Community shall be included in the general budget of the Union in accordance with Article 7 of the Financial Regulation, including expenditure resulting from any relevant decision taken unanimously by the Council after consulting the European Parliament, in the framework of Article 332 TFEU.

CHAPTER 7

FINAL PROVISIONS

Article 21

Transition towards the next multiannual financial framework

Before 1 July 2025, the Commission shall present a proposal for a new multiannual financial framework.

Article 22

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

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

Done at Brussels, 17 December 2020.

For the Council
The President
S. SCHULZE

ANNEX I

MULTIANNUAL FINANCIAL FRAMEWORK (EU-27)

(EUR million – 2018 prices)

Commitment appropriations	2021	2022	2023	2024	2025	2026	2027	Total 2021-2027
1. Single Market, Innovation and Digital	19 712	19 666	19 133	18 633	18 518	18 646	18 473	132 781
2. Cohesion, Resilience and Values	49 741	51 101	52 194	53 954	55 182	56 787	58 809	377 768
2a. Economic, social and territorial cohesion	45 411	45 951	46 493	47 130	47 770	48 414	49 066	330 235
2b. Resilience and values	4 330	5 150	5 701	6 824	7 412	8 373	9 743	47 533
3. Natural Resources and Environment	55 242	52 214	51 489	50 617	49 719	48 932	48 161	356 374
of which: Market related expenditure and direct payments	38 564	38 115	37 604	36 983	36 373	35 772	35 183	258 594
4. Migration and Border Management	2 324	2 811	3 164	3 282	3 672	3 682	3 736	22 671
5. Security and Defence	1 700	1 725	1 737	1 754	1 928	2 078	2 263	13 185
6. Neighbourhood and the World	15 309	15 522	14 789	14 056	13 323	12 592	12 828	98 419
7. European Public Administration	10 021	10 215	10 342	10 454	10 554	10 673	10 843	73 102
of which: Administrative expenditure of the institutions	7 742	7 878	7 945	7 997	8 025	8 077	8 188	55 852
TOTAL COMMITMENT APPROPRIATIONS	154 049	153 254	152 848	152 750	152 896	153 390	155 113	1 074 300
TOTAL PAYMENT APPROPRIATIONS	156 557	154 822	149 936	149 936	149 936	149 936	149 936	1 061 058

ANNEX II

PROGRAMME-SPECIFIC ADJUSTMENT – LIST OF PROGRAMMES, DISTRIBUTION KEY AND TOTAL ADDITIONAL ALLOCATION OF COMMITMENT APPROPRIATIONS

(in EUR million, 2018 prices)

	Distribution key	Total additional allocation of commitment appropriations under Article 5
1. Single Market, Innovation and Digital	36,36 %	4 000
Horizon Europe	27,27 %	3 000
InvestEU Fund	9,09 %	1 000
2b. Resilience and Values	54,55 %	6 000
EU4Health	26,37 %	2 900
Erasmus+	15,46 %	1 700
Creative Europe	5,45 %	600
Rights and Values	7,27 %	800
4. Migration and Border Management	9,09 %	1 000
Integrated Border Management Fund	9,09 %	1 000
TOTAL	100,00 %	11 000

II

(Non-legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2020/2094

of 14 December 2020

establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In order to contain the spread of COVID-19, which on 11 March 2020 was declared a pandemic by the World Health Organization, Member States have adopted a set of unprecedented measures.
- (2) The unprecedented measures taken in response to the exceptional situation caused by COVID-19, which is beyond the control of Member States, have caused significant disturbances to economic activity which are reflected in a steep decline in gross domestic product and a significant impact on employment, social conditions, poverty and inequalities. In particular, those measures have disrupted supply chains and production and caused absences from the workplace. In addition, the provision of many services has become very difficult or impossible. At the same time, consumer demand has dropped. Many businesses are experiencing liquidity shortages, and their solvency is at risk, while the financial markets are very volatile. Key sectors like travel and tourism are particularly hard hit. More broadly, those measures have already led or will lead to severe deterioration of the financial situation of many businesses in the Union.
- (3) The crisis caused by COVID-19 has spread quickly in the Union and in third countries. A sharp contraction of growth in the Union is foreseen for 2020. Recovery risks being very uneven in different Member States, increasing the divergence between national economies. The different fiscal abilities of Member States to provide financial support where it is needed most for recovery and the divergence between Member States' measures endanger the single market as well as social and territorial cohesion.
- (4) A comprehensive set of measures is needed for economic recovery. That set of measures requires substantial amounts of public and private investment to set the Union firmly on the path towards a sustainable and resilient recovery, create high-quality jobs, support social inclusion and repair the immediate damage brought by the COVID-19 crisis, whilst supporting the Union's green and digital priorities.
- (5) The exceptional situation caused by COVID-19, which is beyond the control of Member States, calls for a coherent and unified approach at Union level. In order to prevent further deterioration of the economy, employment and social cohesion and to boost a sustainable and resilient recovery of economic activity, an exceptional and coordinated programme of economic and social support should be put in place, in a spirit of solidarity between Member States, in particular for those Member States that have been particularly hard hit.

- (6) As this Regulation is an exceptional response to temporary but extreme circumstances, the support provided under it should only be made available for the purposes of addressing the adverse economic consequences of the COVID-19 crisis or the immediate funding needs to avoid a re-emergence of the COVID-19 crisis.
- (7) The support under the instrument established by this Regulation (the 'Instrument') should in particular focus on measures to restore labour markets and social protection as well as health care systems, to reinvigorate potential for sustainable growth and employment in order to strengthen cohesion among Member States and support their transition towards a green and digital economy, to provide support to businesses affected by the impact of the COVID-19 crisis, in particular small and medium-sized enterprises, as well as support for investment in activities that are essential for strengthening sustainable growth in the Union including direct financial investment in enterprises, measures for research and innovation in response to the COVID-19 crisis, for capacity building at Union level to enhance future crisis preparedness, for maintaining efforts to ensure a just transition to a climate-neutral economy, and support for agriculture and development in rural areas in addressing the impact of the COVID-19 crisis.
- (8) To ensure a sustainable and resilient recovery throughout the Union and facilitate the implementation of economic support, the established mechanisms of spending through Union programmes under the multiannual financial framework are to be used. Support under those programmes is to be provided in the form of non-repayable support, loans, and provisioning for budgetary guarantees. The allocation of financial resources should reflect the extent to which those programmes are capable of contributing to the objectives of the Instrument. Contributions to those programmes under the Instrument should be subject to strict compliance with the objectives of the Instrument, which are linked to supporting recovery in the aftermath of the COVID-19 crisis.
- (9) In view of the nature of the measures to be financed, one part of the amounts available under the Instrument should be used for loans to Member States, whereas the other part of the amounts should constitute external assigned revenue for the purpose of Article 21(5) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁾ (the 'Financial Regulation') and should be used for non-repayable support, support through financial instruments or provisioning for budgetary guarantees and related expenditure by the Union. To that effect, as part of the necessary measures under this Regulation, it is appropriate to enable Article 21(5) of the Financial Regulation to comprise the assigning under this Regulation, as a basic act, of a part of the revenue provided for under the exceptional and temporary empowerment provided for in the Council Decision on the system of own resources of the European Union and repealing Council Decision 2014/335/EU, Euratom ⁽²⁾ (the 'Own Resources Decision').
- (10) While point (c) of Article 12(4) and Article 14(3) of the Financial Regulation apply to commitment and payment appropriations made available in relation to the external assigned revenue under this Regulation, in view of the time limits set for the different types of support, commitment appropriations resulting from that external assigned revenue should not be automatically carried over beyond the respective end dates, except for commitment appropriations necessary for technical and administrative assistance for implementation of the measures set out in the Instrument.
- (11) Commitment appropriations for non-repayable support should be made available automatically up to the authorised amount. Liquidity should be managed effectively, so that funds are raised only when legal commitments need to be honoured through corresponding payment appropriations.
- (12) Given the importance of using the amounts during the first years of the implementation of the Instrument, it is appropriate to review the progress achieved in the implementation of the Instrument and the use of the support allocated in accordance with this Regulation. To that effect, the Commission should prepare a report by 31 October 2022.

⁽¹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽²⁾ Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of own resources of the European Union (OJ L 168, 7.6.2014, p. 105).

- (13) Article 135(2) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ⁽³⁾ (the "Withdrawal Agreement") provides that amendments to Decision 2014/335/EU, Euratom that are adopted on or after the date of entry into force of the Withdrawal Agreement are not to apply to the United Kingdom insofar as those amendments have an impact on the United Kingdom's financial obligations. The support under this Regulation and the corresponding increase of the own resources ceiling of the Union would have an impact on the United Kingdom's financial obligations. Article 143(1) of the Withdrawal Agreement limits the liability of the United Kingdom for its share of the contingent financial liabilities of the Union to those contingent financial liabilities of the Union arising from financial operations taken by the Union before the date of entry into force of the Withdrawal Agreement. Any contingent financial liability of the Union arising from support under this Regulation would be subsequent to the date of entry into force of the Withdrawal Agreement. Therefore, this Regulation should not apply to and in the United Kingdom,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. In order to support the recovery in the aftermath of the COVID-19 crisis, this Regulation establishes the European Union Recovery Instrument (the 'Instrument').
2. Support under the Instrument shall in particular finance the following measures to tackle the adverse economic consequences of the COVID-19 crisis or the immediate funding needs to avoid a re-emergence of that crisis:
 - (a) measures to restore employment and job creation;
 - (b) measures in the form of reforms and investments to reinvigorate the potential for sustainable growth and employment in order to strengthen cohesion among Member States and increase their resilience;
 - (c) measures for businesses affected by the economic impact of the COVID-19 crisis, in particular measures that benefit small and medium-sized enterprises as well as support for investment in activities that are essential for strengthening sustainable growth in the Union, including direct financial investment in enterprises;
 - (d) measures for research and innovation in response to the COVID-19 crisis;
 - (e) measures for increasing the level of the Union's crisis preparedness and enabling a quick and effective Union response in the event of major emergencies, including measures such as stockpiling of essential supplies and medical equipment and acquiring the necessary infrastructures for rapid crisis response;
 - (f) measures to ensure that a just transition to a climate-neutral economy will not be undermined by the COVID-19 crisis;
 - (g) measures to address the impact of the COVID-19 crisis on agriculture and rural development.
3. The measures referred to in paragraph 2 shall be carried out under specific Union programmes and in accordance with the relevant Union acts laying down rules for those programmes whilst fully respecting the objectives of the Instrument. Those measures shall include technical and administrative assistance for their implementation.

Article 2

Financing of the Instrument and allocation of funds

1. The Instrument shall be financed up to an amount of EUR 750 000 million in 2018 prices on the basis of the empowerment provided for in Article 5 of the Own Resources Decision.

For the purposes of implementation under the specific Union programmes, the amount referred to in the first subparagraph shall be adjusted on the basis of a fixed deflator of 2 % per year. For commitment appropriations that deflator shall apply to the annual instalments.

⁽³⁾ OJ L 29, 31.1.2020, p. 7.

2. The amount referred to in paragraph 1 shall be allocated as follows:
 - (a) support of up to EUR 384 400 million in 2018 prices in the form of non-repayable support and repayable support through financial instruments shall be allocated as follows:
 - (i) up to EUR 47 500 million in 2018 prices for structural and cohesion programmes of the multiannual financial framework 2014-2020 as reinforced until 2022, including support through financial instruments;
 - (ii) up to EUR 312 500 million in 2018 prices for a programme financing recovery and economic and social resilience via support to reforms and investments;
 - (iii) up to EUR 1 900 million in 2018 prices for programmes related to civil protection;
 - (iv) up to EUR 5 000 million in 2018 prices for programmes related to research and innovation, including support through financial instruments;
 - (v) up to EUR 10 000 million in 2018 prices for programmes supporting territories in their transition towards a climate-neutral economy;
 - (vi) up to EUR 7 500 million in 2018 prices for development in rural areas;
 - (b) up to EUR 360 000 million in 2018 prices in loans to Member States for a programme financing recovery and economic and social resilience via support to reforms and investments;
 - (c) up to EUR 5 600 million in 2018 prices for provisioning for budgetary guarantees and related expenditure for programmes aiming at supporting investment operations in the field of Union internal policies.

Article 3

Rules for budgetary implementation

1. For the purpose of Article 21(5) of the Financial Regulation, EUR 384 400 million in 2018 prices, of the amount referred to in Article 2(1) of this Regulation, shall constitute external assigned revenue to the Union programmes referred to in point (a) of Article 2(2) of this Regulation and EUR 5 600 million in 2018 prices of that amount shall constitute external assigned revenue to the Union programmes referred to in point (c) of Article 2(2) of this Regulation.
2. EUR 360 000 million in 2018 prices, of the amount referred to in Article 2(1), shall be used for loans to Member States under the Union programmes referred to in point (b) of Article 2(2).
3. Commitment appropriations covering support to the Union programmes referred to in points (a) and (c) of Article 2(2) shall be made available automatically up to the respective amounts referred to in those points as of the date of entry into force of the Own Resources Decision which provides for the empowerment referred to in Article 2(1) of this Regulation.
4. Legal commitments giving rise to expenditure for support as referred to in point (a) of Article 2(2), and, where appropriate, in point (c) of Article 2(2), shall be entered into by the Commission or by its executive agencies by 31 December 2023. Legal commitments of at least 60 % of the amount referred to in point (a) of Article 2(2) shall be entered into by 31 December 2022.
5. Decisions on the granting of the loans referred to in point (b) of Article 2(2) shall be adopted by 31 December 2023.
6. The Union's budgetary guarantees up to an amount which, in accordance with the relevant provisioning rate set out in the respective basic acts, corresponds to the provisioning for budgetary guarantees referred to in point (c) of Article 2(2), depending on the risk profiles of the supported financing and investment operations, shall be granted only for supporting operations which have been approved by the counterparts by 31 December 2023. The respective budgetary guarantee agreements shall contain provisions requiring that financial operations corresponding to at least 60 % of the amount of those budgetary guarantees are approved by the counterparts by 31 December 2022. Where provisioning for budgetary guarantees is used for non-repayable support related to the financing and investment operations referred to in point (c) of Article 2(2), the related legal commitments shall be entered into by the Commission by 31 December 2023.
7. Paragraphs 4 to 6 of this Article shall not apply to technical and administrative assistance referred to in Article 1(3).

8. Costs from technical and administrative assistance for the implementation of the Instrument, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems for the purposes of this Regulation, shall be financed from the Union budget.

9. Payments related to the legal commitments entered into, decisions adopted and the provisions regarding financial operations approved in accordance with paragraphs 4 to 6 of this Article shall be made by 31 December 2026, with the exception of technical and administrative assistance referred to in Article 1(3) and of cases where, exceptionally, although the legal commitment has been entered into, the decision has been adopted or the operation has been approved, on terms compliant with the deadline applicable under this paragraph, payments after 2026 are necessary for the Union to be able to honour its obligations towards third parties, including as a result of a definitive judgment against the Union.

Article 4

Reporting

By 31 October 2022, the Commission shall submit to the Council a report on the progress achieved in the implementation of the Instrument and the use of the funds allocated in accordance with Article 2(2).

Article 5

Applicability

1. This Regulation shall not be applicable to or in the United Kingdom.
2. References to 'Member States' in this Regulation shall not be understood to include the United Kingdom.

Article 6

Entry into force

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

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

Done at Brussels, 14 December 2020.

For the Council
The President
M. ROTH

INTERINSTITUTIONAL AGREEMENTS

INTERINSTITUTIONAL AGREEMENT BETWEEN THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION ON BUDGETARY DISCIPLINE, ON COOPERATION IN BUDGETARY MATTERS AND ON SOUND FINANCIAL MANAGEMENT, AS WELL AS ON NEW OWN RESOURCES, INCLUDING A ROADMAP TOWARDS THE INTRODUCTION OF NEW OWN RESOURCES

INTERINSTITUTIONAL AGREEMENT

of 16 December 2020

between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION,

hereinafter referred to as the "Institutions",

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 295 thereof,

HAVE AGREED AS FOLLOWS:

1. The purpose of this Agreement is to implement budgetary discipline, to improve the functioning of the annual budgetary procedure and cooperation between the Institutions on budgetary matters as well as to ensure sound financial management, and to implement a cooperation and establish a roadmap towards the introduction, over the period of the multiannual financial framework 2021-2027 ("MFF 2021-2027"), of new own resources that are sufficient to cover the repayment of the European Union Recovery Instrument established under Council Regulation (EU) 2020/2094 ⁽¹⁾ (the "EURI Regulation").
2. Budgetary discipline as referred to in this Agreement covers all expenditure. This Agreement is binding on the Institutions for as long as it is in force. The Annexes to this Agreement form an integral part thereof.
3. This Agreement does not alter the respective budgetary and legislative powers of the Institutions as laid down in the Treaties, in Council Regulation (EU, Euratom) 2020/2093 ⁽²⁾ (the "MFF Regulation"), in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽³⁾ (the "Financial Regulation") and in Council Decision (EU, Euratom) 2020/2053 ⁽⁴⁾ (the "Own Resources Decision"), and is without prejudice to the powers of national parliaments in respect of own resources.

⁽¹⁾ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (see page 23 of this Official Journal).

⁽²⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (see page 11 of this Official Journal).

⁽³⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽⁴⁾ Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

4. Any amendment of this Agreement requires the common agreement of the Institutions.
5. This Agreement is in four parts:
 - Part I contains provisions related to the multiannual financial framework (MFF) and to the thematic and non-thematic special instruments;
 - Part II relates to interinstitutional cooperation in budgetary matters;
 - Part III contains provisions related to the sound financial management of Union funds;
 - Part IV contains provisions related to the quality and comparability of data on beneficiaries in the context of the protection of the Union budget.
6. This Agreement enters into force on 16 December 2020 and replaces 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 ^(³).

PART I

MFF AND SPECIAL INSTRUMENTS

A. PROVISIONS RELATED TO THE MFF

7. The Institutions shall, for the purposes of sound financial management, ensure as far as possible during the budgetary procedure and at the time the general budget of the Union is adopted that sufficient margins are left available beneath the ceilings for the various headings of the MFF, except for the sub-heading "Economic, social and territorial cohesion".

Updating of forecasts for payment appropriations

8. Every year, the Commission shall update the forecasts for payment appropriations for the period at least until 2027. That update shall take into account all relevant information, including the real implementation of budget appropriations for commitments and budget appropriations for payments, as well as the implementation forecasts. It shall also consider the rules designed to ensure that payment appropriations develop in an orderly manner compared to commitment appropriations and to the growth forecasts of the Union's gross national income (GNI).

B. PROVISIONS RELATED TO THE THEMATIC AND NON-THEMATIC SPECIAL INSTRUMENTS

European Globalisation Adjustment Fund

9. Where the conditions for mobilising the European Globalisation Adjustment Fund set out in the relevant basic act are met, the Commission shall submit a proposal to mobilise it, and the decision to mobilise the European Globalisation Adjustment Fund shall be taken jointly by the European Parliament and by the Council.

At the same time as it presents its proposal for a decision to mobilise the European Globalisation Adjustment Fund, the Commission shall present a proposal to the European Parliament and to the Council for a transfer to the relevant budget lines.

Transfers related to the European Globalisation Adjustment Fund shall be made in accordance with the Financial Regulation.

Solidarity and Emergency Aid Reserve

10. Where the Commission considers that the conditions for mobilising the Solidarity and Emergency Aid Reserve are met, it shall submit a proposal to the European Parliament and to the Council for a transfer from that Reserve to the corresponding budget lines in accordance with the Financial Regulation.

The decision to mobilise amounts under point (a) of Article 9(1) of the MFF Regulation shall be taken jointly by the European Parliament and by the Council on a proposal from the Commission in accordance with the relevant basic act.

⁽³⁾ OJ C 373, 20.12.2013, p. 1.

Before making any proposal for a transfer from the Solidarity and Emergency Aid Reserve for assistance under point (b) of Article 9(1) of the MFF Regulation, the Commission shall examine the scope for reallocating appropriations.

Brexit Adjustment Reserve

11. Where the conditions for mobilising the Brexit Adjustment Reserve set out in the relevant instrument are met, the Commission shall submit a proposal to the European Parliament and to the Council for a transfer to the relevant budget lines.

Transfers related to the Brexit Adjustment Reserve shall be made in accordance with the Financial Regulation.

Single Margin Instrument

12. The Commission may propose to mobilise the amounts corresponding to all or a part of the margins referred to in points (a) and (c) of the first subparagraph of Article 11(1) of the MFF Regulation, in relation to a draft budget or a draft amending budget. The mobilisation of any amounts referred to in point (c) of the first subparagraph of Article 11(1) of that Regulation shall be proposed by the Commission after a thorough analysis of all other financial possibilities.

Those amounts may be mobilised by the European Parliament and by the Council in the framework of the budgetary procedure set out in Article 314 of the Treaty on the Functioning of the European Union (TFEU).

Flexibility Instrument

13. The Commission shall submit a proposal for the mobilisation of the Flexibility Instrument after it has examined all possibilities for reallocating appropriations under the heading requiring additional expenditure.

That proposal shall identify the needs to be covered and the amount. Such a proposal may be made in relation to a draft budget or a draft amending budget.

The Flexibility Instrument may be mobilised by the European Parliament and by the Council in the framework of the budgetary procedure set out in Article 314 TFEU.

PART II

IMPROVEMENT OF INTERINSTITUTIONAL COOPERATION IN BUDGETARY MATTERS

A. INTERINSTITUTIONAL COOPERATION PROCEDURE

14. The details of interinstitutional cooperation during the budgetary procedure are set out in Annex I.

15. In line with Article 312(5) TFEU, the Institutions shall take any measure necessary to facilitate the adoption of a new MFF or a revision thereof, in accordance with the special legislative procedure referred to in Article 312(2) of the TFEU. Such measures will include regular meetings and exchange of information between the European Parliament and the Council and, on the initiative of the Commission, meetings of the Presidents of the Institutions as set out in Article 324 TFEU in order to promote consultation and the reconciliation of the positions of the Institutions. Where a proposal for a new MFF or for a substantial revision has been presented, the Institutions will seek to determine specific arrangements for cooperation and dialogue between them throughout the procedure leading to its adoption.

Budgetary transparency

16. The Commission shall prepare an annual report to accompany the general budget of the Union, bringing together available non-confidential information relating to:

- (a) the assets and liabilities of the Union, including those arising from borrowing and lending operations carried out by the Union in accordance with its powers under the Treaties;

- (b) the revenue, expenditure, assets and liabilities of the European Development Fund ⁽⁶⁾, the European Financial Stability Facility, the European Stability Mechanism, and other possible future mechanisms;
- (c) the expenditure incurred by Member States in the framework of enhanced cooperation, to the extent that it is not included in the general budget of the Union;
- (d) climate expenditure, on the basis of an effective methodology set out by the Commission and, where relevant, in accordance with sectoral legislation, for monitoring climate spending and its performance with a view to achieving an overall target of at least 30 % of the total amount of the Union budget and the European Union Recovery Instrument expenditures supporting climate objectives, taking into consideration the effects of the phasing out of the funding under the European Union Recovery Instrument and differentiating between climate change mitigation and adaptation, where feasible.

Where there is insufficient progress towards the climate spending target in one or more of the relevant programmes, the Institutions, in accordance with their responsibilities and the relevant legislation, will consult each other on appropriate measures to be taken to ensure that Union spending on climate objectives over the entire MFF 2021-2027 corresponds to at least 30 % of the total amount of the Union budget and the European Union Recovery Instrument expenditures;

- (e) expenditure contributing to halting and reversing the decline of biodiversity, on the basis of an effective, transparent and comprehensive methodology set out by the Commission, in cooperation with the European Parliament and with the Council, and, where relevant, in accordance with sectoral legislation, with a view to working towards the ambition of providing 7,5 % in 2024 and 10 % in 2026 and in 2027 of annual spending under the MFF to biodiversity objectives, while considering the existing overlaps between climate and biodiversity goals;
- (f) the promotion of equality between women and men as well as rights and equal opportunities for all throughout the implementation and monitoring of the relevant programmes, and the mainstreaming of those objectives as well as gender mainstreaming, including by strengthening the assessment of gender impact in impact assessments and evaluations under the Better Law-Making framework. The Commission will examine how to develop a methodology to measure the relevant expenditure at programme level in the MFF 2021-2027. The Commission will use that methodology as soon as it is available. No later than 1 January 2023, the Commission will implement that methodology for certain centrally managed programmes to test its feasibility. At mid-term, it will be explored whether the methodology can be extended to other programmes for the remainder of the MFF 2021-2027;
- (g) the implementation of the United Nations Sustainable Development Goals in all relevant Union programmes of the MFF 2021-2027.

The effective methodologies referred to in points (d) and (e) of the first paragraph will, as far as possible include a reference to the contribution of the Union budget to the European Green Deal, which includes the "do no harm" principle.

The effective methodology referred to in point (d) of the first paragraph will be transparent, comprehensive, result-oriented and performance-based, will include annual consultation by the Commission of the European Parliament and of the Council, and will identify relevant measures to be taken in case of insufficient progress towards achieving applicable targets.

None of the methodologies referred to in this point should lead to an excessive administrative burden on project holders or on beneficiaries.

17. The Commission shall prepare an annual report on the implementation of the European Union Recovery Instrument. That annual report shall bring together available non-confidential information relating to:

- assets and liabilities arising from borrowing and lending operations carried out under Article 5 of the Own Resources Decision;

⁽⁶⁾ As set out in the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies (OJ L 210, 6.8.2013, p. 1) and the preceding Internal Agreements.

- the aggregate amount of proceeds assigned to Union programmes in implementation of the European Union Recovery Instrument in the previous year, broken down by programme and budget line;
- the contribution of the borrowed funds to the achievements of the objectives of the European Union Recovery Instrument and the specific Union programmes.

B. INCORPORATION OF FINANCIAL PROVISIONS IN LEGISLATIVE ACTS

18. Each legislative act, concerning a multiannual programme, adopted in accordance with the ordinary legislative procedure shall contain a provision in which the legislator lays down the financial envelope for the programme.

That amount shall constitute the prime reference amount for the European Parliament and for the Council during the annual budgetary procedure.

For programmes referred to in Annex II to the MFF Regulation, the prime reference amount is automatically increased by the additional allocations referred to in Article 5(1) of the MFF Regulation.

The European Parliament and the Council, and the Commission when it draws up the draft budget, undertake not to depart by more than 15 % from that amount for the entire duration of the programme concerned, unless new, objective, long-term circumstances arise for which explicit and precise reasons are given, with account being taken of the results obtained from implementing the programme, in particular on the basis of assessments. Any increase resulting from such variation shall remain beneath the existing ceiling for the heading concerned, without prejudice to the use of instruments referred to in the MFF Regulation and in this Agreement.

The fourth paragraph does not apply to the additional allocations referred to in the third paragraph.

This point does not apply to appropriations for cohesion adopted in accordance with the ordinary legislative procedure and pre-allocated per Member State which contain a financial envelope for the entire duration of the programme or to the large-scale projects referred to in Article 18 of the MFF Regulation.

19. Legally binding Union acts concerning multiannual programmes that are not adopted in accordance with the ordinary legislative procedure shall not contain an "amount deemed necessary".

Should the Council wish to include a financial reference amount, that amount shall be taken as illustrating the will of the legislator and shall not affect the budgetary powers of the European Parliament and of the Council as set out in the TFEU. A provision to that effect shall be included in all legally binding Union acts which contain such a financial reference amount.

C. EXPENDITURE RELATING TO FISHERIES AGREEMENTS

20. Expenditure on fisheries agreements shall be subject to the following specific rules.

The Commission undertakes to keep the European Parliament regularly informed about the preparation and conduct of the negotiations on fisheries agreements, including the budgetary implications of those agreements.

In the course of the legislative procedure relating to fisheries agreements, the Institutions undertake to make every effort to ensure that all procedures are carried out as quickly as possible.

Amounts provided for in the budget for new fisheries agreements or for the renewal of fisheries agreements which enter into force after 1 January of the financial year concerned shall be put in reserve.

If appropriations relating to fisheries agreements, including the reserve, prove insufficient, the Commission shall provide the European Parliament and the Council with the necessary information on the causes of the situation and on measures which might be adopted under established procedures. Where necessary, the Commission shall propose appropriate measures.

Each quarter, the Commission shall present to the European Parliament and to the Council detailed information about the implementation of fisheries agreements in force and a financial forecast for the remainder of the year.

21. Without prejudice to the relevant procedure governing the negotiation of fisheries agreements, the European Parliament and the Council commit themselves, in the framework of budgetary cooperation, to arrive at a timely agreement on the adequate financing of fisheries agreements.

D. FINANCING OF THE COMMON FOREIGN AND SECURITY POLICY (CFSP)

22. The total amount of CFSP operating expenditure shall be entered entirely in one budget chapter, entitled CFSP. That amount shall cover the real predictable needs, assessed in the framework of the establishment of the draft budget, on the basis of forecasts drawn up annually by the High Representative of the Union for Foreign Affairs and Security Policy (the "High Representative"). A reasonable margin shall be allowed to cover unforeseen actions. No funds may be entered in a reserve.

23. As regards CFSP expenditure which is charged to the Union budget in accordance with Article 41 of the Treaty on European Union, the Institutions shall endeavour, in the Conciliation Committee as referred to in Article 314(5) TFEU, and on the basis of the draft budget established by the Commission, to secure agreement each year on the amount of the operating expenditure, and on the distribution of that amount between the articles of the CFSP budget chapter. In the absence of agreement, it is understood that the European Parliament and the Council shall enter in the budget the amount contained in the previous budget or the amount proposed in the draft budget, whichever is the lower.

The total amount of CFSP operating expenditure shall be distributed between the articles of the CFSP budget chapter as suggested in the third paragraph. Each article shall cover actions already adopted, actions which are foreseen but not yet adopted and amounts for future – that is unforeseen – actions to be adopted by the Council during the financial year concerned.

Within the CFSP budget chapter, the articles into which the CFSP actions are to be entered could read along the following lines:

- single major missions as referred to in point (g) of Article 52(1) of the Financial Regulation;
- other missions (for crisis management operations, conflict prevention, resolution and stabilisation, and monitoring and implementation of peace and security processes);
- non-proliferation and disarmament;
- emergency measures;
- preparatory and follow-up measures;
- European Union Special Representatives.

Since, under the Financial Regulation, the Commission has the authority to transfer appropriations autonomously between articles within the CFSP budget chapter, the flexibility deemed necessary for speedy implementation of CFSP actions shall accordingly be assured. In the event of the amount of the CFSP budget chapter during the financial year being insufficient to cover the necessary expenses, the European Parliament and the Council shall seek a solution as a matter of urgency, on a proposal from the Commission.

24. Each year, the High Representative shall consult the European Parliament on a forward-looking document, which shall be transmitted by 15 June of the year in question, setting out the main aspects and basic choices of the CFSP, including the financial implications for the Union budget, an evaluation of the measures launched in year n-1 and an assessment of the coordination and complementarity of CFSP with the Union's other external financial instruments. Furthermore, the High Representative shall keep the European Parliament regularly informed by holding joint consultation meetings at least five times a year, in the framework of the regular political dialogue on the CFSP, to be agreed at the latest on 30 November each year. Participation in those meetings shall be determined by the European Parliament and by the Council respectively, bearing in mind the objective, and the nature of the information exchanged in those meetings.

The Commission shall be invited to participate in those meetings.

If the Council adopts a decision in the field of the CFSP entailing expenditure, the High Representative shall immediately, and in any event no later than five working days thereafter, send the European Parliament an estimate of the costs envisaged (a "financial statement"), in particular those costs regarding time-frame, staff employed, use of premises and other infrastructure, transport facilities, training requirements and security arrangements.

Once a quarter, the Commission shall inform the European Parliament and the Council about the implementation of CFSP actions and the financial forecasts for the remainder of the financial year.

E. INVOLVEMENT OF THE INSTITUTIONS AS REGARDS DEVELOPMENT POLICY ISSUES

25. The Commission shall establish an informal dialogue with the European Parliament on development policy issues.

PART III

SOUND FINANCIAL MANAGEMENT OF UNION FUNDS

A. FINANCIAL PROGRAMMING

26. The Commission shall submit twice a year, the first time together with the documents accompanying the draft budget and the second time after the adoption of the general budget of the Union, a complete financial programming for headings 1, 2 (except for the sub-heading "Economic, social and territorial cohesion"), 3 (for "Environment and climate action" and "Maritime policy and fisheries"), 4, 5 and 6 of the MFF. That programming, structured by heading, policy area and budget line, should identify:

- (a) the legislation in force, with a distinction being drawn between multiannual programmes and annual actions:
 - (i) for multiannual programmes, the Commission should indicate the procedure under which they were adopted (ordinary or special legislative procedure), their duration, the total financial envelope and the share allocated to administrative expenditure;
 - (ii) for multiannual programmes referred to in Annex II to the MFF Regulation, the Commission should indicate transparently the additional allocations under Article 5 of the MFF Regulation;
 - (iii) for annual actions (relating to pilot projects, preparatory actions and agencies) and actions financed under the prerogatives of the Commission, the Commission should provide multiannual estimates;
- (b) pending legislative proposals: ongoing Commission proposals, with the latest update.

The Commission should consider ways of cross-referencing the financial programming with its legislative programming to provide more precise and reliable forecasts. For each legislative proposal, the Commission should indicate whether it is included in the programming communicated at the time of the presentation of the draft budget or after the final adoption of the budget. The Commission should inform the European Parliament and the Council in particular of:

- (a) all new legislative acts adopted and all pending proposals presented but not included in programming communicated at the time of the draft budget or after the final adoption of the budget (with the corresponding amounts);
- (b) legislation foreseen in the Commission's annual legislative work programme, with an indication of whether the actions are likely to have a financial impact.

Whenever necessary, the Commission should indicate the reprogramming entailed by new legislative proposals.

B. AGENCIES AND EUROPEAN SCHOOLS

27. Before presenting a proposal for the creation of a new agency, the Commission should produce a sound, complete and objective impact assessment, taking into account, *inter alia*, the critical mass of staff and competencies, cost-benefit aspects, subsidiarity and proportionality, the impact on national and Union activities, and the budgetary implications for the expenditure heading concerned. On the basis of that information and without prejudice to the legislative procedures governing the setting up of the agency, the European Parliament and the Council commit themselves, in the framework of budgetary cooperation, to arrive at a timely agreement on the financing of the proposed agency.

The following procedural steps shall be applied:

- firstly, the Commission shall systematically present any proposal for setting up a new agency to the first trilogue following the adoption of its proposal, and shall present the financial statement accompanying the legislative proposal for the creation of the agency and shall illustrate the consequences thereof for the remaining period of the financial programming;
- secondly, during the legislative process, the Commission shall assist the legislator in assessing the financial consequences of the amendments proposed. Those financial consequences should be considered during the relevant legislative trilogues;
- thirdly, before the conclusion of the legislative process, the Commission shall present an updated financial statement taking into account potential amendments by the legislator; that final financial statement shall be placed on the agenda of the final legislative trilogue and formally endorsed by the legislator. It shall also be placed on the agenda of a subsequent budgetary trilogue (in urgent cases, in simplified form), in view of reaching an agreement on the financing;
- fourthly, the agreement reached during a trilogue, taking into account the Commission's budgetary assessment with regard to the content of the legislative process, shall be confirmed in a joint declaration. That agreement shall be subject to approval by the European Parliament and by the Council, each in accordance with its own rules of procedure.

The same procedure would be applied to any amendment to a legal act concerning an agency which would have an impact on the resources of the agency in question.

Should the tasks of an agency be altered substantially without an amendment to the legal act setting up the agency in question, the Commission shall inform the European Parliament and the Council by means of a revised financial statement, so as to allow the European Parliament and the Council to arrive at a timely agreement on the financing of the agency.

28. Relevant provisions from the Common Approach annexed to the Joint Statement of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies signed on 19 July 2012 should be duly taken into account in the budgetary procedure.

29. When the creation of a new European school is envisaged by the Board of Governors, a similar procedure is to be applied, *mutatis mutandis*, for its budgetary implications on the Union budget.

PART IV

PROTECTION OF THE UNION BUDGET: QUALITY AND COMPARABILITY OF DATA ON BENEFICIARIES

30. In line with the requests of the European Parliament and in response to point 24 of the European Council conclusions of 17 to 21 July 2020, in order to enhance the protection of the Union budget and the European Union Recovery Instrument against fraud and irregularities, the Institutions agree on the introduction of standardised measures to collect, compare and aggregate information and figures on the final recipients and beneficiaries of Union funding, for the purposes of control and audit.

31. To ensure effective controls and audits, it is necessary to collect data on those ultimately benefitting, directly or indirectly, from Union funding under shared management and from projects and reforms supported under Regulation of the European Parliament and of the Council establishing a Recovery and Resilience Facility, including data on beneficial owners of the recipients of the funding. The rules related to the collection and processing of such data will have to comply with applicable data protection rules.

32. To enhance the protection of the Union budget, the Commission will make available an integrated and interoperable information and monitoring system, including a single data-mining and risk-scoring tool, to access and analyse the data referred to in point 31 with a view to a generalised application by Member States. That system would ensure efficient checks on conflicts of interests, irregularities, issues of double funding, and any misuse of the funds. The Commission, the European Anti-Fraud Office (OLAF) and other Union investigative and control bodies should have the necessary access to that data in order to exercise their supervisory functions in relation to the controls and audits that are to be carried out by the Member States in the first place to detect irregularities and conduct administrative investigations into the misuse of the Union funding concerned, and to get a precise overview of its distribution.

33. Without prejudice to the prerogatives of the Institutions under the Treaties, in the course of the legislative procedure relating to the relevant basic acts, the Institutions undertake to sincerely cooperate to ensure the follow-up to the European Council conclusions of 17 to 21 July 2020, in line with the approach described in this Part.

Done at Brussels, 16 December 2020.

For the European Parliament
The President

David Maria SASSOLI

For the Council
The President

Michael ROTH

For the Commission
On behalf of the President

Johannes HAHN

ANNEX I

INTERINSTITUTIONAL COOPERATION DURING THE BUDGETARY PROCEDURE

Part A. Calendar of the budgetary procedure

1. The Institutions shall agree a pragmatic calendar each year in due time before the start of the budgetary procedure on the basis of present practice.
2. In order to ensure that the European Parliament and the Council are able to exercise their budgetary prerogatives in an effective manner, budgetary positions, transfers or other notifications entailing the activation of deadlines shall be submitted taking due account of any recess periods, the dates of which those institutions have informed each other in due time through their respective services.

Part B. Priorities for the budgetary procedure

3. In due time before the Commission adopts the draft budget, a trilogue shall be convened to discuss the possible priorities for the budget of the coming financial year and any questions arising from the implementation of the budget of the current financial year, on the basis of the information provided by the Commission in accordance with point 37.

Part C. Establishment of the draft budget and updating of estimates

4. The institutions, other than the Commission, are invited to adopt their statement of estimates before the end of March.
5. The Commission shall, each year, present a draft budget showing the Union's actual financing requirements.
It shall take into account:
 - (a) forecasts provided by the Member States in relation to the Structural Funds;
 - (b) the capacity for utilising appropriations, while endeavouring to maintain a strict relationship between appropriations for commitments and appropriations for payments;
 - (c) possibilities for starting up new policies through pilot projects, new preparatory actions or both, or for continuing multiannual actions which are coming to an end, after assessing whether it is possible to secure a basic act, within the meaning of the Financial Regulation (definition of a basic act, necessity of a basic act for implementation and exceptions);
 - (d) the need to ensure that any change in expenditure in relation to the previous year is in accordance with the constraints of budgetary discipline.
6. The Institutions shall, as far as possible, avoid entering items in the budget involving insignificant amounts of expenditure on operations.
7. The European Parliament and the Council also undertake to bear in mind the assessment of the possibilities for implementing the budget made by the Commission in its drafts and in connection with the implementation of the budget for the current financial year.
8. In the interests of sound financial management and owing to the effect of major changes in the titles and chapters of the budget nomenclature on the management reporting responsibilities of Commission departments, the European Parliament and the Council undertake to discuss any major changes with the Commission during the conciliation.

9. In the interest of loyal and sound institutional cooperation, the European Parliament and the Council commit to maintaining regular and active contacts at all levels, through their respective negotiators, throughout the whole budgetary procedure and, in particular, during the whole conciliation period with a view to reaching an agreement. The European Parliament and the Council undertake to ensure the timely and constant mutual exchange of relevant information and documents at both formal and informal levels, as well as to hold technical or informal meetings as needed, during the conciliation period, in cooperation with the Commission. The Commission shall ensure timely and equal access to information and documents for the European Parliament and for the Council.
10. Until such time as the Conciliation Committee is convened, the Commission may, if necessary, submit letters of amendment to the draft budget in accordance with Article 314(2) TFEU, including a letter of amendment updating, in particular expenditure estimates for agriculture. The Commission shall submit information on updates to the European Parliament and to the Council for their consideration as soon as it is available. It shall supply the European Parliament and the Council with all the duly justified reasons they may require.

Part D. Budgetary procedure before the conciliation procedure

11. A trilogue shall be convened in due time before the Council's reading, to allow the Institutions to exchange their views on the draft budget.
12. In order for the Commission to be able to assess in due time the executability of amendments, envisaged by the European Parliament and by the Council, which create new preparatory actions or pilot projects or which prolong existing ones, the European Parliament and the Council shall inform the Commission of their intentions in that regard, so that a first discussion may already take place at that trilogue.
13. A trilogue may be convened before the votes in plenary of the European Parliament.

Part E. Conciliation procedure

14. If the European Parliament adopts amendments to the Council's position, the President of the Council shall, during the same plenary sitting, take note of the differences in the position of the two institutions and give his/her agreement for the President of the European Parliament to convene the Conciliation Committee immediately. The letter convening the Conciliation Committee shall be sent at the latest on the first working day of the week following the end of the parliamentary part-session during which the plenary vote was delivered, and the conciliation period shall start on the following day. The 21-day period shall be calculated in accordance with Regulation (EEC, Euratom) No 1182/71 of the Council ⁽¹⁾.
15. If the Council cannot agree on all the amendments adopted by the European Parliament, it should confirm its position by letter sent before the first meeting foreseen during the conciliation period. In such case, the Conciliation Committee shall proceed in accordance with the conditions laid down in the following points.
16. The Conciliation Committee shall be chaired jointly by representatives of the European Parliament and of the Council. Meetings of the Conciliation Committee shall be chaired by the co-chair from the institution hosting the meeting. Each institution, in accordance with its own rules of procedure, shall designate its participants for each meeting and set out its mandate for the negotiations. The European Parliament and the Council shall be represented at an appropriate level in the Conciliation Committee, such that each delegation can commit politically its respective institution, and that actual progress towards the final agreement may be made.

⁽¹⁾ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

17. In accordance with the second subparagraph of Article 314(5) TFEU, the Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and of the Council.
18. Trilogues shall take place throughout the conciliation procedure, at different levels of representation, with the aim of resolving outstanding issues and preparing the ground for an agreement to be reached in the Conciliation Committee.
19. Meetings of the Conciliation Committee and trilogues shall be held alternately at the premises of the European Parliament and of the Council, with a view to an equal sharing of facilities, including interpretation facilities.
20. The dates of the meetings of the Conciliation Committee and the trilogues shall be set in advance by agreement of the Institutions.
21. A common set of documents ("input documents") comparing the various steps of the budgetary procedure shall be made available to the Conciliation Committee ^(?). Those documents shall include "line by line" figures, totals by MFF headings and a consolidated document with figures and remarks for all budget lines deemed technically "open". Without prejudice to the final decision of the Conciliation Committee, a specific document shall list all budget lines deemed technically closed ^(?). Those documents shall be classified by budgetary nomenclature.

Other documents shall also be attached to the input documents for the Conciliation Committee, including a letter of executability from the Commission on the Council's position and the European Parliament's amendments, and any letters from other institutions concerning the Council's position or the European Parliament's amendments.

22. With a view to reaching agreement by the end of the conciliation period, trilogues shall:
 - (a) define the scope of the negotiations on the budgetary issues to be addressed;
 - (b) endorse the list of the budget lines deemed technically closed, subject to the final agreement on the entire budget of the financial year;
 - (c) discuss issues identified under point (a) with a view to reaching possible agreements to be endorsed by the Conciliation Committee;
 - (d) address thematic issues, including by headings of the MFF.

Tentative conclusions shall be drawn jointly during or immediately after each trilogue, and, simultaneously, the agenda of the following meeting shall be agreed. Those conclusions shall be registered by the institution hosting the trilogue and shall be deemed provisionally approved after 24 hours, without prejudice to the final decision of the Conciliation Committee.

23. The conclusions of trilogues and a document for possible endorsement shall be available to the Conciliation Committee at its meetings, together with the budget lines in respect of which an agreement has been tentatively reached during the trilogues.
24. The joint text provided for in Article 314(5) TFEU shall be established by the secretariats of the European Parliament and of the Council with the assistance of the Commission. It shall consist of a letter of transmission addressed by the chairs of the two delegations to the Presidents of the European Parliament and of the Council, containing the date of the agreement at the Conciliation Committee, and annexes which shall include:
 - (a) line by line figures for all budget items and summary figures by MFF headings;

^(?) The various steps include: the budget of the current financial year (including adopted amending budgets); the initial draft budget; the Council's position on the draft budget; the European Parliament's amendments to the Council's position and the letters of amendment presented by the Commission (if not yet fully approved by the Institutions).

^(?) A budget line deemed technically closed is a line for which there is no disagreement between the European Parliament and the Council, and for which no letter of amendment has been presented.

- (b) a consolidated document, indicating the figures and final text of all lines that have been amended during the conciliation procedure;
- (c) the list of the lines not amended with regard to the draft budget or the Council's position on it.

The Conciliation Committee may also approve conclusions and possible joint statements in relation to the budget.

25. The joint text shall be translated into the official languages of the institutions of the Union (by the services of the European Parliament) and shall be submitted for approval of the European Parliament and of the Council within a period of 14 days from the date of the agreement on the joint text referred to point 24.

The budget shall be subject to legal-linguistic revision after the adoption of the joint text by integrating the annexes of the joint text with the budget lines not amended during the conciliation procedure.

26. The institution hosting the meeting (trilogue or conciliation) shall provide interpretation facilities with a full linguistic regime applicable to the Conciliation Committee meetings and an *ad hoc* linguistic regime for the trilogues.

The institution hosting the meeting shall provide for the copying and distribution of room documents.

The services of the Institutions shall cooperate in the encoding of the results of the negotiations in order to finalise the joint text.

Part F. Amending budgets

General principles

27. Bearing in mind that amending budgets are frequently focused on specific and sometimes urgent issues, the Institutions agree on the following principles to ensure appropriate interinstitutional cooperation for a smooth and swift decision-making process for amending budgets while avoiding, insofar as possible, having to convene a conciliation meeting for amending budgets.
28. As far as possible, the Institutions shall endeavour to limit the number of amending budgets.

Calendar

29. The Commission shall inform the European Parliament and the Council in advance of the possible dates of adoption of draft amending budgets, without prejudice to the final date of adoption.
30. The European Parliament and the Council, each in accordance with its internal rules of procedure, shall endeavour to examine the draft amending budget proposed by the Commission at an early opportunity after its adoption by the Commission.
31. In order to speed up the procedure, the European Parliament and the Council shall ensure that their respective calendars of work are coordinated as far as possible in order to enable proceedings to be conducted in a coherent and convergent way. They shall therefore seek as soon as possible to establish an indicative timetable for the various stages leading to the final adoption of the amending budget.

The European Parliament and the Council shall take into account the relative urgency of the amending budget and the need to approve it in due time to be effective during the financial year concerned.

Cooperation during the readings

32. The Institutions shall cooperate in good faith throughout the procedure, clearing the way, as far as possible, for the adoption of amending budgets at an early stage of the procedure.

Where appropriate, and when there is a potential divergence, the European Parliament or the Council, before each takes its final position on the amending budget, or the Commission at any time, may propose that a specific trilogue be convened to discuss the divergences and to try to reach a compromise.

33. All draft amending budgets proposed by the Commission and not yet finally approved shall be entered systematically on the agenda of trilogues planned for the annual budgetary procedure. The Commission shall present the draft amending budgets and the European Parliament and the Council shall, as far as possible, make known their respective positions ahead of the trilogue.
34. If a compromise is reached during a trilogue, the European Parliament and the Council undertake to consider the results of the trilogue when deliberating on the amending budget in accordance with the TFEU and their rules of procedure.

Cooperation after the readings

35. If the European Parliament approves the position of the Council without amendments, the amending budget shall be adopted in accordance with the TFEU.
36. If the European Parliament adopts amendments by a majority of its component members, point (c) of Article 314 (4) TFEU shall apply. However, before the Conciliation Committee meets, a trilogue shall be called:
- (a) if an agreement is reached during that trilogue and subject to the agreement of the European Parliament and of the Council on the results of the trilogue, the conciliation shall be closed by an exchange of letters without a meeting of the Conciliation Committee;
 - (b) if no agreement is reached during that trilogue, the Conciliation Committee shall meet and organise its work in accordance with the circumstances, with a view to completing the decision-making process as much as possible before the 21-day deadline laid down in Article 314(5) TFEU. The Conciliation Committee may conclude by an exchange of letters.

Part G. Budget implementation, payments and *reste à liquider* (RAL)

37. Given the need to ensure an orderly progression of the total appropriations for payments in relation to the appropriations for commitments so as to avoid any abnormal shift of RAL from one year to another, the Institutions agree to monitor closely the payment forecasts and the level of the RAL so as to mitigate the risk of hampering the implementation of Union programmes because of a lack of payment appropriations at the end of the MFF.

In order to ensure a manageable level and profile for the payments in all headings, de-commitment rules shall be applied strictly in all headings, in particular the rules for automatic de-commitments.

In the course of the budgetary procedure, the Institutions shall meet regularly with a view to jointly assessing the state of play and the outlook for budgetary implementation in the current and future financial years. That assessment shall take the form of dedicated interinstitutional meetings at the appropriate level, before which the Commission shall provide the detailed state of play, broken down by fund and Member State, on payment implementation, on transfers, on reimbursement claims received and revised forecasts, including long-term forecasts, where applicable. In particular, in order to ensure that the Union can fulfil all its financial obligations stemming from existing and future commitments in the period 2021-2027 in accordance with Article 323 TFEU, the European Parliament and the Council shall analyse and discuss the Commission's estimates as to the required level of payment appropriations.

Part H. Cooperation as regards the European Union Recovery Instrument ⁽⁴⁾

38. For the sole purpose of addressing the consequences of the COVID-19 crisis, the Commission will be empowered to borrow funds on capital markets on behalf of the Union up to EUR 750 000 million in 2018 prices, of which up to EUR 390 000 million in 2018 prices may be used for expenditure and up to EUR 360 000 million in 2018 prices may be used for providing loans in accordance with Article 5(1) of the Own Resources Decision. As provided for in the EURI Regulation, the amount to be used for expenditure constitutes external assigned revenue for the purposes of Article 21(5) of the Financial Regulation.
39. The Institutions agree that the role of the European Parliament and of the Council, where acting in their capacity of budgetary authority, needs to be enhanced in relation to the external assigned revenue under the European Union Recovery Instrument, with a view to ensuring a proper oversight of and involvement in the use of such revenue, within the limits set out in the EURI Regulation and, as appropriate, in the relevant sectoral legislation. The Institutions also agree on the need to ensure full transparency and visibility of all funds under the European Union Recovery Instrument.

External assigned revenue under the European Union Recovery Instrument

40. Given the need to ensure an appropriate involvement of the European Parliament and of the Council in the governance of external assigned revenue under the European Union Recovery Instrument, the Institutions agree on the procedure set out in points 41 to 46.
41. The Commission will provide detailed information with its draft estimates in the context of the budgetary procedure. Such information shall include detailed estimates of commitment appropriations and payment appropriations as well as of legal commitments, broken down by heading and by programme that receives assigned revenue under the EURI Regulation. The Commission will provide any additional relevant information requested by the European Parliament or by the Council. The Commission will attach to the draft budget a document compiling all relevant information concerning the European Union Recovery Instrument, including summary tables aggregating budget appropriations and assigned revenue under the European Union Recovery Instrument. That document will be part of the annex to the general budget of the Union on external assigned revenue provided for in point 44.
42. The Commission will present regular updates of the information referred to in point 41 throughout the financial year and at least ahead of each dedicated meeting as referred to in point 45. The Commission will make the relevant information available to the European Parliament and to the Council in time to allow meaningful discussions and deliberations on corresponding planning documents, including before the Commission adopts relevant decisions.
43. The Institutions will meet regularly in the context of the budgetary procedure with a view to jointly assessing the implementation of external assigned revenue under the European Union Recovery Instrument, in particular the state of play and outlook and to discuss the annual estimates provided with the respective draft budgets and their distribution, with due regard to the limitations and conditions set out in the EURI Regulation and, as appropriate, in relevant sectoral legislation.
44. The European Parliament and the Council will attach to the general budget of the Union in the form of an annex a document setting out all the budget lines that receive assigned revenue under the European Union Recovery Instrument. Moreover, they will use the budget structure for accommodating the assigned revenue under the European Union Recovery Instrument, and in particular the budgetary remarks, to exercise due control over the use of that revenue. In accordance with Article 22 of the Financial Regulation, the European Parliament and the

⁽⁴⁾ Where the Commission submits a proposal for an act of the Council under Article 122 TFEU with potential appreciable budgetary implications, the procedure as set out in the joint declaration of the European Parliament, the Council and the Commission of 16 December 2020 on budgetary scrutiny of new proposals based on Article 122 TFEU with potential appreciable implications for the Union budget (OJ C 444, 22.12.2020, p. 5) is applicable.

Council will include in the statement of expenditure remarks, including general remarks, showing which budget lines may receive the appropriations corresponding to the revenue assigned on the basis of the EURI Regulation and indicating relevant amounts. The Commission, in exercising its responsibility for implementing the assigned revenue, undertakes to take due account of such remarks.

45. The Institutions agree to organise dedicated interinstitutional meetings at the appropriate level with a view to assessing the state of play and outlook for external assigned revenue under the European Union Recovery Instrument. Those meetings will take place at least three times in a financial year soon before or after the budgetary trilogues. Furthermore, the Institutions shall meet on an *ad hoc* basis if one institution provides a reasoned request. The European Parliament and the Council may at any time present written observations concerning the implementation of external assigned revenue. The Commission undertakes to take due account of any remarks and suggestions made by the European Parliament and by the Council. Those meetings may address significant deviations in European Union Recovery Instrument expenditure, in line with point 46.
46. The Commission shall provide detailed information about any deviation from its initial forecasts prior to a dedicated interinstitutional meeting as referred to in point 45 and on an *ad hoc* basis in case of a significant deviation. A deviation from forecasted European Union Recovery Instrument expenditure is significant if the expenditure deviates from the forecast for a given financial year and for a given programme by more than 10 %. In case of significant deviations from initial forecasts, the Institutions will discuss the matter, if either the European Parliament or the Council requests to do so within two weeks after notice of such a significant deviation. The Institutions will jointly assess the matter with a view to finding common ground within three weeks of the request for a meeting. The Commission will take utmost account of any comments received. The Commission undertakes not to take any decision until the deliberations have been concluded or the period of three weeks has expired. In the latter case, the Commission shall duly justify its decision. In the event of urgency, the Institutions may agree to shorten the deadlines by one week.

Loans provided under the European Union Recovery Instrument

47. In order to ensure full information as well as transparency and visibility as regards the loan component of the European Union Recovery Instrument, the Commission will provide detailed information about loans provided to Member States under the European Union Recovery Instrument together with its draft estimates, while paying particular attention to sensitive information, which is protected.
 48. Information about loans under the European Union Recovery Instrument will be shown in the budget in accordance with the requirements in point (d) of Article 52(1) of the Financial Regulation and will also include the annex referred to in point (iii) of that point.
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ANNEX II

INTERINSTITUTIONAL COOPERATION ON A ROADMAP TOWARDS THE INTRODUCTION OF NEW OWN RESOURCES**Preamble**

- A. The Institutions are committed to sincere and transparent cooperation and the work towards the implementation of a roadmap for the introduction of new own resources over the duration of the MFF 2021-2027.
- B. The Institutions recognise the importance of the context of the European Union Recovery Instrument, in which the new own resources should be introduced.
- C. For the sole purpose of addressing the consequences of the COVID-19 crisis, the Commission will be empowered, under Article 5(1) of the Own Resources Decision, to borrow funds on capital markets on behalf of the Union up to EUR 750 000 million in 2018 prices, of which up to EUR 390 000 million in 2018 prices may be used for expenditure in accordance with point (b) of Article 5(1) of that Decision.
- D. The repayment of the principal of such funds to be used for expenditure under the European Union Recovery Instrument and the related interest due will have to be financed by the general budget of the Union, including by sufficient proceeds from new own resources introduced after 2021. All related liabilities will be fully repaid by 31 December 2058 at the latest as provided for in the second subparagraph of Article 5(2) of the Own Resources Decision. The annual amounts payable will depend on the maturities of the bonds issued and the debt repayment strategy, while respecting the limit for the repayment of the principal of the funds referred to in the third subparagraph of that paragraph set at 7,5 % of the maximum amount to be used for expenditure referred to in point (b) of Article 5(1) of that Decision.
- E. The expenditure from the Union budget related to the repayment of the European Union Recovery Instrument should not lead to an undue reduction in programme expenditure or investment instruments under the MFF. It is also desirable to mitigate the increases in the GNI-based own resource for the Member States.
- F. Therefore, and in order to enhance the credibility and sustainability of the European Union Recovery Instrument repayment plan, the Institutions will work towards introducing sufficient new own resources with a view to covering an amount corresponding to the expected expenditure related to the repayment. In accordance with the principle of universality, this would not imply an earmarking or assignment of any particular own resource to cover a specific type of expenditure.
- G. The Institutions acknowledge that the introduction of a basket of new own resources should support the adequate financing of Union expenditure in the MFF, while reducing the share of national GNI-based contributions in the financing of the Union's annual budget. The diversification of revenue sources in turn could facilitate the attainment of a better focus of expenditure at Union level on priority areas and on common public goods with high efficiency gains compared to national spending.
- H. Therefore, new own resources should be aligned with Union policy objectives and should support Union priorities such as the European Green Deal and a Europe fit for the Digital Age, and should contribute to fair taxation and the strengthening of the fight against tax fraud and tax evasion.
- I. The Institutions agree that new own resources should preferably be created in a way that allows generating "fresh money". In parallel, they aim at reducing red tape and the burden for companies, especially for small and medium-sized enterprises (SMEs), and for citizens.
- J. New own resources should fulfil the criteria of simplicity, transparency, predictability and fairness. The calculation, transfer and control of the new own resources should not lead to an excessive administrative burden for Union institutions and national administrations.
- K. Considering the heavy procedural requirements for the introduction of new own resources, the Institutions agree that the necessary reform of the own resources system should be achieved with a limited number of revisions of the Own Resources Decision.

- L. The Institutions therefore agree to cooperate during the period 2021-2027 on the basis of the principles set out in this Annex in order to work towards the introduction of new own resources in line with the roadmap set out in Part B and with the dates set out therein.
- M. The Institutions also recognise the importance of the tools for Better Law-Making set out in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁾, in particular of the impact assessment.

Part A. Principles for the implementation

1. The Commission will make the necessary legislative proposals for new own resources and for potential other new own resources as referred to in point 10 in accordance with Better Law-Making principles. It will in that context take due account of suggestions made by the European Parliament and by the Council. Those legislative proposals will be accompanied by the relevant own resources implementing legislation.
2. The Institutions agree on the following guiding principles for the introduction of a basket of new own resources:
 - (a) raising an amount through the new own resources that is sufficient to cover the level of overall expected expenditure for the repayment of the principal and the interest of the funds borrowed to be used for expenditure referred to in point (b) of Article 5(1) of the Own Resources Decision, while respecting the principle of universality. Revenue from own resources in excess of the needs for repayment shall continue to fund the Union budget as general revenue in accordance with the principle of universality;
 - (b) expenditure covering the financing costs of the European Union Recovery Instrument shall aim at not reducing expenditure for Union programmes and funds;
 - (c) aligning the own resources with the Union priorities, such as the fight against climate change, the circular economy, Europe fit for the Digital Age and contributing to fair taxation and to the strengthening of the fight against tax fraud and tax evasion;
 - (d) respecting the criteria of simplicity, transparency, and fairness;
 - (e) ensuring stability and predictability of the revenue flow;
 - (f) not leading to an excessive administrative burden for Union institutions and national administrations;
 - (g) preferably generating additional "fresh" revenues;
 - (h) in parallel, aiming at reducing red tape and the burden for companies, especially for SMEs, and for citizens.
3. The European Parliament and the Council will analyse, discuss and proceed without undue delay with the legislative proposals referred to in point 1 in accordance with their internal procedures with a view to facilitating a swift decision. After the Commission has presented its proposals, members of the European Parliament and representatives of the Council will in the course of their deliberations meet in the presence of the Commission representatives in order to inform each other about the respective state of play. In addition, the Institutions will enter into a regular dialogue to take stock of progress as regards the roadmap.

Part B. Roadmap towards the introduction of new own resources

First step: 2021

4. As a first step, a new own resource will be introduced to apply as of 1 January 2021 composed of a share of revenues from national contributions calculated on the weight of non-recycled plastic packaging waste as provided for in the Own Resources Decision. That decision is scheduled to enter into force in January 2021, subject to approval by Member States in accordance with their respective constitutional requirements.

⁽¹⁾ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

5. The Commission will accelerate its work and, following impact assessments launched in 2020, put forward proposals on a carbon border adjustment mechanism and on a digital levy as well as an accompanying proposal to introduce new own resources on that basis by June 2021 with a view to their introduction at the latest by 1 January 2023.
6. The Commission will review the EU Emissions Trading System in spring 2021, including its possible extension to aviation and maritime. It will propose an own resource based on the EU Emissions Trading System by June 2021.
7. The Institutions agree that the carbon border adjustment mechanism and the EU Emissions Trading System are thematically interlinked and that it would therefore be warranted to discuss them in the same spirit.

Second step: 2022 and 2023

8. Following the applicable procedures under the Treaties and subject to approval by Member States in accordance with their respective constitutional requirements, these new own resources are envisaged to be introduced by 1 January 2023.
9. The Council will deliberate on these new own resources by 1 July 2022 at the latest in view of their introduction by 1 January 2023.

Third step: 2024-2026

10. The Commission will, based on impact assessments, propose additional new own resources, which could include a Financial Transaction Tax and a financial contribution linked to the corporate sector or a new common corporate tax base. The Commission shall endeavour to make a proposal by June 2024.
 11. Following the applicable procedures under the Treaties and subject to approval by Member States in accordance with their respective constitutional requirements, such additional new own resources are envisaged to be introduced by 1 January 2026.
 12. The Council will deliberate on these new own resources by 1 July 2025 at the latest in view of their introduction by 1 January 2026.
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