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2013/0313 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU, EURATOM) No 966/2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

In the framework of the negotiations on the Financial Regulation, the European Parliament, the Council and the Commission agreed to revise the Financial Regulation in order to take into account the outcome of the negotiations on the multiannual financial framework for the years 2014-2020.

Therefore, the adoption of the new Financial Regulation was accompanied by the following joint statement of the European Parliament, Council and the Commission:

" The European Parliament, the Council and the Commission agree that the Financial Regulation would be revised in order to include amendments made necessary by the outcome of the negotiations on the multiannual financial framework for the years 2014-2020, including on the following issues:

- the carry-over rules for the Emergency Aid Reserve and for projects financed under the Connecting Europe Facility;*
- the carry-over of unused appropriations and of the budgetary balance, as well as the related proposal to enter these in a reserve for payments and commitments;*
- the possible inclusion of the European Development Fund in the Union budget;*
- the treatment of funds resulting from the agreements on the fight against the illegal traffic in tobacco products."*

On 27 June 2013, a political agreement was reached between Parliament, the Council Presidency and the Commission on the Multiannual Financial Framework 2014-2020 (MFF) package and on the draft Regulation of the European Parliament and the Council establishing the Connecting Europe Facility (CEF).

The proposal modifies Article 13 of the Financial Regulation in order to include the carry-over rules for the Emergency Aid Reserve and for projects financed under the Connecting Europe Facility.

New flexibilities for unused commitment and payment appropriations have been introduced in the draft Council Regulation laying down the multiannual financial framework for the years 2014-2020 (MFF Regulation). They will be implemented by means of the technical adjustments of the MFF as provided for in the draft MFF Regulation and mobilised in the framework of the budgetary procedure pursuant to Article 314 of the Treaty on the Functioning of the European Union. Therefore, no further modifications of the FR are required for those flexibilities.

Concerning the European Development Fund (EDF) and as noted by the European Council of 8 February 2013, the Commission intends to propose the budgetisation of the EDF as of 2021.

No further agreement was reached in the context of the multiannual financial framework for the years 2014-2020 concerning the treatment of funds resulting from the agreements on the fight against the illegal traffic in tobacco products. Therefore, the Commission will continue implementing the agreements and propose, as it has done in its proposal for the Hercule III programme, appropriate financial means necessary to fight cigarette smuggling and counterfeiting by the EU, in addition to efforts undertaken by the Member States.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

As the present proposal merely implements the outcome of the negotiations on the multiannual financial framework for the years 2014-2020 and has a very limited scope, no public consultation was carried out.

3. LEGAL ELEMENTS OF THE PROPOSAL

Article 9(2) of the draft MFF Regulation foresees that the annual amount of the Emergency Aid Reserve (EAR) is fixed at EUR 280 million (2011 prices) and may be used up to year n+1 in accordance with the Financial Regulation. The Reserve shall be entered in the general budget of the Union as a provision. The portion of the annual amount stemming from the previous year shall be drawn on first. That portion of the annual amount from year n which is not used in year n+1 shall lapse.

This requires two modifications in Article 13 of the Financial Regulation (FR): the addition of the EAR in Article 13(2) FR and as an exception in Article 13(6) FR as the corresponding appropriations are entered in the budget in Title 40 (reserves) as a provision.

As regards the carry-over rule for projects financed under the Connecting Europe Facility (CEF), the Commission proposed already to modify the Financial Regulation in the explanatory memorandum to the proposal for a Council Regulation laying down the multiannual financial framework for the years 2014-2020 the carry-over of commitment appropriations to the year n+1¹. Due to their nature those infrastructure projects will in many cases require complex contracting procedures. Under those circumstances, even limited delays may result in a loss of annual commitment appropriations and undermine the viability of those projects and thus of the Union's political determination to modernise its transport, energy and telecommunications networks and infrastructure.

The agreed compromise text for the CEF provides in its Article 19 that:

"Appropriations which have not been used at the end of the financial year for which they were entered shall be carried-over in accordance with Regulation (EU) No XXXX/2012 [New Financial Regulation]."

The current wording of the FR would not allow the carry-over of commitment appropriations to n+1, consequently a modification of the FR is necessary as it constitutes a derogation from the principle of annuality. Accordingly, Article 13(2) of the Financial Regulation needs also to be amended to allow for automatic carry-over to the following financial year of commitment appropriations not used at the end of a financial year for projects financed under the CEF.

¹ COM(2011) 398 final, point 1.2.2

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322 thereof, in conjunction with 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 Auditors²,

Acting in accordance with the ordinary legislative procedure³,

Whereas:

- (1) Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council⁴ was adopted on 25 October 2012 and was accompanied by a joint statement of the European Parliament, the Council and the Commission agreeing to revise the Financial Regulation in order to take into account the outcome of the negotiations on the multiannual financial framework for the years 2014-2020.
- (2) Following the political agreement on the multiannual financial framework for the years 2014-2020 and on the establishment of the Connecting Europe Facility, and in line with the joint statement, it is necessary to amend Regulation (EU, EURATOM) No 966/2012 to include the carry-over rules for the Emergency Aid Reserve and for projects financed under the Connecting Europe Facility.
- (3) As regards the Emergency Aid Reserve, the corresponding appropriations are entered in the reserve Title of the budget. Therefore, Regulation (EU, EURATOM) No 966/2012 needs to be amended in order to provide for the carry-over to year n+1 of the appropriations placed in reserve and not used in year n.
- (4) Due to their nature projects financed under the Connecting Europe Facility will in many cases require complex contracting procedures. Under those circumstances, even limited delays may result in a loss of annual commitment appropriations and undermine the viability of those projects and thus of the Union's political determination to modernise its transport, energy and telecommunications networks and infrastructure. To prevent this, Regulation (EU, EURATOM) No 966/2012 should

² OJ C

³ Position of the European Parliament of XXXX and decision of the Council of XXX.

⁴ Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

allow for automatic carry-over to the following financial year of commitment appropriations not used at the end of a financial year for projects financed under the Connecting Europe Facility,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU, EURATOM) No 966/2012

Article 13 of Regulation (EU, EURATOM) No 966/2012 is amended as follows:

- (1) In paragraph 2, the following points (c) and (d) are added:

"(c) amounts corresponding to commitment appropriations for the Emergency Aid Reserve.

"(d) amounts corresponding to commitment appropriations for projects financed under the Connecting Europe Facility".
- (2) In paragraph 2, the following second subparagraph is added:

"The amounts referred to in points (c) and (d) of the first subparagraph may be carried over to the next financial year only."
- (3) Paragraph 6 is replaced by the following:

"6. Without prejudice to point (c) of Article 13(2) and Article 14, appropriations placed in reserve and appropriations for staff expenditure shall not be carried over. For the purpose of this Article, staff expenditure comprises the remuneration and allowances for members and staff of the institutions to which the Staff Regulations apply".

Article 2
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*.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President