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2020/0115 (NLE)

Proposal for a

# COUNCIL DECISION

## on the financial contributions to be paid by Member States to finance the European Development Fund, including the second instalment for 2020

# EXPLANATORY MEMORANDUM

## 1. CONTEXT OF THE PROPOSAL

### • Reasons for and objectives of the proposal

The proposal concerns a draft Council Decision on the second instalment of the financial contributions to the 11th European Development Fund (EDF) to be paid by Member States in 2020.

The 11th EDF and other EDF funds that are still open (i.e. Eighth, Ninth and 10th EDF) are managed under the following set of rules:

The current Partnership Agreement between the members of the African, Caribbean and Pacific (ACP) Group of States on one side, and the European Community and its Member States on the other side (the 'ACP-EU Partnership Agreement') as last amended[1],

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[2] (the 11th EDF 'Internal Agreement'),

Council Regulation (EU) 2018/1877 on the Financial Regulation applicable to the 11th European Development Fund[3] (the '11th EDF Financial Regulation').

The documents mentioned above contain multi-annual commitments by Member States to support the EDF treasury financially. The 11th EDF Financial Regulation provides for regular contributions to be made by Member States to the EDF treasury against pre-determined financial commitments. Regular contributions are triggered by technical Council Decisions that reflect the implementation of financial commitments previously decided.

Some of the headings in the explanatory memorandum are therefore not applicable to regular contribution calls such as this one.

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

### • Legal basis

In accordance with Article 19(7) of the 11th EDF Financial Regulation, the amount managed by the European Commission and the amount managed by the European Investment Bank (EIB) are specified separately.

In accordance with Article 46 of the 11th EDF Financial Regulation, the EIB has sent the European Commission its updated estimates of commitments and payments under the instruments it manages.

In accordance with Article 20(1) of the 11th Financial Regulation calls for contributions shall first use up the amounts available from previous EDFs, one after the other. The calls for

[1] OJ L 317, 15.12.2000, p. 3
[2] OJ L 210, 6.8.2013, p. 1
[3] OJ L 307, 3.12.2018, p. 1-21

contributions in this proposal therefore concern amounts under the 10th EDF for the EIB and amounts under the 11th EDF for the European Commission.

In accordance with Article 19(3) of the 11th EDF Financial Regulation, the Council must decide on this proposal at the latest 21 calendar days following the presentation, by the European Commission acting on behalf of the European Union, of this proposal.

Article 21(1) of the 11th EDF Financial Regulation provides that a Member State, which fails to pay the instalment of the contribution due by the deadline, will be required to pay interest on the amount unpaid; the arrangements for the payment of interest are specified in the same Article.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

Having regard to 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[4] (hereinafter referred to as "the Internal Agreement") and in particular Article 7 thereof,

Having regard to the Council Regulation (EU) 2018/1877 of 26 November 2018 on the Financial Regulation applicable to the 11th European Development Fund (EDF) (hereinafter referred to as "the 11th EDF Financial Regulation")[5], and in particular Article 19(3) and 19(4) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) In accordance with the procedure laid down in Articles 19 to 22 of the 11th EDF Financial Regulation, the European Commission is to present a proposal by 15 June 2020 specifying (a) the amount of the second instalment of the contribution for 2020, (b) a revised annual amount of the contribution for 2020, in cases where the amount deviates from actual needs,

(2) In accordance with Article 46 of the 11th EDF Financial Regulation, the European Investment Bank (EIB) sent on 8 April 2020 to the European Commission its updated estimates of commitments and payments under the instruments it manages,

(3) Article 20(1) of the 11th EDF Financial Regulation provides that calls for contributions first use up the amounts provided for in previous EDFs. Therefore a call for funds under the 10th EDF for the EIB and 11th EDF for the Commission should be made.

(4) Article 55 of the 11th EDF Financial Regulation provides that the amounts from projects under the 10th EDF or from other previous EDFs not committed according to Article 1(3) of the Internal Agreement, or decommitted according to Article 1(4) of the Internal Agreement, unless decided otherwise by the Council unanimously, shall reduce that part of Member States' contributions stated in point (a) of Article 1(2) of the Internal Agreement.

[4] OJ L 210, 6.8.2013, p. 1

[5] OJ L 307, 3.12.2018, p. 7-9

(5) By means of Decision (EU) 2019/1800[6], the Council has adopted on the 24 October 2019, on a proposal by the European Commission, the Decision to set the annual amount of the Member States' EDF contributions for 2020 at EUR 4 400 000 000 for the European Commission, and at EUR 300 000 000 for the European Investment Bank.

HAS ADOPTED THIS DECISION:

*Article 1*

The individual European Development Fund contributions to be paid by the Member States to the European Commission and the European Investment Bank as the second instalment for 2020 are set out in the table in the Annex to this Decision.

*Article 2*

This Decision shall enter into force on the date of its publication in the Official Journal of the European Union.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council*
*The President*

[6] Council Decision (EU) 2019/1800 of 24 October 2020 on the financial contributions to be paid by Member States to finance the European Development Fund, including the first instalment for 2020 and the annual amount for 2020 (OJ L 274, 24.10.2019, p. 9).