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Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Decision (EU) 2020/265 as regards adjustments to the amounts mobilised from the Flexibility Instrument for 2020 to be used for migration, refugee inflows and security threats, for immediate measures in the framework of the COVID-19 outbreak and for reinforcement of the European Public Prosecutor's Office

EXPLANATORY MEMORANDUM

The European Parliament and the Council decided on 27 November 2019 to mobilise the Flexibility Instrument for an amount of EUR 778,1 million for heading 3 *Security and Citizenship* as proposed by the Commission (Decision (EU) 2020/265[1]).

The Commission submitted on 27 March 2020 draft amending budget (DAB) No 1/2020[2]. This included, *inter alia*, an overall increase of EUR 423,3 million of the commitment appropriations under heading 3 to meet the needs resulting from the increased migration pressure in Greece, to finance immediate measures required in the framework of the COVID-19 outbreak (the first-ever stockpile of medical equipment under rescEU) and to increase the budget for the European Public Prosecutor's Office. The Commission proposed in DAB No 1/2020 to use the Global margin for commitments (GMC) for an amount of EUR 350,0 million available from 2018 to cover the part of this increase related to migration. The Commission also proposed to finance the remaining part of the increase (EUR 73,3 million) by adjusting accordingly the amount mobilised from the Flexibility Instrument and to extend the purpose of Decision (EU) 2020/265[3].

The Commission today submits draft amending budget No 2/2020[4], which includes an additional increase of commitment appropriations under heading 3 for an amount of EUR 3 000,0 million to cover the re-activation of the Emergency Support Instrument within the Union (ESI) to help Member States tackle the consequences of the COVID-19 outbreak and to further reinforce the Union Civil Protection Mechanism/rescEU so as to facilitate wider stock-piling and coordination of essential resource distribution across Europe. Given the absence of room for redeployments under heading 3 and in line with the proposal, also submitted today, to amend the MFF Regulation removing the limitations in the scope of this instrument[5], the Commission proposes in DAB No 2/2020 the use of the GMC for the full amount available under this special instrument of EUR 2 042,4 million[6] to cover this increase.

In addition, this proposed mobilisation decision of the Flexibilty Instrument amends Decision (EU) 2020/265 of 27 November 2019 and replaces the amendment tabled together with DAB No 1/2020. This new proposal therefore covers the combined increases of commitment appropriations for heading 3 included in both DAB Nos 1 and 2/2020, increases the total amount to be mobilised to EUR 1 094,4 million[7] and exhausts the amount available under this instrument for 2020.

As the use of the GMC in DAB No 2/2020 and this proposed mobilisation decision of the Flexibility Instrument are insufficient to cover the financing needs of the ESI, the Commission also makes a separate proposal[8], together with DAB No 2/2020, to mobilise the Contingency Margin for 2020 for an amount of EUR 714,6 million.

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1 OJ L 58, 27.2.2020, p. 51.
2 COM(2020) 145, 27.3.2020.
3 COM(2020) 140, 27.3.2020.
4 COM(2020) 170, 2.4.2020.
5 COM(2020) 174, 2.4.2020.
6 This amount takes into the remaining margin from 2019 (EUR 1 316,9 million) made available for 2020 in the "Technical adjustment in respect of special instrument" adopted today by the Commission (COM(2020) 173, 2.4.2020)
7 This amount takes into account EUR 175 million lapsed from the European Globalisation Adjustment in 2019 and added to the Flexibility Instrument in the "Technical adjustment in respect of special instrument" adopted today by the Commission (COM(2020) 173, 2.4.2020).
8 COM(2020) 172, 2.4.2020.

The indicative payment appropriations corresponding to the updated mobilisation of the Flexibility Instrument are presented in the table below:

(in million EUR, at current prices)

Year	Payment appropriations related to the mobilisation of the flexibility instrument in 2020
2020	574,6
2021	413,7
2022	66,2
2023	39,9
Total	**1 094,4**

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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,

Having regard to the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management[1], and in particular point 12 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Flexibility Instrument is intended to allow the financing of clearly identified expenditure which could not be financed within the limits of the ceilings available for one or more other headings of the general budget of the Union.

(2) The ceiling on the annual amount available for the Flexibility Instrument is EUR 600 000 000 (2011 prices), as laid down in Article 11 of Council Regulation (EU, Euratom) No 1311/2013[2], increased, where applicable, by lapsed amounts made available in accordance with the second subparagraph of paragraph 1 of that Article.

(3) On 27 November 2019 the European Parliament and the Council adopted Decision (EU) 2020/265[3] mobilising the Flexibility Instrument to provide the amount of EUR 778 074 489 in commitment appropriations in heading 3 (*Security and Citizenship*) for the financial year 2020 to finance measures in the field of migration, refugees and security.

(4) Draft amending budget No 1/2020[4] includes an increase of commitment appropriations for heading 3 by EUR 423 300 000 to meet the needs resulting from the increased migration pressure in Greece, to finance immediate measures in the context of the COVID-19 outbreak and to cover an increase of the budget for the European Public Prosecutor's Office. Of this overall increase, EUR 350 000 000 is covered by the use of the Global margin for commitments laid down in Article 14 of Council Regulation (EU, Euratom) No 1311/2013, and EUR 73 300 000 through an additional mobilisation of the Flexibility Instrument for 2020. It is also necessary to adjust the indicative payment profile.

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1 OJ C 373, 20.12.2013, p. 1.

2 Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

3 Decision (EU) 2020/265 of the European Parliament and of the Council of 27 November 2019 on the mobilisation of the Flexibility Instrument to finance immediate budgetary measures to address the ongoing challenges of migration, refugee inflows and security threats (OJ L 058 27.02.2020, p. 51)

4 COM(2020) 145, 27.3.2020.

(5) Draft amending budget 2/2020[5] includes a further increase of commitment appropriations for heading 3 by EUR 3 000 000 000 to cover the re-activation of the Emergency Support Instrument (ESI) within the Union to further help Member States tackle the consequences of the COVID-19 outbreak and to further reinforce the Union Civil Protection Mechanism/rescEU so as to facilitate wider stock-piling and coordination of essential resource distribution across Europe. Of this increase, EUR 2 042 402 163 are covered by the use of the Global Margin for Commitments laid down in Article 14 of Council Regulation (EU, Euratom) No 1311/2013 and EUR 243 039 699 through an additional mobilisation of the Flexibility Instrument for 2020. It is also necessary to adjust the indicative payment profile.

(6) Decision (EU) 2020/265 should therefore be amended accordingly.

(7) This Decision should enter into force on the same day as the amendment of the 2020 budget given that the Flexibility Instrument allows the financing of some actions over and above the ceiling set for the 2020 budget in the multiannual financial framework.

HAVE ADOPTED THIS DECISION:

Article 1

The first subparagraph of paragraph 1 of Article 1 of Decision (EU) 2020/265 is amended as follows: "EUR 778 074 489" is replaced by "EUR 1 094 414 188".

The second subparagraph of paragraph 1 is replaced by: "The amounts referred to in the first subparagraph shall be used to finance measures to address the ongoing challenges of migration, refugee inflows and security threats as well as the current health crisis in the European Union resulting from the COVID-19 outbreak, and the increased needs of the European Public Prosecutor's Office."

In the first subparagraph of paragraph 2, points (a) to (d) are replaced by the following:

"(a) EUR 574 652 355 in 2020;

(b) EUR 413 658 806 in 2021;

(c) EUR 66 154 477 in 2022;

(d) EUR 39 948 550 in 2023."

Article 2

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

[5] COM(2020) 170, 2.4.2020.