



*European Parliament  
Committee on Budgets  
The Secretariat*

## **Interparliamentary committee meeting organised by the Committee on Budgets**

**Tuesday, 3 February 2015 - 11.15-13.15**

### **Background document on the payments shortfall in the EU Budget**

**This document is complemented by four annexes (available in English only):**

**ANNEX 1: Extracts of recent EP position on the payments issue**

**ANNEX 2: Some detailed elements on the state of play regarding payments**

**ANNEX 3: Focus on cohesion policy, approach by Member States**

**ANNEX 4: Background and technical information on RALs**



## Interparliamentary committee meeting organised by the Committee on Budgets on the payments issue

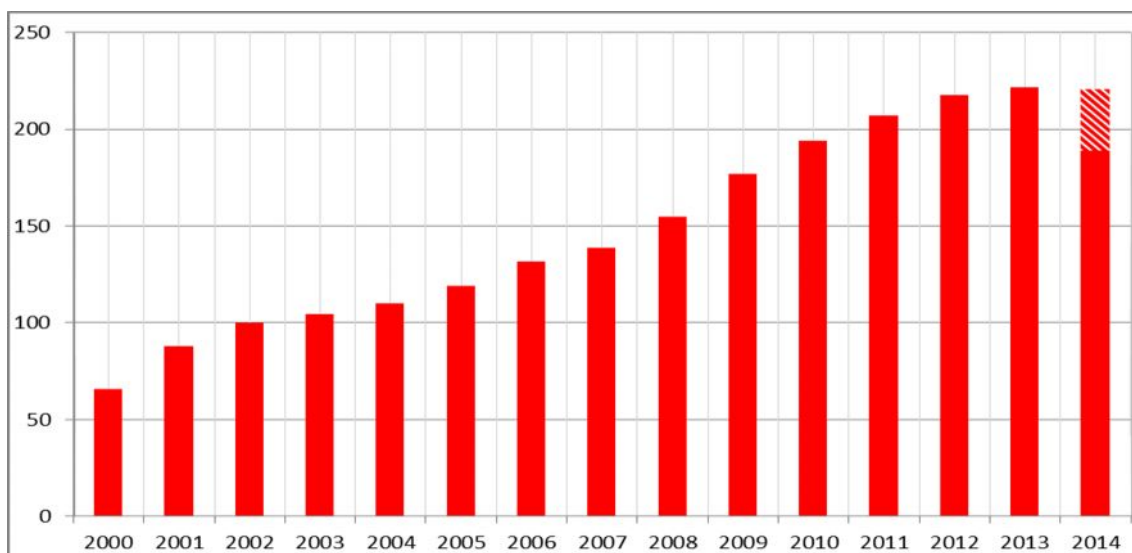
### Background document on the payments shortfall in the EU Budget

The implementation of the new multiannual financial framework (MFF) for the years 2014-2020, which sets expenditure ceilings for the EU Budget over a seven-year period, started with an unprecedented backlog in payments, with unpaid bills amounting to some EUR 23.4 billion at the end of 2013 for cohesion policy alone. At the same date, the level of outstanding commitments (or 'reste à liquider' - RAL, which is the level of commitments agreed not covered by corresponding payments; see **annex 4** below for background and technical information) stood at EUR 221.7 billion, i.e. EUR 41 billion more than originally foreseen when the previous MFF 2007-2013 was agreed<sup>1</sup>.

Against a backdrop of fiscal consolidation in national budgets, the 2011 to 2015 EU Budgets were adopted with a level of payment appropriations far below the draft budget estimates (Commission's initial budgetary proposal) as a result of the Council of Ministers' insistence on limiting the level of 'national' contributions to the EU Budget. This came despite previous commitments entered in the annual budget by the budgetary authority (the European Parliament (EP) on the one hand and the ministers for finance within the Council on the other), corresponding legal obligations and / or new political initiatives / activities, for which implementation on the ground required prompt disbursements.

This resulted in a budget payment crisis, which is still ongoing, with a level of unpaid bills at year-end continuously increasing from EUR 5 billion at the end of 2010 to EUR 25 billion at the end of 2014, and, overall, a level of outstanding commitments (RAL) following the same trend (budgetary commitments made that did not result in corresponding payments).

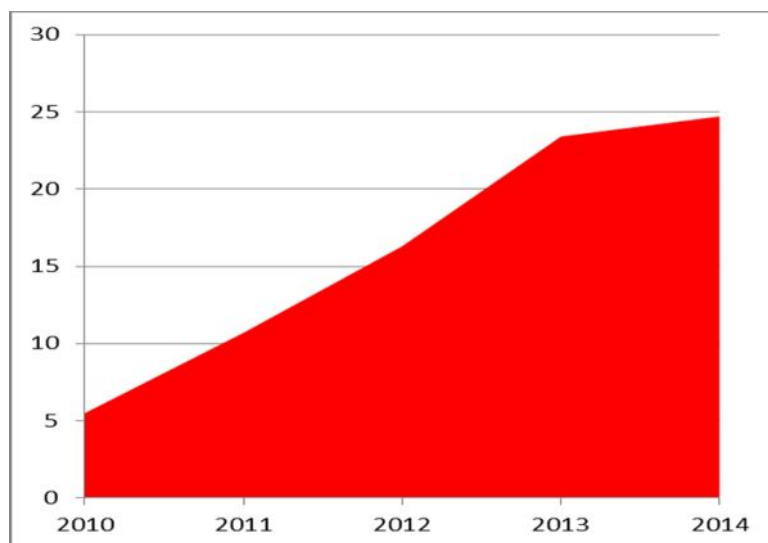
*Evolution of RAL (in EUR billion)<sup>2</sup>*



<sup>1</sup> All figures and calculations are taken from Commission or Parliament reports and documents.

<sup>2</sup> It should be noted that, for 2014 data, the drop in the level of the RAL, from EUR 221 billion at the end of 2013 to EUR 189 billion at the end of 2014, is due to the delay in the validation of operational programmes under a number of structural and investment funds. This resulted in a carry-over / reprogramming of EUR 32 billion overall, which has been evidenced in the above table.

**Evolution of unpaid bills for 2007-2013 Cohesion programmes since 2010 (in EUR billion)**



While this is creating a growing disconnection at macro level between agreed political priorities / objectives and the resources aimed at their achievement (the most blatant example being the Youth Employment Initiative), limiting the impact of the budget on the ground, it also of course concretely affects the beneficiaries of the EU Budget, in particular the most 'vulnerable' (see also **annex 2**). It also results in significant but avoidable amounts of late-payment interest being charged to the EU Budget.

Mitigating measures have been taken on the Commission's side, which is responsible for the implementation of the budget, to adjust, when feasible, the pace of implementation to this situation. These measures, which include selecting the payments to be made first, are, as acknowledged by the Commission, only second-best solutions. Priority can be given to mutually exclusive objectives, for example:

- avoiding late-payment interest,
- consideration of the economic exposure of the recipients,
- impact on the delivery of EU policies.

**A technical problem which became a political issue**

The dissociation between commitment and payment appropriations, which also applies in a number of national budgets, stems from the existence of multiannual programmes and the time gap between the budgetary commitments and the moment when the disbursements (payments) take place, in accordance with the rules and criteria laid down in the Financial Regulation and any relevant sectorial regulations. The multiannual character of EU policies, and in particular of cohesion policy, implies a rising profile of payments towards the end of the period, whereas commitments are entered on a more linear basis (see **annex 3** for more detailed data on cohesion).

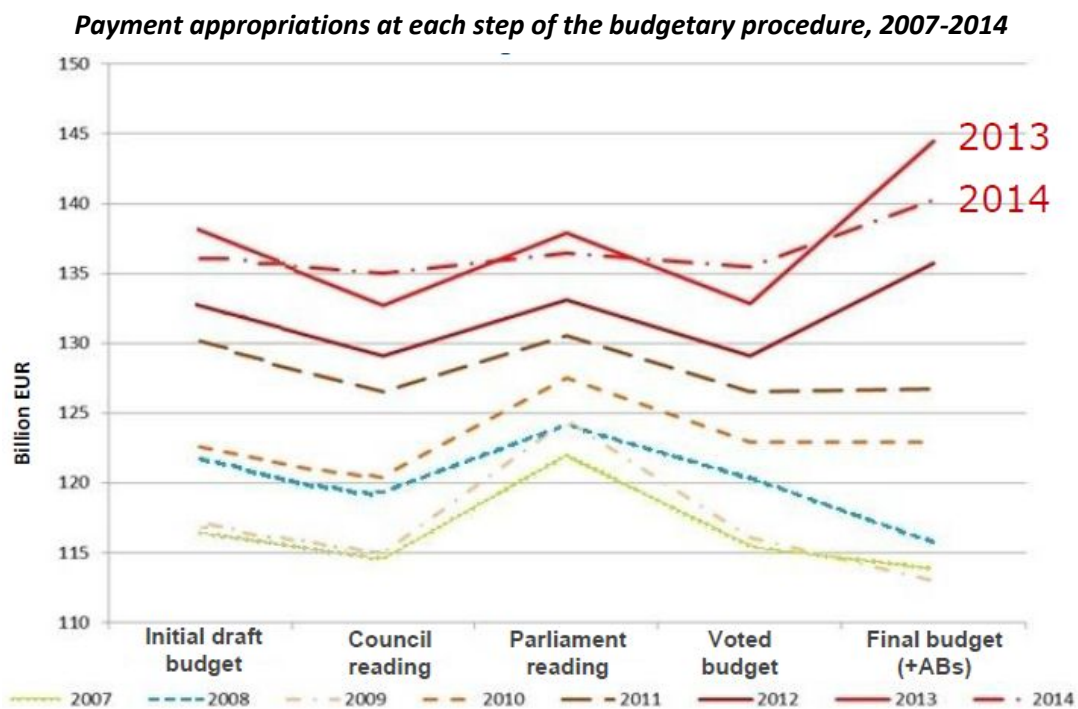
Accordingly, the rhythm and profile of payments depends on the concrete implementation of projects and the fulfilment of eligibility criteria, which are often out of the budgetary authority's control and, in most cases, out of the Commission's control also. In particular, the slow start of 2007-2013 programmes and the impact of the economic downturn resulted in particularly low levels of payments during the first half of the 2007-2013 programming period, meaning that catching up was necessary.

Since the 2011 Budget and the entry into force of the Lisbon Treaty, a situation has emerged where the economic crisis and the pressure on national budgets has led to Member States' representatives within

the Council significantly decreasing the Commission's estimates for payment appropriations, even though they are based on detailed implementation forecasts, by programmes and projects, on the basis of past commitments agreed. Departing from this bottom-up approach, the Council defined lower 'absolute' figures for the overall level of payments which it constantly defended during budget negotiations with the EP. In other words, national debts are transferred to EU level through the underfinancing of the EU Budget, despite the fact that the EU Budget cannot run a deficit and despite the legal commitments made to beneficiaries of EU funds.

These cuts were strongly criticised by the EP as disconnected from the reality of budget implementation and from EU obligations and past commitments (see **annex 1** for a selection of recent EP positions on the issue of payments), up to a point where, until 2015, the conciliation committee provided for by the Lisbon Treaty failed, three times out of five, to reach an agreement on any joint text. Until 2013, the EP did not manage to significantly modify the Council's figures for payments in the context of the annual budgetary procedure<sup>3</sup> (the situation changed for the 2014 and 2015 Budgets, however; see below).

As shown in the table below, this systematic under-funding of the EU Budget was partially offset by significant amending budgets in payments during the course of the year (an additional EUR 6, 11 and 4 billion respectively in 2012, 2013 and 2014), even if these were still usually lower than the Commission's proposals (initially EUR 9, 11 and 5 billion respectively).



While allowing Member States to artificially underestimate in their national budgets, up to a certain point in time, their respective national contributions to the EU Budget, this 'solution' of amending budgets still presents a number of important drawbacks:

- payments included in the EU Budget still remain significantly below real needs stemming from previous commitments, which affects the EU Budget's delivery on EU objectives, as well as EU Budget beneficiaries (such as students, universities, SMEs, researchers, the Member States themselves),

<sup>3</sup> For several years, Parliament did not reject the Budget, for the sake of continuity of EU actions and because it was able to get several commitments from the Council to address any shortage of payments as they arose (through significant amending budgets), as well as other concessions from the Council, for instance as regards former President Buzek's 'seven points' or the endorsement of a number of EP priorities in commitments.

- initial budgets are adopted underestimated, which is not in line with the very definition of a budget that is supposed to authorise and *forecast* the full year's expenditures. This also puts pressure on the Commission's implementation of the budget, since it has no certainty until very late in the year on the final level of payments for that year,
- the EU Budget does not actually cover the entirety of the budget year, with a significant amount of one year's payment claims being delayed, when not postponed to the following year. Accordingly, late-payment interest has to be disbursed in line with relevant legislation,
- this also puts the credibility of the EU at risk, casting doubts on its ability to deliver on its past commitments.

### **Recent developments**

Most recently, with the worsening of the situation, the EP's position became tougher, and it was determined not to run up any further implementation deficit that would go against Treaty provisions and in particular Article 323 TFEU<sup>4</sup>. Accordingly, the EP managed, following strenuous negotiations that diverted the budgetary authority's focus from other core issues, to obtain significant reinforcements in the budgets for both the current and the forthcoming years.

The new MFF provisions on payments (various flexibility tools to address any unforeseen or delayed cash needs, dedicated meetings between the three institutions to take stock and assess the state of play and outlook for budgetary implementation, discussion of each institution's estimates, etc.) provide the budgetary authority with tools to address at least some of the recurrent problems encountered at the end of the 2007-2013 programming period, and, in particular, allow for effective catching up should the implementation of programmes be delayed.

But, as demonstrated during the course of the 2015 procedure, this is not considered as an 'acquis' by some national delegations within the Council, which systematically question the possibility and the extent of the mobilisation of such flexibility tools, often going against the spirit and letter of relevant legal bases and official declarations which they endorsed. This resulted last year in a negotiation process on 2014 and 2015 payments that eventually led to the failure of the conciliation committee, as the Council was only able to establish its position on the last day of the 21-day conciliation period.

A deal was nevertheless eventually struck, with a significant reinforcement in payments and, in the longer run, a commitment by the three institutions to agree on a plan to reduce the level of unpaid bills, constantly monitor the state of implementation of the 2015 Budget and hold, in 2015, at least three interinstitutional meetings on payments to take stock of payment implementation and revised forecasts. To date, work on the methodology has not yet started. As agreed by the three institutions, this plan to offset the level of outstanding bills should be in place before the presentation of the 2016 Budget.

Returning to a situation where payments are the logical consequence of previous commitments agreed would no doubt help the budgetary authority to focus on political priority setting and the allocation of scarce resources, rather than on the management of payments. Bills received simply have to be paid.

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<sup>4</sup> 'The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligation in respect of third parties'.

## ANNEX 1 - Extracts of recent EP position on the payments issue

### EP resolution of 17 December 2014 on the Council position on the new draft general budget of the European Union for the financial year 2015 (16739/2014 – C8-0287/2014 – 2014/2224(BUD))

"2. Underlines that, while enabling the Commission to respond to the most urgent payment needs in 2014, the level of additional payment appropriations brought to the 2014 budget will not be sufficient to solve the recurrent snowball effect of unpaid bills in 2015; (...)"

"5. (...) regrets however, in this context, that the Council seems to not have any political priorities anymore and is solely interested in horizontally limiting the expenses as much as possible;"

"8. Notes however that, particularly with regard to payments, the budgetary negotiations have become more and more difficult over the past years, mainly due to the uncompromising position of the Council; underlines once again its position that the main function of the budgetary procedure should be to agree on the political priorities in budgetary commitments, whereas payments should simply be considered as a technical follow-up to honour these commitments; reminds the Council of the definitions of the type of appropriations in Article 10(3) of the Financial Regulation applicable to the general budget of the Union and its rules of application, stating that '*payment appropriations shall cover payments made to honour the legal commitments entered into the financial year or preceding financial years*';"

"9. (...) calls on the Council not to try to artificially cut the Union budget every year;"

"10. Disapproves however of the Council's position of not using the full amount of the extra revenue from fines to cover outstanding payment needs; is of the opinion that until the payment crisis is resolved, all windfall revenue should be fully used to address this problem; recalls that the draft package has been reached because it was meeting the Parliament's demand to stabilise the outstanding payments problem; underlines however that a genuine solution to the Union payment crisis requires an adequate limit of unpaid bills;"

"13. Attaches the highest political importance to the joint statements agreed between the Parliament, the Council and the Commission, in particular on the payment plan and on the use of special instruments; insists on the payment plan being finalised as soon as possible and in any event before the adoption of the 2016 Draft Budget by the Commission; underlines once more that its approval of the MFF was based on the understanding that all special instruments in payments are accounted for over and above the ceilings and that any other interpretation would automatically trigger a re-opening of the MFF agreement;"

### EP resolution of 22 October 2014 on the Council position on the draft general budget of the European Union for the financial year 2015 (12608/2014 – C8-0144/2014 – 2014/2040(BUD))

#### Council's position

"7. Deplores that the Council, in its reading, reduced commitment appropriations by EUR 522 million and payment appropriations by EUR 2,1 billion (...); is especially concerned about the severe cuts in the payment appropriations of the funds for competitiveness for growth and jobs under Heading 1a, that represent an egregious breach of the Council's commitment to overcome the crisis and to reinvigorate economic growth;"

"8. Disapproves of the Council's reading on the 2015 budget which disregards the multiannual character of the Union's policies, and which would instead of tackling the issue further aggravate payments shortages and slowdown further the implementation of Union programmes;"

"9. Underlines once more that the Council's approach of fixing the level of payments in accordance with the inflation rate totally disregards the nature and function of the multiannual character of Union policies and renders the MFF totally irrelevant; notes in this regard that the growing gap between payment and commitment appropriations exacerbates the problems with the backlog of outstanding commitments; underlines the negative impact that this approach has on the perception of the Union by its citizens; (...)"

"11. Is deeply concerned about the Council's use of double standards as regards the Union budget, where, on the one hand, it calls for an increase in Union funds in areas which can generate sustainable growth and, on the other hand, proposes major cuts in key areas such as research, innovation, space, infrastructures, SMEs and energy;"

"12. Welcomes the point of view expressed by 13 Member States that they are convinced that the Council's agreed level of payment appropriations may not be sufficient and could lead to great pressure with regard to the timely fulfilment of the Union's legal obligations and the meeting of commitments already made; (...)"

"13. Considers that, due to its failure, year after year, to gather a qualified majority within its ranks to secure a level of payments allowing the Union to cover undisputed payment needs, the Council holds a strong political responsibility for the very tense situation in payments; denounces the fact that this has progressively led to the creation of a structural deficit in the Union budget, which contradicts the Treaty provisions and which puts at risk the ability of the Commission to meet its legal obligations;"

"14. Notes at the same time that the current design of the Union budget, where payment appropriations are linked to national contributions, can bolster adverse choices among Member States, especially in times where the importance of balanced national budget is at the centre of the discourse; stresses, however, that such level of payments is the direct outcome of a corresponding level of commitments, which the Council formally adopted with the necessary qualified majority in the context of annual budgetary procedures;"

"15. Regrets the innate conflict between the Council on the one hand and the Parliament and Commission on the other hand; calls for ways to convert this tension in a more productive exchange of opinions; hopes that the openness to new attitudes and proposals will ultimately lead to structural changes that foster a balanced budget deal that reflects the ambitions and concerns of both the Parliament and the Council;"

#### Addressing the recurrent payment crisis

"19. Supports the Commission's proposal to make full use of resources available under the 2015 payment ceiling thereby leaving no margin under the 2015 payment ceiling; restores all of the Council's cuts in payments on the basis of current and expected implementation patterns;"

"20. Highlights however, that even the full use of the 2015 payment ceiling is not sufficient to adequately address the Union's ongoing payment problems that have erupted since the 2010 Union budget; notes, particularly, the huge backlog in payments of the past years leading to the unprecedented level of EUR 23,4 billion at the end of 2013 for cohesion policy alone and fears that it may be of a similar magnitude at the end of 2014; stresses, therefore, that the recurrent problem of shortage of payments needs to be effectively addressed without further delay; hence, decides to go beyond the Commission's proposals in payments by EUR 4 billion for a number of budget lines, including the main '2007-2013 completion lines' of the Union structural funds and research programmes, where the situation in payments is very critical;"



"23. Recalls the striking example of the dramatic shortage of payment appropriations for humanitarian aid, experienced at the end of 2013 and in the first quarter of 2014, that could only be solved thanks to short term and temporary solutions in the form of transfers within the adopted budget; is extremely worried that such situation is likely to occur also in other policy fields such as Research/Development and innovation;"

"24. Stresses the fact that, in order to clearly identify the 2015 needs stemming from previous years, the negotiations on the additional 2014 payment needs should be finalised before the conciliation on 2015 budget; (...)"

"26. Stresses that in order (...) to address the persistent problem of payment appropriations, the post electoral revision of the MFF 2014-2020, as provided for in Article 2 of the MFF Regulation, should be launched as soon as possible by the new Commission;"

### **EP resolution of 13 March 2014 on general guidelines for the preparation of the 2015 budget, Section III – Commission (2014/2004(BUD))**

Payment appropriations – the EU must fulfil its legal and political commitments

"14. (...) is deeply concerned that the unprecedented level of outstanding bills at the end of 2013, amounting to EUR 23,4 billion under Heading 1b alone, cannot be covered within the 2014 ceilings; calls for the mobilisation of the appropriate flexibility mechanisms for payments in 2014 and stresses that even this is not expected to be sufficient to avoid a large implementation deficit at the end of 2014; underlines the fact that the recurrent shortages in payment appropriations have been the main cause of the unprecedentedly high level of outstanding commitments (RALs), especially in the last few years;"

"15. Recalls that according to the Treaty 'the European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties'; expects the Commission in its draft budget to propose an adequate level of payment appropriations, based on real forecasts and not driven by political considerations;"

"16. Insists on the use of all means available under the MFF Regulation, including recourse to the contingency margin and, if still proven to be necessary and only as a last resort, revision of the payment ceiling, in order to meet the Union's legal obligations and avoid jeopardising or delaying payments to all stakeholders, such as researchers, universities, humanitarian aid organisations, local authorities and SMEs, and at the same time to decrease the amount of the outstanding year-end payments;"

"19. Recalls the joint statement on payment appropriations and the bilateral statement by Parliament and the Commission in the framework of the agreement on the 2014 budget; calls on the Commission to keep the budgetary authority fully informed of the development of payments and the evolution of RALs throughout the current year and insists that regular interinstitutional meetings should be held to monitor the payments situation;"

## ANNEX 2 - Some detailed elements on the state of play regarding payments

*The elements below are merely examples provided before the adoption of 2015 EU Budget National Parliamentarians may provide further examples from their constituencies*

For **Horizon 2020** (and predecessor programme), past budgetary restrictions on payments led to a situation where the 2014-2020 period started with a level of RAL of some 17.5 billion.

As is the case in other policy areas (see below), payment needs are structurally rolled over to the following year, thereby postponing artificially the implementation of the budget available for H2020 and creating cash-flow problems to beneficiaries, including universities, research institutions and SMEs. To cope with this situation, Commission services have reduced the pre-financing level of the projects and in a number of cases, postponed the calls and their deadlines to shift more payment needs to 2015. As compared to 60% under FP7 (2007-2013), prefinancing was reduced to 35%.

In mid-September 2014, 72 projects, for an overall amount of 36.3 million, were blocked and incurring payments for late interests. Further reducing the payments devoted to that instrument would result in the non-respect of the 8 months time-to-grant and in some cases further late payment interest already in 2015.

**Erasmus+** is another programme for which, because of past restrictive approaches, some catching up is necessary for launching new actions, even with the precautionary measures already put in place by Commission and where lower available appropriations affect the students directly of the first semester 2015/2016.

National Agencies of some countries and their final beneficiaries were at risk of payment shortages already by the end of September/October 2014<sup>5</sup>. The Commission analysed the pre-financing levels (payments of first and second instalments before the final payment is made) paid to the beneficiaries action by action and decided to reduce them without hampering, to the largest possible extent, the effective implementation of the individual actions. Such reductions are indeed limited by the nature and constraints of the programme, including the need to follow the academic year, beneficiaries with low financial capacity (scholarships, schools, universities), short project cycles and operating grants. They were thus concentrated on the prefinancing on sport actions, Jean Monnet projects, Erasmus Mundus Joint Masters degrees and some other centralised actions.

In **Cohesion**, payment delays (see annex 3 below) hit the smallest and most vulnerable beneficiaries hardest (SMEs, NGOs, small local organisations...) since they have no financial capacity to "pre-finance" expenditure for a long time.

A very tense, and potentially dramatic situation, is prevailing also under Heading 4 - External actions, in particular as regards **Humanitarian aid** (projects delayed in 2014 in Sahel, Haiti, Horn of Africa), the Development cooperation instrument (lack of funding to pay open invoices), pre-accession assistance (cf the temporary redeployment adopted in the first half of 2014), the instrument contributing to stability and peace and the European Neighbourhood instrument (Ukraine).

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<sup>5</sup> Later for centralised actions (sport, Jean Monnet, Knowledge partnerships and Sectoral Alliances...) where the Commission secured appropriations to finance the first pre-financings

### ANNEX 3: focus on cohesion policy, approach by MS

The level of unpaid bills for 2007-2013 Cohesion programmes reached the level of EUR 24.8 billion at the end of 2014.

Due to payment shortages, 31 October has become over the years, for the Council and the Commission, an important deadline for considering whether bills need to be paid on the same year or the next (c.f. 60 days deadline foreseen in the common provisions regulation).

The following tables indicate:

- the level of unpaid payment claims by Member State at 31/12/2013,
- the implementation state of play for the European Regional Development Fund (ERDF), the Cohesion Fund (CF) and the European Social Fund (ESF) as at 31/12/2014,
- the reprogramming proposed by the Commission due to the late adoption of 2014-2020 operational programmes.

#### Level of unpaid claims by Member State as at 31/12/2014

EUR million

Member State	Pending payment claims as at 31/12/2014			
	ESF	ERDF	CF	Total
Austria	0	95	0	95
Belgium	100	34	0	134
Bulgaria	31	307	250	588
Croatia	6	7	13	26
Cyprus	0	5	0	5
Czech Republic	586	2,552	957	4,094
Germany	361	628	0	989
Denmark	12	56	0	68
Estonia	0	0	0	0
Spain	1,492	3,216	0	4,708
Finland	0	15	0	15
France	417	520	0	937
Greece	202	325	52	579
Hungary	154	1,279	255	1,688
Ireland	45	26	0	71
Italy	487	3,307	0	3,794
Lithuania	0	0	0	0
Luxemburg	0	2	0	2
Latvia	0	98	30	128
Malta	8	34	0	42
Netherlands	93	28	0	121
Poland	382	795	1,548	2,725
Portugal	1	6	0	7
Romania	618	409	302	1,329
Sweden	0	17	0	17
Slovenia	34	21	98	153
Slovakia	65	597	0	662
United Kingdom	656	605	0	1,261
Multi-Country	0	534	0	534
<b>Total</b>	<b>5,750</b>	<b>15,516</b>	<b>3,505</b>	<b>24,771</b>

**State of implementation (in payments) for Cohesion policy (ERDF, ESF and CF) as at 31 December 2014**

EUR million

Member State	2007-2013 allocations	Payments made as at 31/12/2014	Payments made as a % of national allocations
Austria	1.204	940	78%
Belgium	2.064	1.698	82%
Denmark	510	412	81%
Finland	1.596	1.423	89%
France	13.410	10.298	77%
Germany	25.489	21.212	83%
Greece	20.210	17.842	88%
Ireland	751	599	80%
Italy	27.965	17.707	63%
Luxemburg	50	42	84%
Netherlands	1.660	1.339	81%
Portugal	21.412	19.824	93%
Spain	34.658	25.200	73%
Sweden	1.626	1.462	90%
United Kingdom	9.891	7.222	73%
Cyprus	612	516	84%
Czech Republic	26.540	16.522	62%
Estonia	3.403	3.143	92%
Hungary	24.921	18.992	76%
Latvia	4.530	3.701	82%
Lithuania	6.775	6.350	94%
Malta	840	617	73%
Poland	67.186	57.277	85%
Slovakia	11.498	6.902	60%
Slovenia	4.101	3.351	82%
Bulgaria	6.674	4.368	65%
Romania	19.213	10.731	56%
Multi-Country	7.960	6.209	78%
Croatia	468	225	48%
<b>Total</b>	<b>347.218</b>	<b>266.125</b>	<b>77%</b>

**2014-2020 programmes: 2014 allocation subject to reprogramming (MFF revision) due to late adoption**

EUR million

Member State	2014 allocations	Reprogramming MFF revision (OP not adopted, nor under carry-over)	Part of 2014 allocation dependant on MFF revision
Austria	706,0	4,2	0,6%
Belgium	402,9	43,2	10,7%
Bulgaria	1.321,0	709,0	53,7%
Croatia	1.383,5	377,8	27,3%
Cyprus	228,9	35,4	15,5%
Czech Republic	3.241,2	3.229,4	99,6%
Germany	3.769,1	586,9	15,6%
Denmark	165,0	28,6	17,3%
Estonia	566,1	19,4	3,4%
Spain	5.657,7	3.462,3	61,2%
Finland	538,3	8,4	1,6%
France	3.736,3	1.481,1	39,6%
Greece	2.872,1	722,6	25,2%
Hungary	3.379,2	615,3	18,2%
Ireland	506,6	337,3	66,6%
Italy	6.223,1	4.135,4	66,5%
Lithuania	1.136,2	37,2	3,3%
Luxemburg	22,3	15,4	69,1%
Latvia	732,4	6,9	0,9%
Malta	124,9	24,0	19,2%
Netherlands	264,4	9,8	3,7%
Poland	11.220,8	95,0	0,8%
Portugal	3.601,5	59,7	1,7%
Romania	3.982,3	3.111,6	78,1%
Sweden	551,9	297,0	53,8%
Slovenia	541,5	9,9	1,8%
Slovakia	2.024,6	7,3	0,4%
United Kingdom	2.316,8	1.249,1	53,9%
Multi-Country	530,5	378,3	71,3%
<b>Total</b>	<b>61.747.1</b>	<b>21.097.5</b>	<b>34,2%</b>

## ANNEX 4 - Background and technical information on RALs

### What are outstanding commitments (RALs)?

The RAL (for the French 'Reste à Liquider') is defined as the amount of appropriations committed that have not yet been paid. It directly results from the existence of multiannual programmes and the dissociation between commitment and payment appropriations. The existence of RAL is therefore not in itself a sign of bad financial management and it is to a certain extent unavoidable - when EU financial interventions take place over more than one budget year.

This is why, following a joint declaration by the 3 institutions in the early 2000s, a distinction has been elaborated by the Commission between so called 'potentially abnormal' RALs ('PARs', which include 'old' commitments of more than 5 years old and those 'dormant' for which no payment has been made in the last two years) and these outstanding commitments that do not fulfil the above criteria and can be considered as 'normal'.

Such definition has nevertheless become somewhat obsolete by the introduction of the N+2 / N+3 rule, which implicitly means that 'dormant' commitments, as defined above, can hardly be considered abnormal, even potentially, since complying with the rules in force. The Commission carries out a screening exercise of all potentially abnormal RALs individually, which allows identifying the reasons why the concerned commitment is still outstanding, or if no justification can be given, to take action on a case by case basis. The result of such screening is presented yearly by the Commission in a working document accompanying the Draft Budget<sup>6</sup>. Even if, for certain areas of EU action, more than 5 years of age is not abnormal in itself, so-called 'old' commitments corresponded to less than EUR 2 billion end of 2010, i.e. some 1% of the total.

### The difference between budgetary and legal commitments

A budgetary commitment is an act by which the Authorising Officer reserves in the accounts the budget needed for future payments, while a legal commitment corresponds with the signature by the Authorising Officer of a contract or grant agreement with a third party. The budgetary commitment has always to precede the legal commitment (to ensure the reservation of the funds).

At the end of the year, budgetary commitments equal legal commitments, with two major exceptions:

- so called 'global commitments' (when funds are reserved, after the financing decision, for a group of organisations/persons before knowing the exact amounts and/or the precise organisations. It is followed, after the award decision, by a set of individual commitments),
- commitments broken into annual instalments (in accordance with legislation, for instance in Cohesion Policy).

### Decommitments as an option for reducing the RAL?

By definition, the level of **RAL can only be decreased by increasing the payment level or decommitting.**

Decommitments are governed by articles 15, 86 and 178 to 182 of the Financial Regulation. A decommitment is the cancellation of an existing budgetary commitment. It can be made when there is no remaining legal obligation linked to the commitment and requires a formal and duly justified decision. It must comply with the legal base and possible legal obligations towards third parties.

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<sup>6</sup> Latest issue can be found under the following link:

[http://ec.europa.eu/budget/library/biblio/documents/2015/DB/DB2015\\_WDV\\_en.pdf](http://ec.europa.eu/budget/library/biblio/documents/2015/DB/DB2015_WDV_en.pdf)

Most decommitments are made when an operation is finalised with the payment of the final balance. They can also happen when a grant agreement is revised downwards.

In the field of Cohesion Policy, the basic rule (N+2 for 2007-2013, N+3 for 2014-2020) provides that a commitment of year N for a programme has to be covered by payment requests before 31 December N+2. The amount not covered is decommitted.

The institutions have therefore no margin of discretion with respect to decommitments, which constitute a legal action. They require a modification of the concerned legislative text or of the rules for automatic decommitments by the legislative authority.

Decommitments mean that budgetary resources aimed at achieving specific policy objectives, being lapsing, cannot contribute to the EU objectives and priorities to the extent agreed by the legislator and provided for by the Budget authority in previous years.

### **The situation and rules in force under Heading 1b**

For Cohesion Policy, commitments are rigidly defined for the whole period, by Member States, by objective and by year (so-called 'tranche'), as established in 2013 during MFF negotiations and confirmed in the legal base. This explains why no margin is available under Heading 1b of the MFF. Commitments are associated with Operational Programmes. After the validation by the Commission of the operational programmes, they are entered by the Commission each year before April 30 by programme and by fund, as per agreed annual envelope.

Under Heading 1b, decommitments can only happen in 2 circumstances:

- at the end of the period (less eligible expenditure than foreseen, financial correction),
- because of the N+2/N+3 rule.

### **The objective of N+2/N+3 rules, as RAL containment tools, is to create a link between commitment and implementation (payments).**

The basic rule (N+3) provides that a commitment of year N for a programme has to be covered by payment requests<sup>7</sup> before 31 December N+3<sup>8</sup>. The amount not covered is decommitted, meaning that the amount is lost for the programme and that the Member State concerned will either suppress some projects which have not started or pay for them from its national budget.

**In general, N+2/N+3 rules are a means to accelerate implementation on the ground, and therefore contain the increase in the level of RAL and any weakening of the N+3 rule leads to increased RAL.** The switch from N+2 to N+3 rule is expected to result in a RAL under concerned funds to grow from 2 to 3 years of commitments.

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<sup>7</sup> It should be stressed that what is needed is not actual reimbursement by the Commission but only payment requests, those arriving late in December can get paid on the following year's budget

<sup>8</sup> Payments for a programme are always linked to the oldest open commitment