

Flexibility in the EU Budget

Are There Limits?

Clingendael Report

Arnout Mijs
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About the authors

Arnout Mijs is a Research Fellow at the Clingendael Institute since 2010 after having worked as a consultant at BMC. His research at the Europe Cluster predominantly consists of EU economic and financial affairs such as the EU budget, economic policy coordination, better regulation and the Banking Union. In this he addresses institutional topics such as interinstitutional relations, and the functioning of the European Commission and the EU Presidency.

Adriaan Schout is Senior Research Fellow and Coordinator Europe. He combines research and consultancy on European governance questions for national and European institutions. He has worked on projects addressing issues of the EU presidency, EU integration and Improving EU regulation, amongst others.

Clingendael Institute
P.O. Box 93080
2509 AB The Hague
The Netherlands

Email: info@clingendael.nl
Website: <http://www.clingendael.nl/>

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Summary

This Clingendael Report discusses the new buzzword surrounding the EU budget: *flexibility*. Flexibility is the ability of the budget to adjust to changing circumstances, which are defined here as political priorities. These changing circumstances may take the shape of unforeseen and uncontrollable events, like those that the EU is encountering today with migration flows. The report discusses the central question: *What is the role of flexibility in the future EU budget?* Flexibility has different meanings to different players regarding the three main pillars of the budget: expenditure, own resources, and methodology. It touches upon i.a. ways to deal with crises, the Commission's Better Regulation agenda, and interinstitutional relations. This report gives input and raises questions for further discussions on the applicability of flexibility in the EU budget.

Introduction

Since its inception, the European budget has been one of the most contested European Union (EU) dossiers. Debates on reform of the EU budget are as old as the budget itself and reflect the differences in national and institutional policy priorities. Given the variety of interests and demands for change, the arduous negotiations over the current Multi-annual Financial Framework (MFF) for 2014–2020 resulted in disappointing results regarding reforms.¹ Negotiations for the upcoming MFF (post-2020) will start with the mid-term review, which is planned for the end of 2016 at the latest. European Commission President Jean-Claude Juncker has ambitious plans for the MFF, as he considers that ‘the mid-term review of the MFF [...] should be used to orient the EU budget further towards jobs, growth and competitiveness’.² An appetizer for this priority is reflected in the European Fund for Strategic Investment (EFSI) or ‘Juncker Plan’, which also relies on the EU budget.³ In addition, the so-called ‘Five Presidents’ Report’ opens vistas for a more ambitious EU budget in relation to the euro.⁴ Revision of the EU budget is also envisioned via the establishment of the High-Level Group on Own Resources (HLGOR), which will ‘undertake a general review of the Own Resources system’.⁵

Research has focused on many different (sub-)debates that underlie the EU budget and that intermingle, including *inter alia* the *juste retour* logic, own resources debate, joint decision trap, ‘flexibility’, and effectiveness and efficiency. This Clingendael Report discusses the new buzzword surrounding the EU budget: *flexibility*. Flexibility is the ability of the budget to adjust to changing circumstances, which are defined here as

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- 1 Kölling, M. (2014), ‘Reform Options for the EU Budget: First Reflections on the New Departure for a New EU Budget’, *Perspectives on Federalism*, Vol. 6 (3).
 - 2 Juncker, J.-C. (2014), *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change – Political Guidelines for the next European Commission* (Brussels: European Commission).
 - 3 European Commission (2015), *Proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments and Amending Regulations (EU) No. 1291/2013 and (Eu) No. 1316/2013*, COM(2015) 15 final, 2015/009 COD (15 January).
 - 4 See the so-called ‘Five Presidents’ Report’ by President of the European Commission Jean-Claude Juncker, President of the Euro Council Donald Tusk, President of the Eurogroup Jeroen Dijsselbloem, President of the European Central Bank Mario Draghi and President of the European Parliament Martin Schulz: *Completing Europe’s Economic and Monetary Union* (Brussels: European Commission, 22 June 2015), available online at http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf.
 - 5 Council Regulation No. 1311/2013 of 2 December 2013 laying down the multi-annual financial framework for the years 2014–2020, O.J.L. 347 (20 December 2013). This Group – composed of members nominated by the Council, European Parliament and Commission – will also deliver its report in late 2016.

political priorities. These changing circumstances may take the shape of unforeseen and uncontrollable events, like those that the EU is encountering today with migration flows. There is tension in the EU budget between short-term flexibility and long-term commitments. Arguments in favour of these long-term commitments can be divided into the avoidance of repeated negotiations and creating a stable, long-term investment environment (regardless of the policy area).

This Clingendael Report discusses the central question: *What is the role of flexibility in the future EU budget?* Flexibility has different meanings to different players regarding the three main pillars of the budget: expenditure, own resources, and methodology. Expenditure is defined here as the allocation of funds to designated policy areas and is divided into *ex-ante* control (that is, securitization of maximum expenditure), choice of budget entry and financial ambitions. Methodology concerns the quality of implementation of the budget and consists of *ex-ante* control (that is, conditionality), choice of instruments and evaluation. With regard to own resources, one can think of potential flexibility options, such as via the mix of own resources, or the own resources ceiling. Today the gross national income (GNI)-based resource provides the necessary flexibility to match the level of expenditure.⁶ However, as it stands, current debates on the potential flexibility needs for own resources are too unspecified for analysis.⁷ Therefore, within the limits of this research, this report will apply the principle of flexibility to only two pillars: expenditure and methodology.

The second section discusses flexibility on the expenditure side and starts with the state of play in the current 2014–2020 MFF framework, followed by a review of the political priorities of the different inter-institutional actors. The third section presents the state of play on the methodology side, along the lines of *ex-ante* control and *ex-post* evaluation. The concluding section raises several questions to be answered for a more comprehensive understanding about the applicability of flexibility in the next MFF.

Besides a literature review, fourteen interviews were conducted in the first half of 2015, with six national officials, three Members of the European Parliament (MEPs), two Commission administrators, one European Parliament administrator, one administrator from the Council Secretariat and one academic. Because of the limited scope of this study, more research is needed in order to complete specific details. For instance, we have regarded the ‘Commission’, ‘European Parliament’ and ‘member states’ as rather monolithic actors, although perceptions and interests differ, of course, within each institution. However, this Clingendael Report gives some insights as input for further discussions on the applicability of flexibility in the EU budget.

6 For a more thorough analysis, see D’Oultremont, C. and A. Mijs (2013), *Reforming the System of Financing the EU Budget* (Brussels: Egmont Institute, European Affairs Working Paper, January).

7 High-Level Group on Own Resources (2014), *First Assessment Report*.

1 Flexibility on the Expenditure Side

The need for reform stems from dissatisfaction with the EU budget, which is divided here into three pillars: expenditure, revenue, and methodology. In general, these three pillars are regarded as very complex and opaque.⁸ This is one of the reasons that several EU member states want genuine reform of the pillars, but looking back at recent decades, this wish has never come true. The decision-making process is known for its path dependency, because of institutional obstacles towards reform such as manifold veto rights.⁹ Furthermore, the negotiations have a conflictive nature (associated with images of deserted airports) and have a strong national political profile.¹⁰ Overall, the design of the budget and the negotiation process lead to negative and false perceptions of the EU budget.¹¹

The European Parliament identified three elements as negotiating positions for the 2006 Inter-institutional Agreement on budgetary discipline and sound financial management: improving the budget structure by more flexibility; matching political priorities and financial needs; and improving the quality of implementation of EU funding.¹² The first two pillars relate to expenditures and reflect debates on the size of the budget, the allocation of funds and on unspent funds. The third pillar concerns the methodology of the EU budget and the effective and efficient spending of funds (see section 3 below).

1.1 Adjusting the Budget Structure through More Flexibility

In practice, the European Parliament used the phrase 'flexibility' to introduce *ex-ante* control mechanisms to maximize expenditure. The 2006 Inter-institutional Agreement

8 European Court of Auditors (2014), *Making the Best Use of EU Money: A Landscape Review of the Risks to the Financial Management of the EU Budget* (Luxembourg).

9 Benedetto, G. (ed.) (2012), *European Union Budget Reform: Institutions, Policy and Economic Crisis* (Basingstoke: Palgrave Macmillan).

10 Robinson, N. (2012), 'EU Budget: Cameron Says No Cut to UK Rebate', *BBC* (22 November), available online at <http://www.bbc.com/news/uk-politics-20438050>.

11 Although public perception of implementation is also often quite positive; see Eurobarometer (2015), *Citizens' Awareness and Perceptions of EU Regional Policy*, Flash Eurobarometer 423 (June).

12 European Parliament (2006), *European Parliament Decision on the Conclusion of an Inter-institutional Agreement on Budgetary Discipline and Sound Financial Management*, P6_TA(2006)0210.

foresees the *Flexibility Instrument*, which ‘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’.¹³ During the mid-term review in 2009, the European Parliament stepped up its game and pleaded for ‘resolving deficits and leftovers in the context of the annual budgetary procedures, if possible through more flexibility’.¹⁴ Flexibility was one of the main objectives during the MFF 2014–2020 negotiations, defined as ‘flexibility for payments and commitments across headings and across years with a view to allow full use of the overall commitment and payment ceiling foreseen’.¹⁵ From the European Parliament’s perspective, it gains more control over the EU budget in this way via its role as co-legislator in the annual budgetary procedure. During the MFF negotiations, the Council was hesitant to provide more flexibility, but eventually perceived it as a compensatory measure towards the European Parliament getting its consent on an overall decrease of the MFF.¹⁶ Issues surrounding this call for more flexibility relate to a lack of absorption capacity in the EU member states, which results in unspent funds. Underlying reasons for absorption difficulties concern a lack of co-financing funds (especially during the crisis), poor management capacities and a lack of viable projects. This phenomenon is called the ‘funds in search of projects’ problem instead of the desired ‘projects in search of funds’.¹⁷ At the same time, flexibility may lead to delays in implementation and resulting budgetary surpluses have to be transferred to areas of additional budgetary needs.

The negotiations resulted in several flexibility instruments (which differ in dates of origin, duration and legal basis¹⁸) that aim to optimize EU expenditure and allocate available funds:

- The flexibility instrument: to a maximum of € 471 million per year [at 2011 prices].
- Flexibility for payments: unused payment appropriations and margins can be carried over to the next financial year.
- Flexibility for commitments in growth and employment: commitment appropriations unused in 2014–2017 will form a reserve for additional expenditure in 2016–2020.

13 *Inter-institutional Agreement between the European Parliament, the Council and the Commission on Budgetary Discipline and Sound Financial Management*, 2006/C 139/01.

14 European Parliament (2009), *European Parliament Resolution of 25 March 2009 on the Mid-Term Review of the 2007–2013 Financial Framework*, P6_TA(2009)0174.

15 European Parliament (2014), *Report on Negotiations on the MFF 2014–2020: Lessons to be Learned and the Way Forward (2014/2005(INI))* (26 March), p. 18.

16 Interviews 2, 6, 12, 13.

17 European Court of Auditors, *Making the Best Use of EU Money*.

18 Flexibilities might be embedded as a special instrument in the MFF Regulation or in the Financial Regulation. They therefore have different legal bases and hence decision-making procedures.

- Flexibility for youth employment and research: a maximum of € 2.1 billion for the Youth Employment Initiative, and € 400 million for research, Erasmus and small and medium-sized enterprises (SMEs).
- Flexibility for aid to the most deprived: voluntary increase by EU member states of € 1 billion (although at the expense of other allocated funds under the heading of economic, social and territorial cohesion).
- Contingency Margin: instrument of last resort to react to unforeseen circumstances on top of current ceilings.
- Greater flexibility in rural development funds of the Common Agricultural Policy (CAP).¹⁹

These instruments are additional to already existing flexibility tools, including *inter alia*:

- Special instruments:
 - Emergency Aid Reserve. Designed to enable a rapid response to specific aid requirements for non-EU countries that were unforeseeable when the budget was drawn up.
 - European Union Solidarity Fund. Aims to release emergency financial aid following a major disaster in a EU member state or aspiring ('candidate') country.
 - European Globalization Adjustment Fund. Aims to help workers reintegrate into the labour market when they have been displaced by major structural changes in world trade patterns.
- Reprofiting: Adjusting the level of an expenditure ceiling that has previously been fixed by the Council and the European Parliament.

1.2 Allocation of Funds: Reflecting Political Priorities?

The allocation of funds regards the division between headings (and within headings between instruments/programmes) *ex ante* and during the MFF period. The MFF began with agricultural funds and administration, but subsequently addressed new challenges that the EU was facing. According to the Commission and the European Parliament, one way of reinforcing political priorities is only to have flexibility on commitment appropriations – that is, legal pledges to provide finance. In this, they assume that payment appropriations – namely, cash or bank transfers to the beneficiaries – follow commitment appropriations. The payments provide flexibility via a different implementation rhythm. However, some EU member states are hesitant, as they fear that they might consequently lose control over the payments.

In recent years, the Commission has also strived to implement its political priorities. At the last minute during the negotiations for the 2014–2020 MFF, Commission President

19 For a more complete overview, see Kölling, 'Reform Options for the EU Budget', pp. 217–237.

José Manuel Barroso tabled the Youth Employment Initiative (YEI), requiring € 6 billion over the course of the MFF.²⁰ The size of the YEI is considered ‘peanuts’ in financial terms compared to the overall volume. EU member states were sceptical on the one hand, but were coping with very high youth unemployment figures on the other. The European Parliament was in favour of the YEI, for it wanted pressing problems to be more visible through the EU’s budget instruments. In the end, EU member states were willing to grant the Commission’s demands.²¹ Here, the Commission played a crucial role in the end-game of the negotiations, which is rather uncommon.²²

The start of the Juncker Commission in 2014, after the MFF negotiations, also led to an adjustment of the EU budget. In Juncker’s election campaign, his top priority was ‘an ambitious Jobs, Growth and Investment Package’.²³ On 24 November 2014, Juncker announced plans for the European Strategic Fund for Investments (EFSI), or the Juncker Plan.²⁴ The aim of EFSI is to leverage € 315 billion worth of investments with just € 21 billion from the EU institutions (€ 8 billion directly from the EU budget, which also acts as a guarantee to secure a further € 8 billion from the institutions, and a further € 5 billion from the European Investment Bank). At this point, the guarantee from the budget is in the form of grants; the EIB then uses these grants to underpin financial instruments in order to mobilize more private money. The starting amount mainly comes from non-pre-allocated categories within the EU budget, such as research (Horizon2020) and infrastructure (Connecting Europe Facility). On 28 May 2015, an agreement was struck by the co-legislators.²⁵

Both the Commission and the European Parliament are in the awkward position that they were installed after the establishment of the MFF and will be out of office before the new period begins. According to several interviews, this awkward position of the European Parliament is a partial explanation for why the European Parliament was very vocal on, and pushed for, EFSI.²⁶ Although EU member states did not always agree, interviews show that there was understanding of the need to provide the new Commission with

20 Commission (2013), *Youth Employment Initiative*, COM(2013) 144 final (12 March 2015).

21 Interviews 12, 13.

22 Mijs, A. and A. Schout (2012), ‘Views on the Commission’s Draft EU Budget: Excessively Ambitious or Overly Timid?’, *EPIN Working Paper No. 33* (January).

23 Juncker, *A New Start for Europe*.

24 Proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments and amending Regulations (EU) No. 1291/2013 and (EU) No. 1316/2013, COM(2015) 10 final (13 January).

25 Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No. 1291/2013 and (EU) No. 1316/2013 – the European Fund for Strategic Investments.

26 Interviews 1, 7, 10.

funds to implement political promises and ideas, and to mobilize resources to help the European Investment Bank (EIB) address the persistent and manifest investment gap.²⁷ For the European Parliament, this was an opening to increase its power and secure its influence in the implementation of the current MFF. The intense negotiations that took place, alongside the yearly recurring annual budget negotiations, reflect the tension between flexibility and prolonged and/or repeated negotiations.

Over the course of 2015, another test case for flexibility came to the fore: the migration crisis. Annexe I illustrates the capacity of the EU budget to adjust to changing political priorities. As the case shows, the budget appears to be too rigid to deal adequately with crises of this size.

1.3 Financial Ambitions in the EU

The call for financial needs, or ambitions, has put flexibility on the map, because the European Parliament (and the Commission) pleaded for, and received, full exhaustion of the EU budget. Flexibility also relates to the broader debate on interdependence and inter-usage of different budgets. As it stands today, there are many different financial streams in the EU that provide a murky image of the EU's finances. Apart from the MFF, there is the traditional European Development Fund, European Stability Mechanism, European Central Bank (ECB) monetary policy, the European Investment Bank, European Bank for Reconstruction and Development, and the co-financing of MFF instruments, which all have an impact on national policy-making.

The discussion on financial ambitions raises the question of what constitutes an 'appropriate' central EU budget.²⁸ It touches upon a multiplicity of issues, such as EU added value, public goods and stability, etc. Discussions stem from fiscal federalism theory, which explains the arguments to perform certain budget instruments at the central or decentralized level.²⁹

27 Interviews 4, 5.

28 Tarschys, Daniel (ed.) (2011), *The EU Budget: What Should Go In? What Should Go Out?*, SIEPS Report 2011:3.

29 Oates, W.E. (1972), *Fiscal Federalism* (New York, NY: Harcourt, Brace & Jovanovich).

Box 1 Potential Avenues towards the Future: Financial Ambitions

The euro crisis has demonstrated negative spillover effects as a result of lack of competitiveness and/or unsustainable public finances in EU member states. To avoid negative spillovers, the discussion on financial ambitions has recently been injected with new fuel in the form of a shock absorption mechanism in the so-called 'Five Presidents Report',³⁰ as well as by French President Hollande's demand for a eurozone budget.³¹ The 'Five Presidents' Report' presents a stabilization function, which explicitly should not lead to permanent transfers or undermine sound national economic policy-making.

However, the latter seems unlikely and a bigger EU budget appears inevitable. An economic and monetary union needs transfers to dampen cyclical fluctuations, to counter high (youth) unemployment and to guard the EU's external borders.³² If we compare the EU budget to the United States' federal budget, then the EU budget should grow to 30 per cent of the European economy, compared to the current 1 per cent. At the moment, EU member states' budgets account for 47 per cent of the European economy, which is deemed too high for an efficient economy. Calculations differ between 5 and 30 per cent of GNI that should be earmarked for solidarity and stability funds.³³ Taking into account the potential difference between a eurozone and the EU budget, the question that remains is how do EU member states want to finance a potential stabilization function. An increase of the EU budget would mean a considerable downsizing of national budgets and/or development of genuine EU taxes (the latter would also have a negative effect on national budgets).

1.4 Duration of the MFF

Another debate on ways to reflect political priorities, or political cycles, consists of pleas about the duration of the Multiannual Financial Framework. Since its inception, the multi-year EU budget is designed as a long-term investment budget, and therefore a framework period of seven years was accepted in order to have a stable and predictable budget. In this way, the allocation of funds to certain priorities is secured and investors are comfortable with the financial management and planning.

30 Juncker, J.-C., D. Tusk, J. Dijsselbloem, M. Draghi and M. Schulz (2015), *Completing Europe's Economic and Monetary Union*.

31 Leigh, T. (2015), 'France's Hollande Calls for Euro Zone Budget', *Reuters* (25 August).

32 Schout, A. (2015), 'Europa zonder lidstaten: Europa's eigen inconvolent truth', *Internationale Spectator* (June).

33 Teulings, C.N. et al. (2011), *Europa in crisis: het Centraal Planbureau over schulden en de toekomst van de eurozone* (Amsterdam: Balans); and Begg, I. (2011) *Fiscal Union for the Euro Area: An Overdue or Necessary Scenario?* (Gütersloh: Bertelsmann Stiftung).

Box 2 Potential Avenues towards the Future: Duration of the MFF

In order to let the EU budget reflect political priorities, there are calls by the European Parliament to reduce the period of the MFF to five (plus five) years (the so-called 5+5) and let it run parallel to the Commission's and European Parliament's terms of office. This would give more power to the Commission and European Parliament, especially the latter as co-legislator.

Hesitations arise, however, on several accounts: first, there is the traditional argument by EU member states that are reluctant to carry over responsibility of 'their' contributions to the European Parliament; a second argument is about the 5+5 construction. The success of this structure relies heavily on the mid-term review and the room for manoeuvre afterwards. Looking at the past, the mid-term review has been used by the Commission to launch some initial ideas and by the EU member states as a pre-emptive strike showing that they will not be moved. As it stands today, the mid-term review has relatively little data and information concerning the implementation of new programmes and budgetary provisions on which to base viable conclusions. This will probably also be the case for the upcoming mid-term review by the end of 2016.³⁴ In addition, EU member states interpret the review as an orientation on the next MFF, instead of a review of the current MFF. However, a 5+5 mid-term review would be due after only about four years (to be on time to start evidence-based negotiations), as opposed to the current two to three years.

Third, there is a recent call by Dutch political parties,³⁵ but also by Member of the European Court of Auditors Alex Brenninkmeijer, advocating for a 'normal', state-like, annual budget.³⁶ They focus on a more transparent budget system, with clear moments for adjustment of the annual budget. If the European Parliament demands extra funds, it is also responsible for covering these funds within the budget. MEPs also imagine various designs,³⁷ such as a MFF decided upon by the co-legislators and national parliamentarians becoming more involved in the annual budgets. The reason behind the latter idea is that the EU budget is creeping towards national economic policy-making, *inter alia* via conditionality, and it is therefore important for national parliaments to become aware and committed. Besides, it is understandable from an EP perspective, since it would provide them with more influence over the MFF.

34 Interviews 3, 13.

35 By coalition partners the VVD (liberals) and PvdA (social democrats), as well as opposition party D66. See online at <http://www.nu.nl/politiek/4080310/d66-wil-kabinet-eu-begroting-grondig-hervormt.html>.

36 Segenhout, J. and R. Winkel (2015), 'Brenninkmeijer: EU meerjarenbegroting onwerkbaar in huidige crisis', *Het Financieele Dagblad* (10 November), available online at <http://fd.nl/economie-politiek/1126599/brenninkmeijer-eu-meerjarenbegroting-onwerkbaar-in-huidige-crisis>.

37 Interview 8.

2 Flexibility on the Methodology Side

With regard to the quality of implementation of the budget, the term ‘flexibility’ is linked to the budget’s impact, or to effective and efficient spending. Negotiations on the budget are surrounded by negative images such as deserted new airports and useless highways. Regardless of whether this is true, it shows that the EU budget suffers from a communication problem. This is at least partly based on the non-transparent impact of EU budget instruments. The Commission is working hard to provide better oversight of the impact of the instruments via their ‘budget for results’ programme, backed up by modern tools.³⁸ We will not go into detail here on whether the instruments function well, because it is too early to tell.

Flexibility on the methodology side is defined here as *ex-ante* examination (via impact assessments) and *ex-post* evaluation of the instruments. In the *ex-ante* stage, impact assessments examine different options and scenarios that result in budget allocation to the instruments. The Commission is developing more concrete ways of measuring impact. In general, there are impact assessments for different budget lines made by the Commission. Nowadays, the Commission attributes more time and effort to monitoring, evaluation and revision of policies, reflected in their ‘Better Regulation’ initiative.³⁹ This is not new, and similar exercises have been carried out with many accomplishments, but also with considerable room for improvement.⁴⁰ The Better Regulation is used as a framework to analyse the methodology.

38 See online at http://ec.europa.eu/budget/euprojects/search-projects_en; and http://ec.europa.eu/budget/fts/index_en.htm.

39 Commission (2015), ‘Better Regulation for Better Results: An EU Agenda’, COM(2015)215 (19 May).

40 Schout, A. and Sleifer, J. (2014), ‘Expertise at the Crossroads of National and International Policy-making: A Public Management Perspective’, in M. Ambrus, K. Arts, E. Hey and H. Raulus, *The Role of ‘Experts’ in International and European Decision-Making Processes: Advisors, Decision Makers or Irrelevant Actors?* (Cambridge: Cambridge University Press), pp. 361–382.

2.1 Ex-ante Control

The MFF for 2014–2020 foresees many conditionality tools that closely relate to, and are interpreted as, flexibility in the methodology. These tools consist of:

- The performance reserve: where six percent of European Structural and Investment Funds (ESI Funds) are withheld, to be released on the basis of a performance review in 2019.⁴¹
- Macro-economic conditionality: where funds might be suspended to support the implementation of relevant country-specific recommendations or to maximize the growth and competitiveness impact of the available ESI Funds.
- The priority given to the Europe 2020 strategy under all its headings.⁴²

EU member states are also obliged to take matters a step further with conditionality that is based on the ‘performance framework’, which is drawn up by the member states with milestones and targets relating to the different priorities, and with intensified *ex-ante* evaluation, monitoring, and *ex-post* evaluation requirements.⁴³ With prioritization of the Europe 2020 strategy, targets are horizontally implemented under all headings, for example via the performance framework. However, some EU member states want ‘greater flexibility’ in how they allocate, for instance, structural funds, based on specific, regional needs.⁴⁴ As for macro-economic conditionality, it is specifically targeted as an additional tool for the effective governance of economic policy coordination.

Box 3 Potential Avenues towards the Future: Inter-institutional Relations

Regarding these conditionality frameworks, the questions that arise from the interviews are whether, or to what extent, the European Parliament now has new tools to control EU member states’ economic policies via the annual budgetary procedure, but this will have to become clear over time.

41 Article 20–22, Regulation (EU) No. 1303/2013 of the European Parliament and the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No. 1083/2006.

42 Article 23–35, Regulation (EU) No. 1303/2013 of the European Parliament and the Council of 17 December 2013.

43 Articles 22 and 55, Regulation (EU) No. 1303/2013 of the European Parliament and the Council of 17 December 2013.

44 Agence Europe (2011), *Council against Ring-fencing, Advocating Greater Flexibility*, 10518 (16 December).

2.2 Allocation to Instruments

Within the main headings, expenditure is divided into programmes, for example COSME (a programme for competitiveness of enterprises and SMEs), ERASMUS, or rural development. These programmes make use of instruments such as grants or co-financing instruments. The EU budget is in a constant search for ways to increase its value by boosting absorption through, for example, economic, technical and political support.⁴⁵ Recently, much attention has been paid to innovative financial instruments. According to the Financial Regulation, ‘financial instruments’⁴⁶ are defined as:

[...] measures of financial support provided on a complementary basis from the budget in order to address one or more specific policy objectives of the Union. Such instruments may take the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments, and may, where appropriate, be combined with grants.⁴⁷

In essence, EU funds are used as equity and debt instruments under the Commission’s direct management or under shared management by member states’ authorities, or are used by the EIB and/or other financial institutions on the basis of, and with grant support from, the EU budget. This leads to calls for even more ‘innovative financial instruments’ because of their high leveraging and multiplier effects.⁴⁸

Financial instruments are sometimes considered to be the Holy Grail for enhanced impact of the EU budget. Although they cannot replace grants, financial instruments have the potential to attract more public and private money than previous MFFs. However, the results remain to be seen. Calculations for the multiplier effect of specific financial instruments across all of the headings differ from a factor of four for cohesion policy⁴⁹ to a factor of fifteen for EFSI. The Commission induces EU member

45 Marzinotto, B. (2012), *The Long-Term EU Budget: Size or Flexibility*, Bruegel Policy Contribution, Issue 2012/20 (November).

46 Not to be confused with *financing* instruments, those are the legal basis of programmes, normally in the form of regulation.

47 Article 2 (p) of Regulation 966/2012 of the European Parliament and 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, O.J.L. 298/1.

48 We follow Nunez and Katarivas, who define ‘leverage’ as ‘all additional funds from third parties, public or private, which are mobilized by the EU budgets funds’, and ‘multiplier effect’ as ‘the economic impact generated from supported project, including indirect impacts not directly related to the activity’. See Nunez Ferrer, J. and M. Katarivas (2014), *What are the Effects of the EU Budget: Driving Force or Drop in the Ocean?*, CEPS Special Report No. 86.

49 Nunez Ferrer and Katarivas, *What are the Effects of the EU Budget?*

states to increase their use of financial instruments in programmes.⁵⁰ Evaluation of the instruments has to show whether the raised expectations are justified.

A closer inter-institutional examination of the management of financial instruments might provide better insight into their flexibility. EFSI is such a financial instrument, and is relevant because the 'Five Presidents' Report' states that EFSI might be used as an example for the EU's stabilization function. The so-called 'Investments Committee', a team of independent experts, will assess the potential of EFSI projects (considering how the funds are directed at projects that were unable to find private-sector loans) that are offered by member states. They are overseen by the Steering Board, which provides strategic orientation, strategic asset allocation and the risk profile, but also oversees impact.⁵¹ At first, this meant that EU member states would invest in EFSI, but that their funds might not be invested in their country. During the negotiations, EU member states were therefore unwilling to fund EFSI directly from their budgets, so instead they created national platforms, which are filled with national money and money from national development banks. Furthermore, it remains unclear as to how EFSI would acquire a multiplier effect of fifteen with public and private funds. Apart from the € 8 billion, the ECB plays a decisive role here. In answering questions from a Spanish MEP, the ECB stated that it might buy secondary market bonds issued by EFSI.⁵² Perhaps the EU budgets are even more flexible than we imagine.

Furthermore, the Commission has an extensive track record on impact assessments (IA), also concerning the EU budget. The Investment Committee and Steering Board of EFSI have also shown moves in the direction of thorough *ex-ante* assessments. In addition, in light of the Better Regulation initiative, the Commission is undertaking steps to develop the full policy cycle further, which includes monitoring, evaluation and revision. Quite contradictory, as one of the big political projects, EFSI did not undergo an impact assessment. This reflects the paradoxical new Commission as an advocate of better regulation principles, but at the same time voices the image of a 'political Commission'.⁵³

50 Interviews 12, 13.

51 Proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments and amending Regulations (EU) No. 1291/2013 and (EU) No. 1316/2013, COM(2015)10 final (13 January).

52 Draghi, M. (2015), *Reply to a Letter from MEP Jonás Fernández*: Letter QZ-01, L/MD/15/113 (3 March).

53 Mijs, A. and A. Schout (2015), 'Better Regulation in the EU and the Netherlands: A Comparison of Impact Assessments Systems', chapter in report commissioned by the AFCO Committee of the European Parliament (forthcoming).

2.3 Ex-post Evaluation of the Budget

The role of evaluations and evidence-based policy-making encounters several problems. First, there is the measurement of impact. The European Parliament has for a long time expressed its concerns about the strictly economic interpretation of European added value. Its argument is based on the value of non-financial spillovers from the EU budget, such as social conditions, administrative reform and transfer of best practices.⁵⁴ These spillovers are difficult to measure and their impact is therefore sometimes overlooked. The Council adds hesitation by stressing difficulties in the objectification of the criteria for evaluation. This is part of a long-standing debate on the politics behind the figures used in European Monetary Union (EMU).⁵⁵ With regard to the European Semester, the Commission has difficulty in supervising policies, because of difficulties concerning the objectification of the analysis. Here, EU member states discuss their own analyses compared with the Commission analysis in order to come to agreement. In the case of the EU budget, the Commission acknowledges the primacy of the political process in attributing funds, but also makes a case for the availability of information to support the process.

Even inside the Commission, there are discussions between the Secretariat-General (SG) and Directorates-General (DGs) on criteria used by DGs that are additional to the standard evaluation criteria. The SG represents a hierarchical Commission structure and is therefore not very fond of the use of different criteria.⁵⁶ In the budget, the breadth of the policy areas may make it difficult to have one format of assessment with one set of standards. This issue is also voiced by EU member states that have a considerable interest in structural funds, which are under relatively strict supervision. However, it appears difficult for them to compare evaluations of certain instruments with others.⁵⁷ This is something that has to (and will be⁵⁸) taken into account in the 'Budget for Results' initiative. With this initiative, there seems to be a regime shift towards performance-based budgeting instead of the Commission's previous focus on legality and regularity.⁵⁹

54 Nunez Ferrer and Katarivas, *What are the Effects of the EU Budget?*, p. 7.

55 Schout, A. and A. Mijts (2015), 'The Independent Commissioner: An Administrative Analysis', in: E. Ongaro (ed.), *Multi-Level Governance: The Missing Linkages* (Bingley: Emerald).

56 Interview 4.

57 Interview 13.

58 Interview 4.

59 European Court of Auditors, *Making the Best Use of EU Money*. A striking example is provided in: Commission (2015), *Analysis of the Budget Implementation of the European Structural and Investment Funds* (May 2015).

Second, *ex-post* evaluations are only sparsely used for the envisioned goal of revision of policies. With regard to the revision of policies during the MFF period, this has been limited in the past. Questions arise as to whether policies will actually be revised, for this may hypothetically lead to reform and eventually even the abolishment of EFSI if it is confronted with bad results. The Youth Employment Initiative has recently come back on the agenda, because unspent funds have to be transferred to subsequent years because of a lack of projects. According to the Commission, it is a co-financing problem in the EU member states, and solutions point in the direction of a higher margin of advance payments. In general, interim revision would require further flexibility of the budget, for the institutions would potentially need to renegotiate inter- and intra-heading allocation of funds.

Third, past negotiations have shown that the mid-term review is used as a starting point for EU member states' positions. However, there is limited availability of data and information for the mid-term review, even more so this time because of the late adoption of the MFF and the legal bases, and therefore the delayed launch of the new multiannual programmes. Interviews reflect that the role of evaluations in the establishment of EU member states' positions is in general limited.⁶⁰

Box 4 Potential Avenues towards the Future: Better Regulation

Better regulation initiatives might show the success of, *inter alia*, financial instruments. However, it might also display the failure of these instruments, on the basis of which a revision is in order. Acknowledging that not all effects can be monetized, policies might greatly benefit from a boost in quality control. However, tension between the one-size-fits-all versus one-size-fits-none criteria looms in the background. A subsequent problem is that evaluations have limited impact on new policies, positions and revision. The technocratic approach of effectiveness and efficiency creaks and sighs. Additional sources of legitimacy should therefore be explored, for instance in democratic legitimacy through an examination of the respective roles of EU member states, national parliaments, the Commission and the European Parliament.

60 Interviews 1, 2, 3, 5, 10.

3 Concluding Questions

As it stands, the beauty of flexibility is in the eyes of the beholder. Whereas one actor sees chances for more influence via repeated negotiations, others link flexibility to the 'better regulation' agenda for more effective and efficient use. Flexibility has many guiding principles supporting its use. For the upcoming negotiations, there are several questions that need to be addressed regarding flexibility. This is only a first mapping of the questions. The objective is to encourage debate on relevant questions.

Allocation of Funds

The euro crisis has led to a shift of priorities in the EU budget, and not in the least for flexibility. There is a growing sense of urgency that the EU budget should be able to adapt to changing political priorities, illustrated by the current focus on jobs and growth, and migration. Both the European Parliament and the Commission have found tools to gain more control over the EU budget. In addition, the duration of the MFF brings about discussions on the division of power among the institutions. Issues concerning the room for manoeuvre within the EU budget, as well as for the institutions, lead to the following questions:

What are the objectives of flexibility?

How can flexibility in the budget be improved?

What is the effect of flexibility on inter-institutional relations?

Financial Ambitions

Financial ambitions or needs form the basis of the EU budget and there are budgets originally designed for separate purposes. However, signals in the management of EFSI, but also in the potential set-up of the stabilization fund, point in the direction of an increasingly elaborate financial system. Budgets are opaque and potentially or already overlap. This begs the question:

What is the relationship between the MFF and financial ambitions and/or (potential) budgets of the EU?

Flexibility on the Methodology Side

The 'better regulation' agenda might be able to measure the quality of implementation of the EU budget. A trend occurs towards an increased technocratic approach based on data and information in the EU budget. In the opposite direction, flexibility provides more room for politicization via the different inter-institutional actors. Relevant questions are therefore:

**What are the consequences of better regulation in managing the EU budget?
What sources, besides better regulation, might contribute to the legitimacy of the EU budget?**

Annex 1 Flexibility in the Migration Crisis

1. Introduction

The European Council of 23 April 2015 embarked upon an answer to migratory pressures. Following the April Council, the Commission presented its approach via the European Agenda on Migration⁶¹ with a corresponding Draft Amending Budget (DAB),⁶² followed by another DAB in September⁶³ and an amending letter in October 2015.⁶⁴ Amendments to the (draft) budget are pre-eminently an example of flexibility in the budget, because they adjust the budget to political needs. The funds that were made available to respond to the crisis rest on different types of financing: redeployment of existing funds; mobilizing special instruments; and ‘matching funds’, consisting of additional, direct contributions by EU member states. Redeployment entails the shifting of budgets to other budget lines. Special instruments consist of both flexibility instruments⁶⁵ and others, such as Global Margins and Contingency Margins, etc. In this case study, we illustrate flexibility tools in the budget via an analysis of the three subsequent budget amendments.

2. Flexibility in the European Agenda on Migration

The first DAB that implements the European Agenda on Migration is DAB 5-2015, which was adopted on 7 July 2015.⁶⁶ It foresees additional funding of € 89 million in

61 European Commission (2015), *A European Agenda on Migration*, COM(2015) 240 final (13 May).

62 European Commission (2015), *Draft Amending Budget No. 5 to the General Budget 2015: Responding to Migratory Pressures*, COM(2015), 241 final (13 May).

63 European Commission (2015), *Draft Amending Budget No. 7 to the General Budget 2015: Managing the Refugee Crisis: Immediate Budgetary Measures under the European Agenda on Migration*, COM(2015) 485 final (30 September).

64 European Commission (2015), *Amending Letter No. 2 to the Draft General Budget 2016: Updating of the Estimated Needs for Agricultural Expenditure and Fisheries; Managing the Refugee Crisis: Immediate Budgetary Measures under the European Agenda on Migration*, COM(2015) 513 final (14 October).

65 Such as the Emergency Aid Reserve, EU Solidarity Fund, Flexibility Instruments and the European Globalization Adjustment Fund.

66 European Commission, *Draft Amending Budget No. 5 to the General Budget 2015*.

'commitment appropriations' (CA) – that is, legal pledges to provide finance, provided that certain conditions are fulfilled – and € 76.6 million in 'payment appropriations' (PA), meaning cash or bank transfers to the beneficiaries. In the EU budget system, commitments appropriations might be booked in one year and payment appropriations follow in the same and/or subsequent years. The table below gives a simplified reproduction of the changes to the 2015 budget. It shows that for the first round of amendments, the payments appropriations are fully financed via redeployments from within the existing budget.

Table 1 Amendments to the Budget 2015 (DAB 5-2015)

	Budget line	Proposed amount (in million €)		Financing (in million €)		
		CA	PA	Type	CA	PA
Amending budget 5-2015	<i>Agencies (Frontex, Europol, EASO)</i>	13.5	19.8	<i>Redeployment</i>	13.2 (External Border Fund)	69.7 (Galileo) 7 (EBF)
	<i>Asylum, Migration and Integration Fund (AMIF)</i>	57	45.6	<i>Margins</i>		
	<i>Internal Security Fund (ISF)</i>	5	4	<i>Special Instruments</i>		
	<i>Frontex (separate budget)</i>	13.2	7			
	TOTAL*	89.0**	76.6**		13.2	76.7

*) This is a mere sum up of the funds, and does not present a net budgetary impact.

***) The separate amounts are rounded of. These 'total' amounts are stated in the proposal.

As for the second round of amendments concerning migration,⁶⁷ the situation is quite different, because it activates several legal provisions and instruments. The first innovation is the so-called *European Union Regional Trust Fund in response to the Syrian crisis, 'the Madad Fund'*. EU trust funds for external action find their legal basis in the Financial Regulation.⁶⁸ Trust funds mix a wide range of funding modalities (including grants, budget support and delegated cooperation). The funds have the capacity to pool large sums that come from different instruments. In the case of the Madad Fund, the bulk of the money comes from the European Neighbourhood Instrument (ENI),

67 European Commission, *Draft Amending Budget No. 7 to the General Budget 2015*.

68 Article 187 on Financial Regulation.

complemented by the Instrument for Pre-Accession (IPA), and the Development Cooperation Instrument (DCI). The trust funds make use of quick decisional procedures to finance actions and of flexibility to implement them. Furthermore, it is possible to involve donors, also in decision-making. The total expected commitments by the end of 2015 consist of:

Table 2 Financing of the Madad Trust Fund

Madad Trust Fund	
Contributing instrument	Amount (€ million)
ENI	300
ENI (2014)	20
ENI, IPA, DCI (from existing envelope)	222
Total	542

The November 2015 Valletta Summit established the *European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa*, which the Commission frontloaded with € 1.8 billion.⁶⁹

On the financing side, table 2 below shows us that the Commission has again found redeployment funds. It also called upon the exhaustion of the margins with budget headings 3 and 4 to finance the additional funds. The DAB 7-2015 specifically aims at mobilizing different flexibility instruments. The Flexibility Instrument replenishes heading three on 'Security and Citizenship', and the Emergency Aid Reserve (EAR) provides financial assistance for the Humanitarian Aid budget line under heading four on 'Global Europe'. The European Union Solidarity Fund is used to finance extra expenditures, because of under-exhaustion of the fund. There have not been many applications to the natural disaster fund. As the financing columns show, there is a considerable difference between commitments and payments, and the payments will largely fall under the 2016 budget. The additional payments are mainly covered via reprioritization and additional payments are therefore not necessary at this point in time.

69 Crisp, J. (2015), 'EU's Migration Cash for Africa Falls Short', *Euractiv.com* (12 November), available online at <http://www.euractiv.com/sections/development-policy/eus-migration-cash-fund-africa-falls-short-319411>.

Table 3 Amendments to the Budget 2015 (DAB 7-2015)

	Budget Line	Proposed amount (in million €)		Financing (in million €)		
		CA	PA	Type	CA	PA
Amending budget 7-2015	<i>Agencies (Frontex, Europol, EASO)</i>	1.3	1.3	<i>Redeployment</i>	24.8 (Natural Resources) 12 (Food and Feed) 10 (Humanitarian Aid Operational Reserve)	19.8 (Natural Resources) 3.5 (Food and Feed)
	<i>AMIF + ISF</i>	100		<i>Margins used under heading ceiling</i>	23.2 (heading 3) 300 (heading 4)	
	<i>European Neighbourhood Instrument ('Madad Fund')</i>	300		<i>Special instruments</i>	66.1 (Flexibility Instrument) 190 (Emergency Aid Reserve) 33.7 (EU Solidarity Fund)	66.1 (Flexibility Instrument) 14.3 (Emergency Aid Reserve) 33.7 (EU Solidarity Fund)
	Humanitarian Aid	200	55.7			
	TOTAL*	601.3	57		659.8	137.4

*) This is a mere sum up of the funds, and does not present a net budgetary impact.

The third round of amendments apply to the 2016 budget (see table 3 below).⁷⁰ The costs reflect earlier agreements in the case of the relocation packages. As can be seen, 2016 sees a considerable upgrade in payments compared to 2015. The text in the amendment suggests a tight spot on the financing side, since the redeployment possibilities have been exhausted under heading 3. The flexibility instruments require € 710 million in 2016 and the rest of the € 1,504 million is spread out over 2017–2019 with a strong emphasis on 2017. This is in part an explanation for why the Commission has raised the heading three MFF ceiling for both commitments and payments, which may lead to discussion between the Council and the European Parliament. In general, this amending letter has led to higher payments by the EU member states as opposed to the DABs above.

Table 4 Amendments to the Draft Budget 2016 (Amending Letter No2)

		Requested amount (in million €)		Financing (in million €)		
		CA	PA		CA	PA
Amending budget 2-2016	Agencies	85.6	85.6	<i>Redeployment</i>		
	AMIF + ISF	404.4	293.3	<i>Margins under ceiling</i>	150 (heading 4) 23.9 (Administration)	
	Relocation (two packages)	890	399.9	<i>Special instruments</i>	1504 (Flexibility Instrument)	710 (Flexibility Instrument)
	Humanitarian Aid	150				
	Emergency Aid Reserve		405			
	ENI		210			
	Administration	23.9	23.9			
	TOTAL*	1,553.9	1,417.7		1,677.9	710

*) This is a mere sum up of the funds, and does not present a net budgetary impact.

70 European Commission (2015), *Amending Letter No. 2 to the Draft General Budget 2016: Updating of the Estimated Needs for Agricultural Expenditure and Fisheries; Managing the Refugee Crisis: Immediate Budgetary Measures under the European Agenda on Migration*, COM(2015) 513 final (14 October).

3. Current Discussions and Conclusion

The case above presents a short overview of the flexibility tools in the EU budget. Current discussions on the financial needs provide some additional insights. First, there are some outstanding issues, such as whether to mobilize the Contingency Margin and whether it also applies to payments, as well as commitments. This could amount to up to € 4 billion. Another question that arises is the adjustment of the heading ceilings over the course of the MFF. Second, there is the issue of 'matching funds'. The total amount on the table today to counter the migration crisis adds up to around € 9 billion.⁷¹ Part of this is an 'overhaul' of the € 1 billion earmarked for Turkey's Instrument for Pre-Accession (IPA) to be redirected to migratory pressures. After a visit from German Chancellor Angela Merkel, this might even be increased to € 3 billion.⁷² Turkey demands 'fresh money' instead of this rechanneling of existing funds, but fresh money is not available in the EU budget, therefore strengthening the call for additional matching funds. Some EU member states are hesitant about these claims on *ad-hoc* matching funds, because they are hard to enforce and lack fair distribution of the costs. This lack of fair distribution is also applicable to those countries that fulfil more than their share in taking in refugees. Last but not least, there are still some other outstanding issues, such as financing of the *European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa*. At first sight, it appears very difficult to find funds to finance this, since nearly all of the current options for flexibility have been exhausted.

In conclusion, the EU budget has been stretched almost to its limits in terms of flexibility. Almost all of the tools have been applied. Despite efforts to redeploy funds, extend margins and mobilize special instruments, there are remaining as well as new financing needs. This shows that the current MFF framework is not sufficiently flexible to deal with major crises such as the migratory pressures. When one considers the annual budget of € 140 billion and the current excess costs of € 9 billion (and counting), it will prove nearly impossible to free up even 10 per cent of the annual budget (even divided between 2015 and 2016) to cover this excess. Member of the European Court of Auditors Alex Brenninkmeijer finds it 'ridiculous' that the Commission has to search everywhere for this relatively small amount and he calls for more room to manoeuvre.⁷³ However, it might also be considered appropriate that the Commission is first searching in its own pockets before it calls upon the EU member states. The European Union's limitations in dealing with crises lead to questions about the level of flexibility in the EU budget. Furthermore, as the special instruments are exhausted to a considerable extent, it will be difficult to deal with another crisis during this MFF period.

71 This only accounts for the EU budget. There are additional costs that member states incur, for instance via bilateral humanitarian aid and for the shelter of refugees.

72 Gotev, G. (2015), 'Turkey's Erdogan Calls the Shots at EU Summit', *euractiv.com* (16 October), available online at <http://www.euractiv.com/sections/global-europe/turkeys-erdogan-calls-shots-eu-summit-318576>.

73 Segenhout and Winkel, 'Brenninkmeijer'.

Annex 2 List of interviews

Interview No.	Position	Date
1	Member of the European Parliament	1-4-2015
2	Official at the Council Secretariat	31-3-2015
3	Official at the Commission	4-3-2015
4	Official at the Commission	31-3-2015
5	Member state official	13-2-2015
6	Member state official	1-4-2015
7	Former Member of the European Parliament	8-4-2015
8	Member of the European Parliament	17-4-2015
9	Official at the European Parliament	6-5-2015
10	Member state official	17-2-2015
11	Member state official	24-4-2015
12	Member state official	1-5-2015
13	Member state official	14-7-2015
14	Academic	31-3-2015

Abbreviations

AMIF	Asylum, Migration and Integration Fund
CA	Commitment appropriations
CAP	Common Agricultural Policy
COSME	Programme for competitiveness of enterprises and SMEs
DAB	Draft amending budget
DCI	Development Cooperation Instrument
DG	Directorate-General
EAR	Emergency Aid Reserve
ECB	European Central Bank
EFSI	European Fund for Strategic Investment
EIB	European Investment Bank
EMU	European Monetary Union
ENI	European Neighbourhood Instrument
ESI Funds	European Structural and Investment Funds
EU	European Union
GNI	Gross national income
HLGOR	High-Level Group on Own Resources
IA	Impact assessments
IPA	Instrument for Pre-Accession
ISF	Internal Security Fund
MEP	Member of the European Parliament
MFF	Multi-annual Financial Framework
PA	Payment appropriations
SG	Secretariat-General
SME	Small and medium-sized enterprise
YEI	Youth Employment Initiative