

***IPARD II ASSISTANCE FOR AGRICULTURE AND RURAL DEVELOPMENT  
UNDER THE INSTRUMENT FOR PRE-ACCESSION ASSISTANCE IPA II***

**AGREEMENT**

*between*

***THE GOVERNMENT OF MONTENEGRO***

*and*

***THE EUROPEAN COMMISSION  
ON BEHALF OF THE EUROPEAN UNION***

*amending the*

***FINANCING AGREEMENT 2014-2020  
as concluded on 6 December 2017***

**AMENDMENT TO THE  
FINANCING AGREEMENT 2014-2020  
as concluded on 6 December 2017**

The European Commission, hereinafter referred to as “the Commission”, acting for and on behalf of the European Union, hereinafter referred to as “the Union”

of the one part, and

The Government of Montenegro acting for and on behalf of Montenegro, hereinafter referred to as “Montenegro”

of the other part,

and together jointly referred to as “the Contracting Parties”,

Whereas:

1. An Instrument for Pre-accession Assistance was established by Regulation (EU) No 231/2014<sup>1</sup> (hereinafter referred to as the "IPA II Regulation") providing for a European Union financial assistance, *inter alia* in the policy area of agriculture and rural development in beneficiaries listed in Annex I of that Regulation.
2. According to Annex I of the IPA II Regulation Montenegro is eligible to be a beneficiary under the IPA II rural development programmes.
3. Article 7 of the IPA II Regulation provides that Union assistance shall be implemented indirectly through programmes established by IPA II beneficiaries in accordance with the priorities defined in the Indicative Strategy Paper. The Indicative Strategy Paper was established for the duration of the EU multiannual financial framework, by the Commission in partnership with Montenegro in accordance with Article 6 of the IPA II Regulation. The Commission adopted the Strategy Paper for Montenegro by Decision C(2014) 5771 of 18 August 2014, as amended by Commission Implementing Decision C(2018)5026 of 3 August 2018.
4. Article 2(1) of Regulation (EU) No 236/2014<sup>2</sup> (hereinafter referred to as the "Common Implementing Regulation") provides that the Commission may adopt multi-annual action programmes in accordance with Article 6(3) of that Regulation.
5. Article 55 of Commission Implementing Regulation (EU) No 447/2014<sup>3</sup> (hereinafter referred to as the "IPA II Implementing Regulation") lays down the provisions for drawing up multi-annual rural development programmes under the instrument for pre-accession assistance IPA II.
6. Pursuant to the second paragraph of that Article 55 rural development programmes shall be implemented on the basis of indirect management in accordance with Article 62(1)(c)(i) of Regulation (EU, Euratom) No 2018/1046<sup>4</sup> (hereinafter referred to as the "Financial Regulation").
7. Montenegro has approved a multi-annual programme for rural development for the period 2014-2020 under IPA II (hereinafter referred to as the "IPARD II Programme") and submitted it to the Commission for approval on 9 April 2015. The IPARD II Programme was adopted by Commission Decision C(2015) 5074 of 20 July 2015.

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<sup>1</sup> Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L 77, 15.3.2014, p. 11).

<sup>2</sup> Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L 77, 15.3.2014, p. 95).

<sup>3</sup> Commission Implementing Regulation (EU) No 447/2014 of 2 May 2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II) (OJ L 132, 3.5.2014, p. 32).

<sup>4</sup> Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EC, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

8. The IPARD II Programme was further amended: (i) with technical modifications by Letter of 2 December 2016<sup>5</sup> of the responsible Authorising Officer and Director-General of the Directorate-General for Agriculture and Rural Development; and (ii) (last) with financial modifications by Commission Implementing Decision C(2019) 2799 of 17 April 2019.
9. According to Article 6(1) of the IPA II Implementing Regulation the Commission Decision approving the Programme constitutes also the financing decision in accordance with Article 110(2) and (3)(e) of the Financial Regulation.
10. For the implementation of the IPA II assistance Article 5 of the IPA II Implementing Regulation provides for the conclusion of framework and sectoral agreements between the Commission and the IPA II beneficiaries.
11. The Framework Agreement, adopted by Commission Decision C(2014) 6014 of 27 August 2014 and concluded between the Commission and Montenegro on 4 June 2015, is setting out the principles of the management and implementation of IPA II assistance between the Commission and Montenegro.
12. The Sectoral Agreement, adopted by Commission Decision C(2015) 1662 of 18 March 2015 and concluded between the Commission and Montenegro on 18 February 2016, complements the Framework Agreement and covers the specific provisions applicable for the implementation of the IPARD II Programme.
13. On 9 October 2015<sup>6</sup> Montenegro notified the Commission of the list of eligible expenditures for the following measures of the IPARD II Programme:
  - Investment in physical assets of agricultural holdings;
  - Investment in physical assets concerning processing and marketing of agricultural and fishery products.By Letter of 15 October 2015<sup>7</sup> the Commission, after reviewing the list, notified Montenegro of its acceptance.

This list was revised by Montenegro on 17 June 2019<sup>8</sup> and reviewed and accepted by the Commission on 4 July 2019<sup>9</sup>.
14. On 25 September 2019<sup>10</sup> Montenegro notified the Commission of a list of eligible expenditures for the measure Farm diversification and business development.

The Commission after reviewing the list, notified Montenegro of its acceptance by letter of 28 October 2019<sup>11</sup>.

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<sup>5</sup> EC ref.: Ares(2016)6757079 - 02/12/2016.

<sup>6</sup> No: 022-20/15-4 dated 08/10/2015 (EC ref.: Ares(2015)4207690 – 09/10/2015).

<sup>7</sup> EC ref.: Ares(2015)4313142 - 15/10/2015.

<sup>8</sup> No: 328-9/19-17 dated 17/06/2019 submitted by e-mail (EC ref.: Ares(2019)3842669 - 17/06/2019).

<sup>9</sup> EC ref.: Ares(2019)4261739 - 04/07/2019.

<sup>10</sup> No: 328-9/19-20 dated 25/09/2019 submitted by e-mail (EC ref.: Ares(2019)5951510 – 25/09/2019).

<sup>11</sup> EC ref.: Ares(2019)6650186 – 26/10/2019.



15. The Agreement amending the Financing Agreement 2014-2020, as concluded on 6 December 2017 between the Commission and Montenegro, shall provide for conclusion of multi-annual legal commitments under IPA II for the years 2014-2020 as set out in Annex to this agreement and in Article 2, first paragraph, of the Commission Decision C(2015)5074 adopted the IPARD II Programme.
16. In accordance with Article 62(1) point (c)(i) of the Financial Regulation and Article 7 of the IPA II Regulation the Commission shall implement the budget indirectly by entrusting budget implementation tasks to the IPA II beneficiaries.
17. Pursuant to Article 13(1) of the IPA II Implementing Regulation the entrustment of Montenegro with budget implementation tasks is to be carried out by concluding a financing agreement in accordance with the Article 158 of the Financial Regulation.
18. Article 14(3) of the IPA II Implementing Regulation provides that before the Commission entrusts budget implementation tasks of IPA II assistance, it shall review the request by the National Authorising Officer for entrustment with budget implementation tasks to Montenegro and the established structures and authorities and shall, for the purposes of the *ex-ante* assessment pursuant to Article 154 of the Financial Regulation obtain evidence that the requirements set out in points (a) to (d) of paragraph (4) of the same Article of the Financial Regulation and those of Article 13(3) of the IPA II Implementing Regulation are fulfilled.
19. Article 12 of the Framework Agreement sets out the conditions for entrusting budget implementation tasks to the IPA II beneficiary. In particular, the IPA II beneficiary, when managing IPARD II funds, shall respect the principles of sound financial management, transparency and non-discrimination, and shall ensure the visibility of IPA II assistance. The IPA II beneficiary shall guarantee a level of protection of the financial interests of the European Union equivalent to that required under the Financial Regulation.
20. Pursuant to Article 13 of the Framework Agreement, the NAO, on behalf of Montenegro, is responsible for submitting to the Commission a request for being entrusted with budget implementation tasks under the IPARD II Programme. Before submitting the request, the NAO shall ensure that the management structure and the relevant operating structure(s) satisfy the requirements of points (a) to (d) of Article 12(3) and those of Annex B to the Framework Agreement.
21. Detailed conditions for entrustment are further specified in Articles 23 and 24 of the Sectoral Agreement.
22. The structures and authorities set out in Article 10 of the Framework Agreement shall be allocated the functions and responsibilities in accordance with Annex A of the Framework Agreement and Annex 1 of the Sectoral Agreement.
23. Montenegro has established the structures and authorities responsible for indirect management of IPARD II assistance: the National IPA Co-ordinator (NIPAC), the National Authorising Officer (NAO), the NAO Support Office (NAO SO), the National Fund (NF), the Managing Authority (MA), the IPARD Agency (IA) and the Audit Authority (AA). Montenegro has designated the Minister of European Affairs to carry out the functions allocated to the NIPAC. The NIPAC's own confirmation of its readiness is included in the request for entrusting budget implementation tasks.

24. Montenegro has appointed the State Secretary in the Ministry of Finance to carry out the functions and responsibilities allocated to the NAO as set out in Article 7 of the Sectoral Agreement. The NAO's own confirmation of its readiness is included in the request for entrusting budget implementation tasks.
25. The National Authorising Officer has established a management structure composed of a National Fund and a Support Office for the NAO within the Ministry of Finance.
26. For the operating structure as referred to in point (c) of Article 10(1) of the Framework Agreement, Montenegro has appointed
- (i) the Directorate for Rural Development within the Ministry of Agriculture and Rural Development, to act as the Managing Authority, which shall execute the functions and responsibilities as defined in Article 8 of the Sectoral Agreement; and
  - (ii) the Directorate for payments within the Ministry of Agriculture and Rural Development to act as the IPA II Rural Development (IPARD) Agency, which shall execute the functions and responsibilities as defined in Article 9 of the Sectoral Agreement.
27. Montenegro has established the Audit Authority. The Audit Authority's own confirmation of its readiness is included in the request for entrusting budget implementation tasks.
28. In accordance with Article 25 of the Sectoral Agreement, the NAO on 8 December 2015 submitted to the Commission the official request for being entrusted with budget implementation tasks under the following measures of the IPARD II Programme:
- Investment in physical assets of agricultural holdings;
  - Investment in physical assets concerning processing and marketing of agricultural and fishery products.
- The request included all the documentation required in accordance with Annex 3 of the Sectoral Agreement and pursuant to the second paragraph of Article 13(2) of the Framework Agreement.
- For the purposes of the *ex-ante* assessment pursuant to Article 154 of the Financial Regulation the Commission has obtained evidence that the requirements set out in points (a) to (d) of Article 12(3) and those of Annex B to the Framework Agreement are fulfilled.
29. Furthermore, according to Article 25 of the Sectoral Agreement, the NAO on 23 September 2019<sup>12</sup> submitted to the Commission the official request for being entrusted with budget implementation tasks under the measure Farm diversification and business development.

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<sup>12</sup> No: 01-145091 dated 20 September 2019 (EC ref.: Ares(2019)5902179 – 23/09/2019).

30. In accordance with Article 13(4) of the Framework Agreement, the Commission has reviewed the request for entrustment with budget implementation tasks and the established structures and authorities. For the purposes of the *ex-ante* assessment pursuant to Article 154 of the Financial Regulation the Commission has obtained evidence that the requirements set out in points (a) to (d) of Article 12(3) and those of Annex B to the Framework Agreement are fulfilled.
31. It is therefore appropriate to grant the entrustment for budget implementation tasks, waiving the right of the Commission referred to in Article 50(1), second subparagraph, point (a) of the Framework Agreement.
32. On 6 November 2019<sup>13</sup>, Montenegro submitted a request for extension of the eligible period of the financial year 2016 from N+3 to N+4 as this would minimise the possible risk of de-commitment of a high amount of EU fund of that year. With that letter an action plan was submitted presenting all planned activities and timelines.
- The Commission by letter of 12 December 2019<sup>14</sup>, after reviewing the reasons and justifications of the request and the action plan, notified Montenegro of its agreement.
- Montenegro, on 16 December 2019<sup>15</sup>, notified the Commission on mutual understanding of this amendment to the Financing Agreement concluded between the Commission and Montenegro on 6 December 2017.
33. It is therefore necessary to set out in this Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017: (i) the valid deadline for the eligibility of expenditure of the budgetary commitment for the financial year 2016 to 31 December 2020. Union's financial commitments for the execution of the IPARD II Programme for Montenegro for the period 2014-2020 remain unchanged; and (ii) the provisions for entrusting Montenegro with budget implementation tasks for additional one measure.
34. All service, supplies, and work contracts shall be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external actions, in force at the time of the launch of the procedure in question. By way of derogation from Article 18(2) of the Framework Agreement, grant agreements shall be awarded and implemented in accordance with the IPARD procedures, in force at the time of the launch of the call for application, submitted to and accepted by the Commission in accordance with Articles (5) and 12(1) of the Framework Agreement and Article 25 of the Sectoral Agreement.

HAVE AGREED AS FOLLOWS:

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<sup>13</sup> No: 01-004-298512 dated 6/11/2019 (EC ref.: Ares(2019)6872104 – 06/11/2019).

<sup>14</sup> EC ref.: Ares(2019)7638502 – 12/12/2019.

<sup>15</sup> No: 01-004-3422/2 dated 16/12/2019 (EC ref.: Ares(2019)7712057 – 16/12/2019).



*Article 1*  
*Scope*

1. This Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, sets out in the attached Annex the Union financial commitments for the IPARD II Programme for Montenegro for the years 2014–2020 and the validity of those commitments.
2. This Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, sets out the provisions for the entrustment of budget implementation tasks to Montenegro.

*Article 2*  
*Agreements and interpretation*

This Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, supplements the provisions of the Sectoral Agreement and of the Framework Agreement. In case of conflict between this Financing Agreement and the provisions of the Sectoral Agreement and the Framework Agreement, the latter shall take precedence.

Subject to any express provision to the contrary in this Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, the terms used in this Financing Agreement shall bear the same meaning as attributed to them in the Sectoral Agreement, the Framework Agreement, the IPA II Regulation, the Common Implementing Regulation, the IPA II Implementing Regulation and the Financial Regulation as amended; supplemented or replaced occasionally.

*Article 3*  
*Financial assistance*

1. In accordance with Article 62(1)(c)(i) of the Financial Regulation the IPARD II Programme for Montenegro shall be implemented under indirect management as provided for in Commission Decision C(2015)5074 of 20 July 2015, as amended by Commission Implementing Decision C(2019)2799 of 17 April 2019.
2. The IPARD assistance will be implemented under indirect management without *ex-ante* verification of tendering and contracting by the Commission or the Union Delegation.
3. Pursuant to Article 31 of the Sectoral Agreement, the IPARD II Programme shall be co-financed by both the Union and Montenegro. The breakdown of the respective financial contributions is set out in the IPARD II Programme as (last) amended by Commission Implementing Decision C(2019)2799 of 17 April 2019.
4. The Union contribution shall co-finance public expenditure actually paid to the recipients. Aid intensities and the rate of Union contribution shall be in accordance with the rates and ceilings laid down in Annex 4 of the Sectoral Agreement.
5. Contracts, unlike all service, supplies, and work contracts, shall be awarded and implemented in accordance with the IPARD procedures, in force at the time of the launch of the call for application, submitted to and accepted by the Commission in accordance with Articles (5) and 12(1) of the Framework Agreement and Article 25 of the Sectoral Agreement.

6. Union financing shall be subject to the fulfilment of Montenegro's obligations laid down in the Framework and the Sectoral Agreements and in this Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017.

## PART I – Financial Commitments 2014-2020

### *Article 4* *Commitments*

1. The financial contribution of the Union for each of the years 2014–2020 is limited to the amounts per year provided for in the Commission Decision C(2015)5074, as amended by Commission Implementing Decision C(2019)2799 of 17 April 2019 and in the Annex attached to this Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017. These commitments are valid only for the execution of the IPARD II Programme, in conformity with the Framework and the Sectoral Agreements concluded between the Commission and Montenegro on 4 June 2015 and on 18 February 2016, respectively.
2. The Union's budget commitments shall be made in annual instalments. The budget commitment for the first instalment followed the adoption of the IPARD II Programme by the Commission.
3. Pursuant to the last paragraph of Article 6(3) of the Common Implementing Regulation, the budget commitments are subject to the availability of the appropriations following the adoption of the general budget of the Union for the respective years or as provided for in the system of provisional twelfths.
4. The Commission shall inform in writing Montenegro about the adoption or amendment of each yearly budget commitment indicated in the Annex to this Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017.

### *Article 5* *Period of de-commitment*

In accordance with Article 34 of the Sectoral Agreement, the Commission shall automatically de-commit any portion of a budgetary commitment indicated in the Annex for the IPARD II programme that, by 31 December of the third year following that of the budgetary commitment ("n+3" rule), has not been used

- for the purpose of pre-financing in accordance with Article 38 of the Sectoral Agreement; or
- making interim payments in accordance with Article 37 of the Sectoral Agreement; or
- for which the NAO entrusted with budget implementation tasks has not presented a payment request including a certified statement of expenditure in accordance with Article 35(1) of the Framework Agreement and Article 37(1) of the Sectoral Agreement.

However, in duly justified circumstances, accepted by the Commission, the period of three years referred to in paragraph (1) can be extended to up to five years in accordance with Article 34(2) of the Sectoral Agreement.



The current deadlines for de-commitment are indicated in the Annex to this Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017.

## PART II – Entrustment of budget implementation tasks

### *Article 6*

#### *Entrustment of budget implementation tasks*

1. In accordance with Article 6 of the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, the Commission has entrusted budget implementation tasks to Montenegro for the following measures of the IPARD II Programme:
  - Investment in physical assets of agricultural holdings;
  - Investment in physical assets concerning processing and marketing of agricultural and fishery products.
2. With this Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, the Commission entrusts budget implementation tasks to Montenegro for the measure Farm diversification and business development.
3. The budget implementation tasks specified in paragraph (1) are entrusted and applied on the basis of the following structures, bodies and authorities designated by Montenegro:
  - (a) The National IPA Coordinator (NIPAC),
  - (b) The National Authorising Officer (NAO),
  - (c) The NAO Support Office (NAO SO),
  - (d) The National Fund (NF),
  - (e) The Managing Authority (MA),
  - (f) The IPARD Agency (IA),
  - (g) The Audit Authority (AA).

### *Article 7*

#### *Conditions*

1. Without prejudice to any other conditions stated in the Framework Agreement, the Sectoral Agreement and the IPARD II Programme, the entrustment of budget implementation tasks specified in Article 6 is subject to the following limitations and conditions:
  - i. The Montenegrin authorities should implement their action plan for recruiting employees on a long-term basis and replacing the short-term contracts with long term ones, ensuring staff stability in the IPARD Agency and the

Managing Authority. The NAO is requested to report on a quarterly basis on the state of play of implementation, starting in October 2020<sup>16</sup>.

- ii. For the purpose of Articles 37 and 45 of the Sectoral Agreement, the expenditure should be allocated to the each reference period on the basis of the date on which the IPARD Agency issued the payment order document by which a financial institution was instructed to make a payment to the recipient.
  - iii. Without prejudice to specific provisions in the Agreements, no payment shall be made in favour of a claimant or to their assignee(s) for whom it is established that they artificially created the conditions required for obtaining such payments with a view to obtaining an advantage contrary to the objectives of the support.
2. For the purpose of reporting requirements set out in Article 59(2)(a) of the Framework Agreement, the NAO shall use the forms provided for in Annexes 6 and 9 of the Sectoral Agreement as specified in Article 45 of the Sectoral Agreement.

#### *Article 8* *Eligibility of expenditure*

1. Without prejudice to any other eligibility rule stated in the Framework Agreement, the Sectoral Agreement and the IPARD II Programme, the rules for eligibility of expenditure proposed by Montenegro by letter of 25 September 2019, and any further amendments to those rules approved by the Commission, shall apply.
2. The final date of eligibility of expenditure under the IPARD II programme is 31 December 2023.

#### *Article 9* *Suspension or termination of parts of the Financing Agreement*

This Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, is without prejudice to any decision that the Commission may take under the Framework Agreement and the Sectoral Agreement, including, without limitations, interruption and suspension of payments and financial corrections.

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<sup>16</sup> As stated in EC Letter Ares(2020)4146723 - 06/08/2020.

*Article 10*  
*Entry into force*

This Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, shall enter into force on the date on which the last of the Parties informs the other one in writing of its approval in accordance with the existing internal legislation or procedure of the Party.

*Article 11*  
*Signature*

This Agreement amending the Financing Agreement 2014-2020, as concluded between the Commission and Montenegro on 6 December 2017, is drawn up in duplicate in the English language.

Signed, for and on behalf of the Government of Montenegro, in Podgorica, on 29. x 2020.

  
.....  
**Mr Aleksandar DRLJEVIĆ**  
**National IPA Coordinator**

Signed, for the European Commission on behalf of the European Union, in Brussels, on  
..... **11 NOV. 2020**

  
.....  
**Mr Wolfgang BURTSCHER**  
**Director General for Agriculture and Rural Development**



## Annex

**Maximum annual amounts of the annual EU contribution under the agriculture and rural development policy area of IPA II for 2014-2020 (IPARD II) (in EUR) (budget-line 05.05 03)**

### **Annual Contribution for IPARD II Programme (in EUR)**

| <b>Year</b>               | <b>2014</b> | <b>2015</b>      | <b>2016</b>      | <b>2017</b>      | <b>2018<br/>indicative<br/>amount</b> | <b>2019</b>      | <b>2020</b>      |
|---------------------------|-------------|------------------|------------------|------------------|---------------------------------------|------------------|------------------|
| <b>Total<br/>IPARD II</b> | <b>--</b>   | <b>5 000 000</b> | <b>5 000 000</b> | <b>6 000 000</b> | <b>7 000 000</b>                      | <b>8 000 000</b> | <b>8 000 000</b> |

The total indicative cost for the execution of the IPARD II Programme in Montenegro, including EU, national and private contributions, for the period 2014-2020 is 86.8 million EUR.

The EU contribution is 39 million EUR.

The current deadlines for de-commitment are indicated as follows:

Budgetary commitment 2015 must be spent by 31/12/2018  
Budgetary commitment 2016 must be spent by 31/12/2020  
Budgetary commitment 2017 must be spent by 31/12/2020  
Budgetary commitment 2018 must be spent by 31/12/2021  
Budgetary commitment 2019 must be spent by 31/12/2022  
Budgetary commitment 2020 must be spent by 31/12/2023.