Council of the European Union

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"I/A" ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Payment plan 2015-2016 - *Outcome of the trilogue on 19 May 2015*

1. In the context of the global agreement on the 2015 budget and the 2014 draft amending budgets, the European Parliament, the Council and the Commission agreed on a joint statement on a payment plan in order *"to reduce the level of unpaid bills corresponding to the implementation of the 2007-2013 programmes to the commonly agreed level"*, *"in due time before the presentation of the draft budget 2016"*[1]. As part of this joint statement the Commission was requested to present an update of the figures and a global picture of the level of unpaid bills by March 2015.

2. On 23 March 2015, the Commission submitted "Elements for a payment plan to bring the EU budget back onto a sustainable track". This analytical document presented a state of play for payments at the end of 2014, as well as an outlook for 2015 and 2016.

3. Following discussions between the European Parliament, the Council and the Commission at the trilogues on 12 and 19 May 2015, an agreement *ad referendum* was reached on the joint statement set out in the ANNEX.

[1] Doc. 16739/14

4. At its meeting on 21 May 2015, the Budget Committee examined the text of this joint statement and did not oppose to it.

5. The Permanent Representatives Committee is invited to advise the Council to:

   – approve this joint statement ;

   – enter in its minutes this joint statement, as set out in the ANNEX.

Joint statement on a payment plan 2015-2016

"Building on the joint statement on a payment plan agreed in December 2014 as part of the agreement reached on the 2014 and 2015 budgets, the three institutions have commonly assessed the state of play and outlook for payments in the EU budget on the basis of the document transmitted by the Commission on 23 March 2015.

The European Parliament, the Council and the Commission agree on the following:

1. State of play

The European Parliament and the Council take note of the Commission's thorough assessment provided in the "*Elements for a payment plan to bring the EU budget back onto a sustainable track*" (in annex) as an analytical basis for identifying the main drivers behind the grown level of outstanding payment claims at year-end, and for attaining the objective of reducing the level of unpaid bills, with a particular focus on the implementation of the 2007-2013 cohesion policy programmes.

a) The constraint on the payment appropriations authorised in the past budgets combined with the implementation cycle of the cohesion programmes have led to the progressive building up of an unsustainable backlog of outstanding payment claims at year-end, reaching an unprecedented level of EUR 24.7 billion at the end of 2014. However, the institutions recognise that the difficult decisions made with regard to the 2014 and 2015 budgets have largely stabilised the backlog.

b) Moreover, the shortage of payments has translated into a slowing down in the implementation of the 2014-2020 programmes in other headings, notably in view of meeting contractual obligations stemming from past commitments and thus avoiding the risk of interests on late payment, at a time when key programmes are expected to contribute to growth and jobs in Europe and to secure the Union's role on the international stage.

2. Outlook

c) The European Parliament and the Council take note of the outlook for 2015 and 2016 presented by the Commission: the analysis indicates that it could be possible to reduce the year-end backlog of outstanding payment claims for the 2007-2013 cohesion programmes to a level of around EUR 2 billion by the end of 2016, taking into account in particular that the cohesion programmes are approaching the closure stage, and provided that sufficient payment appropriations are authorised in the 2016 budget. This should help avoid negative repercussions and unnecessary delays for the implementation of the 2014-2020 programmes.

d) The European Parliament and the Council underline their commitment to phasing out the unsustainable backlog of outstanding payment claims for the 2007-2013 cohesion programmes. They undertake to cooperate fully in view of authorising a level of payment appropriations in the 2016 budget, which allows reaching such a goal. Their deliberations will take into account the current outlook, to be reflected and further refined by the Commission in its estimates for the 2016 draft budget.

e) The Commission will continue to closely monitor the development of the backlog and, if necessary, will propose appropriate measures to ensure an orderly progression of payment appropriations consistent with the authorised commitment appropriations.

f) The three institutions recall their commitment to actively monitor the state of implementation of payments throughout 2015. As part of their regular exchange of views, they confirm their willingness to organise dedicated inter-institutional meetings on 26 May, 14 July and 19 October, with a view to ensuring a sustainable budgeting process. In this regard, those interinstitutional meetings should also address the longer-term forecasts on the expected evolution of payments until the end of the current MFF for which the Commission is requested to present, if appropriate, alternative scenarios.

g) To facilitate the process of monitoring on the state of play for the 2007-2013 programmes, in July and October the Commission will provide reports on the implementation of the budget, both as compared to monthly forecasts for the year and to the previous year to date, as well as on the evolution of the backlog of outstanding payment claims in subheading 1b.

h) Being committed to avoid a similar build-up of backlog in the future, the European Parliament and the Council call on the Commission to closely scrutinize the implementation of the 2014-2020 programmes and set-up an early warning system. To achieve this result, the Commission undertakes to develop appropriate tools to provide, in the course of the budgetary procedure, rolling forecasts of payments by (sub)heading for (sub)heading 1b, 2 and 5 and by programmes for (sub)heading 1a, 3 and 4 focused on the years N and N+1, including the evolution of unpaid bills and of outstanding commitments (RALs); these forecasts will be regularly updated on the basis of budgetary decisions and of any relevant development having an impact on the payment profiles of the programmes; payments forecasts will be presented in July, in the framework of the inter-institutional meetings on payments foreseen in point 36§3 of the Annex of the IIA;

i) This should allow the budgetary authority to take the necessary decisions, in due time, in order to avoid the future building up of an unsustainable backlog of outstanding payment claims at year-end, while fully respecting and implementing the agreements reached as part of the multiannual financial framework and of the annual budgetary procedures."

EUROPEAN COMMISSION

Elements for a payment plan to bring the EU budget back onto a sustainable track

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Executive summary

The increasing gap between the authorised payment appropriations and the past commitments taken by the European Institutions has been one of the main developments regarding the implementation of the EU budget, in particular since 2012. This payments gap has led to a number of negative consequences in the different areas of expenditure and most notably to a **growing backlog of outstanding payment claims for the 2007-2013 Cohesion policy programmes (heading 1b), which reached an unprecedented peak at the end of 2014**.

This growing backlog of outstanding payment claims is due to the intersection of the peak in the 2007-2013 programme cycle with the drop in 2014 in the payment ceiling of the multiannual financial framework (MFF), in a general environment of public finance consolidation at national level. Two different factors are therefore key to understand this evolution.

Firstly, the **cyclical increase of payment claims driven by the sustained implementation of the 2007-2013 Cohesion policy programmes**, to be paid in the first years of the 2014-2020 MFF. After a slow start of the programmes in 2007-2009, resulting (inter alia) from the effects of the financial crisis and counter measures taken, implementation has accelerated since 2012, with payment claims increasing yearly to a historic record of EUR 61 billion in 2013 in the field of Cohesion policy, driven by deadlines for implementation and the automatic decommitment rules set out in the Cohesion policy legislation[2].

It has been difficult to accommodate such a steep increase in payment claims for the 2007-2013 Cohesion policy in the EU budget, with other programmes at cruising speed, a lower ceiling for payments in 2014, and against the backdrop of ongoing fiscal consolidation in Member States.

Indeed, the second key factor to explain this development is the **significant reduction in the payment ceilings in the new MFF**, which is particularly sharp (EUR 8 billion lower) in 2014. The resulting shortage of payment appropriations affects not only Cohesion (heading 1b), but also other areas of expenditure and in particular the policy areas of Growth and Jobs (heading 1a), Global Europe (heading 4) and Security (heading 3).

In order to face this challenge, the Commission put in place measures to ensure an active management of the scarce payment appropriations, namely: speeding up action to recover any undue amounts; limiting idle amounts on fiduciary accounts; reducing pre-financing percentages; making best use of maximum payment deadlines allowed; postponing calls for proposals/tenders and related contracting and giving higher priorities to countries under financial assistance.

Moreover, the budgetary authority was timely informed of the different challenges and developments and different amending budgets were proposed to increase the authorised payment appropriations.

[2] This results from the so-called "N+2" / "N+3" rules whereby payments have to be made within two (N+2) or three (N+3) years after the corresponding commitments have been made. At the end of 2013, the two decommitment rules applied at the same time.

Despite the reinforcements in payment appropriations through amending budgets authorised by Parliament and Council[3], and despite the active management of available payment appropriations by the Commission, **the backlog of outstanding payment claims has kept growing: for the 2007-2013 Cohesion policy alone it reached EUR 24.7 billion at the end of 2014**[4].

Thanks to the mitigating measures undertaken by the Commission, the build-up of a backlog was to a large extent contained in the other policy areas managed directly by the Commission. Most of the payment appropriations available in 2014 were used to honour contractual obligations stemming from the previous programming period and thus minimise penalties for late payments, which nonetheless showed a fivefold annual increase (to EUR 3 million)[5]. While these actions avoided larger negative financial impact for the EU budget, they entailed shifting a number of payments due-dates to 2015, with an impact on legitimate expectations from stakeholders who may have had to postpone the start of their project and/or to temporarily co-finance it to a higher degree.

The closure stage of the 2007-2013 Cohesion programmes is approaching. In 2014, the total level of payment claims received decreased to EUR 53 billion (from EUR 61 billion in 2013). In their latest forecasts (January 2015), Member States expect to submit payment claims of around EUR 48 billion in 2015 and EUR 18 billion in 2016. However, these figures cannot be taken at face value, since in 2015-2016 there will be a capping of payable claims at 95% of the whole financial envelope of the programme as established by the relevant legislation[6]. **The resulting payable claims for 2015 are estimated by the Commission at some EUR 35 billion and up to EUR 3.5 billion for 2016**.

The 2015 budget authorises almost EUR 40 billion in payment appropriations for the 2007-2013 Cohesion policy. This budget will cover both backlog payments (EUR 24.7 billion consuming 62% of the 2007-13 Cohesion policy budget) and new claims arrived in due time to be paid (estimated at EUR 35 billion). As a result, **the backlog at the end of 2015 is estimated to decrease to a level of EUR 20 billion**.

At this stage, the Commission estimates that up to EUR 23.5 billion will be needed to cover the remaining payment claims before the closure and to phase out the backlog. In its Draft Budget 2016, the Commission will fine-tune the payment appropriations for heading 1b, in order to ensure that this is achieved together with a proper implementation of the 2014-2020 programmes.

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3 The total additional payment appropriations authorised through amending budgets amounted to EUR 6.7 billion in 2012, EUR 11.6 billion in 2013 and EUR 3.5 billion in 2014.

4 The backlog of outstanding payment claims for the 2007-2013 Cohesion programmes at year-end increased from EUR 11 billion in 2011 to EUR 16 billion in 2012, EUR 23.4 billion in 2013, and EUR 24.7 billion in 2014.

5 It is to be noted that for shared management policies such as Cohesion policy (where the Commission reimburses Member States' expenditure), interest for late payments does not apply.

6 The remaining 5% is to be paid at the programme closure, which will take place in 2017-2019, after the Commission's assessment that the programme has been implemented successfully and that no correction needs to be made.

Budget year 2015 for the Cohesion policy *(EUR billion)*

Payment appropriations available in Budget 2015	**(1)**	**39.5**
- Of which end-2014 backlog	(2)	24.7
- Of which forecasts 2015 capped at 95% threshold	(3)	~35
Expected backlog end-2015	**(4)=(1)-(2)-(3)**	**~20**

Budget year 2016 for the Cohesion policy (*EUR billion*)

Expected backlog end-2015	**(1)**	**~20**
Maximum remaining payment claims expected to be received in 2016 before closure	(2)	~3.5
Maximum payment claims to be covered in the 2016 budget	**(3)=(1)+(2)**	**~23.5**

Likewise, the level of payment appropriations to be proposed for the other policy areas in the 2016 budget should allow to meet obligations stemming from past commitments and minimise the risk of late interest payments, but also to ensure an adequate level of implementation and contracting for the 2014-2020 programmes.

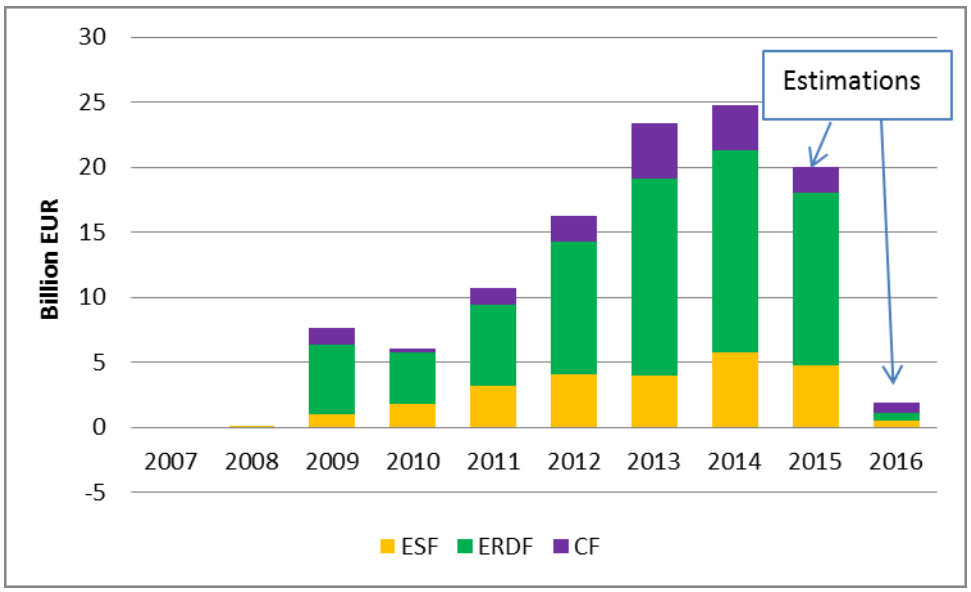
The multi-annual character of a significant share of the EU budget explains the existence of a time gap between the moment when the commitment is recorded and the actual payment against this commitment. The build-up of a structural volume of outstanding commitments (known as "RAL", the French acronym of "*reste à liquider"*) is therefore normal and expected. Given the legal deadline for the payment of claims by the Commission[7], the year-end concentration of claims linked to the requirement to avoid decommitment and possible interruptions, a certain amount of outstanding payment claims at year-end is considered as 'normal'. However, the growing size of the backlog over the last few years has reached 'abnormal' levels[8], which pre-empt a significant and growing share of the budget of the following year and are not sustainable in terms of sound financial management.

The Commission estimates that about half of the backlog of outstanding payment claims in Cohesion policy at the end of 2013 and 2014 was 'abnormal', this means linked to the shortage of payment appropriations authorised in the budget, creating a 'snowball effect'. With the closure stage approaching, lower payment levels will be needed in 2015 and 2016 and the backlog will automatically decrease. The level of interruptions and suspensions is also foreseen to decrease as the programmes are reaching the closure. With payment appropriations of some EUR 21.5 billion for the 2007-2013 programmes in 2016, the backlog is forecasted to be around EUR 2 billion at the end of 2016.

7 Cohesion policy legislation provides for a regulatory deadline of 60 days.

8 Definition of normal and abnormal backlog is in section 3.4 and 4.3.

Cohesion policy programmes 2007-2013: evolution of the backlog of outstanding payment claims at year-end 2007-2016



The need for phasing out the 'abnormal' backlog which has built up has been acknowledged by the two arms of the budgetary authority, the Council and the European Parliament, which jointly agreed during the negotiations on the 2015 budget to "*reduce the level of unpaid bills, with a particular focus on cohesion policy, at year-end down to its structural level in the course of the current MFF*" and "*engage to implement, as of 2015, a plan to reduce the level of unpaid bills corresponding to the implementation of the 2007-2013 programmes to the commonly agreed level by the mid-term review of the current multiannual financial framework*" .

This document provides a solid basis for a common understanding by the two arms of the Budgetary Authority, which are expected to endeavour to take decisions that allow the phasing out of the 'abnormal' backlog of unpaid bills for 2007-2013 programmes by the end of 2016.

This payment plan also provides the opportunity to draw some lessons on the budget management for the future:

1. The agreement on amending budget 2/2014[9] at the end of 2014 was very important to largely stabilise the backlog of outstanding payment claims at a level which can be phased out over two years. The institutions have taken their responsibility in the face of a very difficult fiscal situation in many Member States.
2. Measures of active budget management taken by the Commission have proven indispensable to deal with a shortage of payment appropriations in many policy areas. These measures will need to be maintained as long as necessary in order to avoid disproportionate disruptions for beneficiaries and/or the payment of penalty interest.
3. Although there is a recurrent cycle in the implementation of Cohesion policy programmes, the size of peaks and troughs can be smoothened by implementing programmes as quickly as possible at an early stage in the programming period. This is especially desirable in the current economic conditions when investment is badly needed to stimulate economic recovery and competitiveness.

[9] The amending budget 2/2014 was originally presented as draft amending budget 3/2014.

4. Regular submission of claims is needed. Member States should avoid unnecessary administrative delays in sending their payment claims throughout the year. Regular submission of claims improves budgetary management and helps minimising the backlog at year-end.
5. On the other hand, sufficient budgeting of payment appropriations is a necessary condition to properly implement the budget and avoid the accumulation of an unsustainable level of outstanding payment claims at year-end. In addition to this, the "specific and maximum flexibility", mentioned in the European Council conclusions and the statement of President Barroso in February 2013, will need to be applied in order to comply with Union's legal obligations. Furthermore, decisions of the budgetary authority should, as much as possible, allow for a smooth payment profile over the duration of the MFF.
6. Forecasting capacity has to be reinforced. In addition to the various analyses already provided[10], the Commission will further improve its medium and long-term forecasts in order to identify at an early stage, to the extent possible, likely problems. In particular it will inform the two arms of the budgetary authority as soon as it identifies any developments in the implementation of the 2014-2020 programmes which present a risk for a smooth payment profile.

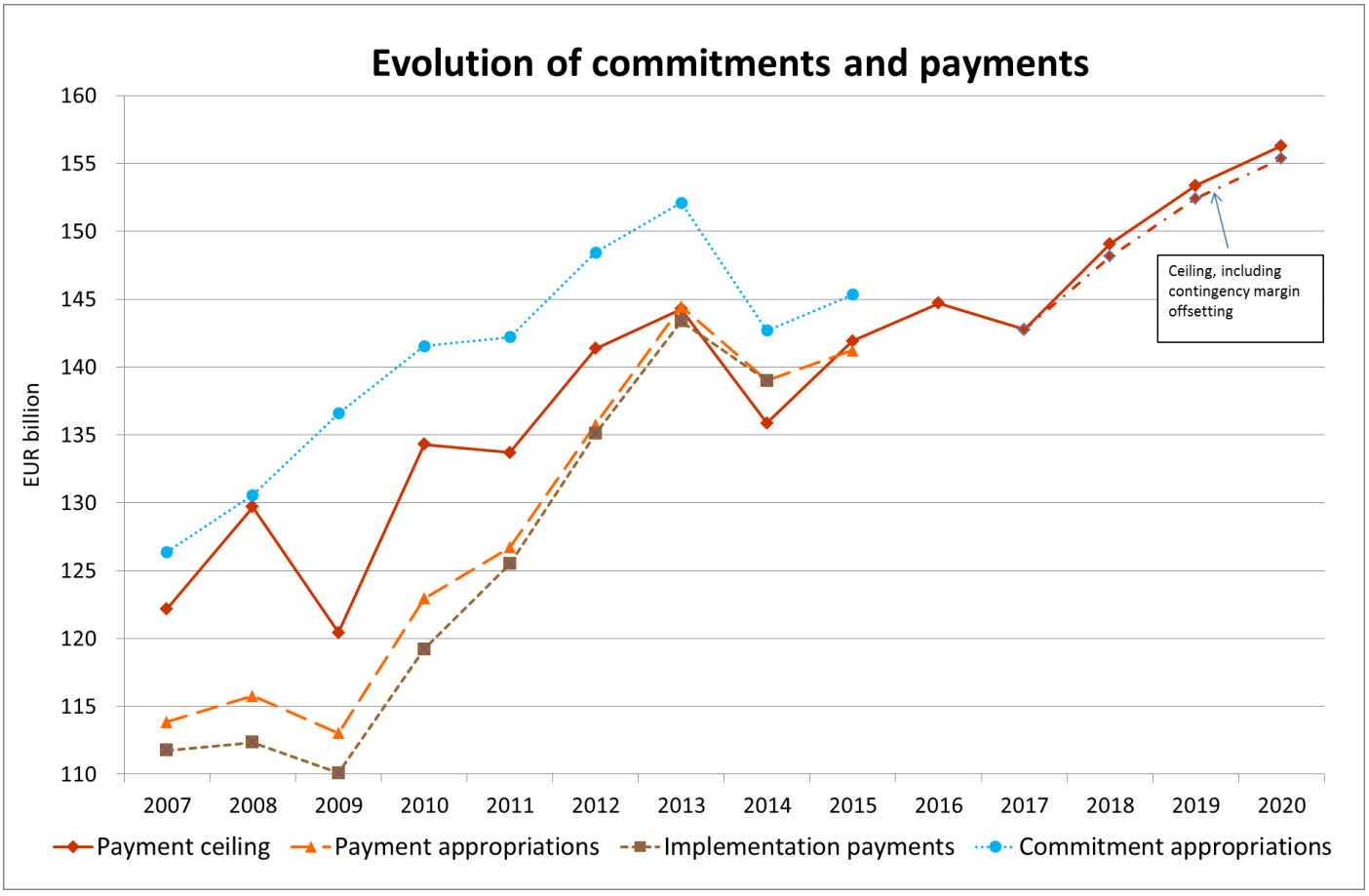
[10] Monthly reports on interim payments and pending claims, Budget Forecast Alert (twice a year)

1. Background

Since 2011, the Commission has been confronted with a growing level of outstanding payment claims at the end of the year, despite the full use of the payment ceilings in 2013 and 2014 and the recourse to the contingency margin for payments in 2014. While virtually all the payment appropriations authorised in the annual budgets have been used up, the backlog of outstanding payment claims at the end of the year for the Cohesion policy (heading 1b) and specific programmes in other headings (such as heading 4 "global Europe") has increased steadily.

The Commission has followed up on the invitation from Parliament and Council to monitor the situation throughout the year and ad-hoc inter-institutional meetings have taken place over the last years to share the assessment on the state of play. Since 2011, the Commission had to present draft amending budgets (DAB) aimed at increasing significantly the level of payment appropriations to address payment shortages. Initial lower levels of authorised payment appropriations have led to recurrent DABs, which have made more complex the decision-making process on the draft budget, which should be the main subject for Conciliation. Amending budgets were voted late, increasing the difficulty to manage the payment process.

Against the backdrop of consistently higher levels of commitment appropriations, the graph below illustrates the increasingly tight annual payment budgets and ceilings and the progressive reduction of the gap between payment ceiling and the voted appropriations, culminating in the need to use the contingency margin in 2014.



In December 2014, in the framework of the agreement reached on the 2014 and 2015 budgets, the European Parliament and the Council agreed the following joint statement:

> *The institutions agree to the objective to reduce the level of unpaid bills, with a particular focus on cohesion policy, at year-end down to its structural level in the course of the current MFF.*
>
> *In order to reach this objective:*
>
> - *the Commission agrees to present, along with the joint conclusions on Budget 2015, a most up to date forecast of the level of unpaid bills by end 2014; the Commission will update these figures and provide alternative scenarios in March 2015 when a global picture of the level of unpaid bills at the end of 2014, for the main policy areas, will be available;*
> - *on this basis, the three institutions will endeavour to agree on a maximum target level of unpaid bills at year-end which can be considered as sustainable;*
> - *on this basis and while respecting the MFF Regulation, the agreed financial envelopes of the programmes as well as any other binding agreement, the three institutions will engage to implement, as of 2015, a plan to reduce the level of unpaid bills corresponding to the implementation of the 2007-2013 programmes to the commonly agreed level by the mid-term review of the current multiannual financial framework. Such a plan will be agreed by the three institutions in due time before the presentation of the draft budget 2016. Given the exceptionally high level of unpaid bills, the three institutions agree to consider any possible means to reduce the level of those bills.*
>
> *Every year, the Commission agrees to accompany its draft budget by a document evaluating the level of unpaid bills and explaining how the draft budget will allow for the reduction of this level and by how much. This annual document will take stock of the progress made so far and propose adjustments to the plan in line with updated figures.*

As an immediate follow-up to the joint statement, on 15 December 2014 the Commission presented an updated forecast of the level of outstanding payment claims by end 2014, which is set out in Annex 1.

The present document provides an overview of the state of implementation at the end of 2014, focussing on the backlog of the 2007-2013 programmes of the Cohesion policy, in view of reducing it to an agreed level by the mid-term review of the current multiannual financial framework in 2016. The document also addresses the evolution of the backlog of the other headings, although the problem of backlog is much less acute in terms of absolute size than in heading 1b: the backlog of outstanding payment claims in other headings at the end of 2014 stood at some EUR 1.8 billion.

2. State of play at the end of 2014

2.1. Implementation at the end of 2014

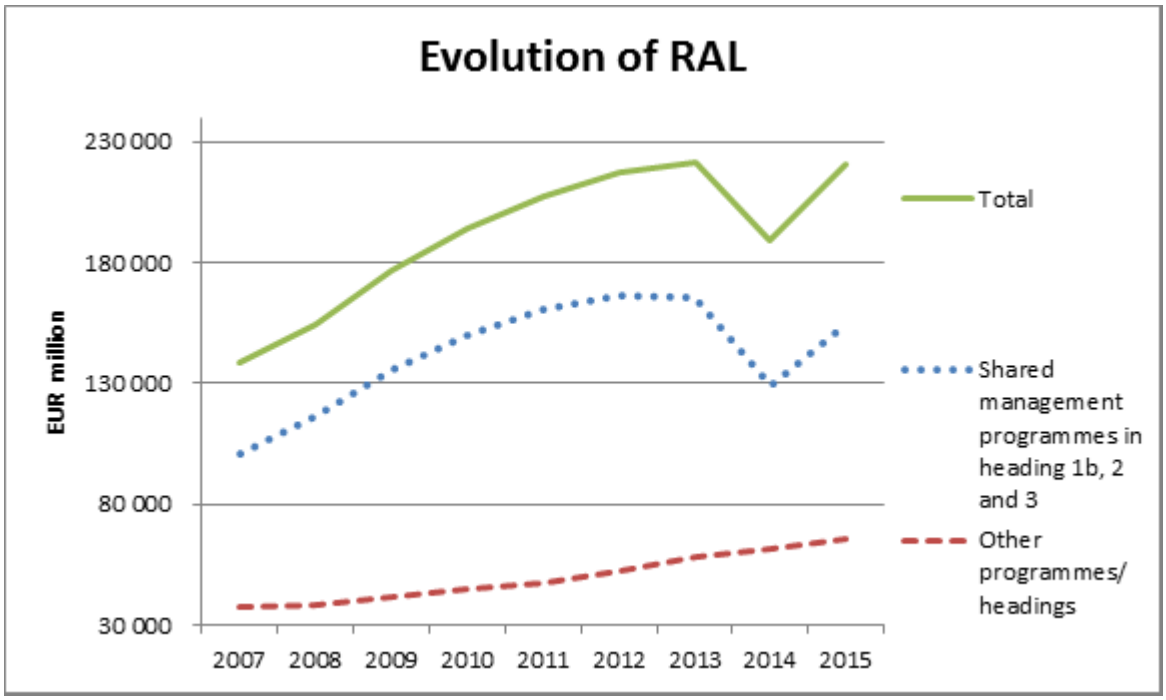
At the end of 2014, the implementation of payment appropriations (before carryovers) amounted to EUR 134.6 billion (99% of the final authorised appropriations in the 2014 budget). The under-implementation of payments (after carryovers) is the lowest ever recorded at amounted to EUR 32 million, as compared to EUR 107 million in 2013 and EUR 66 million in 2012. Such a high level of implementation, despite the late adoption of draft amending budget 3/2014, is a confirmation of the tight constraints imposed on payment appropriations, particularly for the completion of the 2007-2013 programmes. In many cases, the corresponding budget lines were also reinforced with appropriations initially foreseen for paying the pre-financing of newly adopted 2014-2020 programmes.

During 2014, the payment appropriations for the 2007-2013 Cohesion programmes were reinforced by EUR 4.6 billion, of which EUR 2.5 billion through draft amending budget 3/2014, EUR 0.6 billion through the end-of-year transfer[11] and EUR 1.5 billion through internal transfers from the 2014-2020 programmes. These reinforcements contributed to stabilising the backlog of the 2007-2013 Cohesion programmes at the end of 2014.

A large amount of unused commitment appropriations were carried over or reprogrammed to 2015, not only for the Cohesion policy but also for the programmes under rural development (heading 2) and the migration and security funds (heading 3). As a consequence, the amount of outstanding commitments (RAL) decreased to EUR 189 billion at the end of 2014, a reduction of EUR 32 billion in comparison with the RAL at the end of 2013. However, this decrease is somewhat artificial as it results mostly from the under-implementation of the commitment appropriations for 2014-2020 programmes carried over and reprogrammed to 2015 and later years, when it will "reappear". Had all appropriations for the new programmes been committed in 2014, the RAL would have remained much closer to the 2013 level (EUR 224 billion).

[11] DEC 54/2014.

The graph below shows the evolution of the level of RAL over the period 2007-2014 and the projection for the level of RAL at the end of 2015, for the budget as a whole, as well as for programmes under shared management in headings 1b, 2 and 3 and the other programmes/headings. As shown in the graph, the overall level of RAL at the end of 2015 is expected to return to a level comparable to that at the end of 2013. However, the graph also shows the distinction between the programmes under shared management in headings 1b, 2 and 3, for which the RAL at the end of 2015 is expected to go down compared to 2013, and the other programmes/headings, for which the RAL at the end of 2015 is expected to go up.



2.2. Mitigating measures taken in 2014

On 28 May 2014, the Commission presented its draft amending budget 3/2014, requesting additional payment appropriations for 2014. After a lengthy adoption process, DAB 3/2014 was finally approved on 17 December 2014. Awaiting the adoption of the amending budget, during the year 2014 the Commission has put in place a series of mitigating measures in order to honour legal obligations stemming from past commitments while launching the new generation of programmes, within an exceptionally tight budgetary framework.

So as to implement the agreed policies with the appropriations authorised in the budget, the Commission followed an approach of actively managing the budget, bearing in mind three main principles:

- Minimise the financial impact for the EU budget of interests for late payments and potential liabilities;
- Maximise the implementation of programmes;
- Minimise the potentially negative impact of decisions on third parties and the economy as a whole.

Accordingly, the measures to ensure an active management of the scarce payment appropriations included the following: pro-actively recovering any undue amounts; limiting idle amounts on fiduciary accounts; reducing pre-financing percentages; making best use of maximum payment deadlines allowed; postponing calls for proposals/tenders and related contracting.

These mitigating measures helped the Commission to protect its status as a first-class investor and its reputation as a reliable and secure partner. The Commission managed to minimise, as far as possible, the negative effects of payment shortages, for instance in terms of limiting the amount of interests on late payments. Despite an almost fivefold increase compared to 2013, the amount of interests paid at the end of 2014 still remains limited (EUR 3 million). The relative sharper increase for heading 1a (Competitiveness for Growth and Jobs) and heading 4 (Global Europe), as shown in the table below, illustrates the pressure on payment appropriations.

Interests paid on late payments *(in EUR)*

	2008	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Heading 1a	294 855	157 950	173 748	329 615	137 906	243 748	1 047 488
Heading 1b	1 440	5 324	6 220	11 255	31 726	71 620	103 960
Heading 2	27 819	1 807	9 576	15 713	61 879	30 991	61 985
Heading 3	13 417	59 852	48 673	50 397	29 375	13 060	7 252
Heading 4	250 204	178 468	257 818	1 266 425	335 820	247 786	1 797 825
Heading 5	43 915	442 678	237 367	60 825	142 254	46 187	8 614
Total	**631 651**	**846 079**	**733 403**	**1 734 230**	**738 960**	**653 392**	**3 027 124**

Interest for late payments in Cohesion policy (heading 1B) is not significant as shared management represents the major part of this heading and shared management does not lead to late interest. However, in terms of credibility, the non-respect of the regulatory deadlines for shared management policies is highly prejudicial.

3. terminology

This section explains a number of definitions used in this document.

3.1. Project cycle

Before approving an operational programme or a project, the Commission reserves the appropriations by creating a commitment on a budget line for a defined amount. This transaction consumes part of the authorised commitment appropriations.

Very often, the signature of the contract for the project or the approval of the operational programme leads to a certain level of pre-financing, which allows the beneficiary to start the project without borrowing. Reaching defined milestones allows the beneficiary to submit interim payment claims and to be reimbursed for expenditure incurred linked to the programme.

However, in the case of major programmes such as research (Horizon 2020), the structural funds, the European Fisheries Fund and rural development, once a certain stage of implementation is reached, interim payment claims no longer lead to payments as they are covered by the pre-financing. Furthermore, a percentage of the total funds committed for the project or the programme is only paid at the closure when the Commission has verified that all the work has been carried out in accordance with the initial agreement. If that is not the case, the funds are partly decommitted. In certain cases, the Commission may also issue recovery orders to recover payments which were not justified.

3.2. Outstanding commitments (RAL)

Outstanding commitments are usually referred to as 'RAL' from the French acronym for "*Reste à Liquider*". It is the part of a commitment that has not been consumed by any payment at a given point in time. In multiannual projects, commitments are made at the start of the project with a limited pre-financing while interim payments are made at a later stage, when the project is being implemented and the final payment is made at closure.

A large part of the EU budget concerns investments, whose implementation is spread over a number of years. The difference between commitment and payment appropriations authorised in the annual budget determines the change in the overall level of RAL. In turn, the speed at which commitments grow and the pace of programme implementation determine the normal evolution of RAL. However, the RAL further increases when insufficient payment appropriations are budgeted, regardless of the pace of implementation. In this latter case, the effect is to increase the level of outstanding payment claims at the end of the year.

The ratio between RAL and the commitments of the year is a good indicator to compare the size of the RAL of specific programmes with their financial envelope. For example, programmes and actions with an annual character, such as Erasmus or Humanitarian Aid, have a RAL/commitments ratio below one, which indicates that most commitments are paid within a year. Cohesion programmes, on the other hand, typically have a RAL/commitments ratio between 2½ and 3, which reflects the impact of the automatic decommitment rules set out in the legislation (the so-called "N+2" / "N+3" rules, see section 4.1 below). Certain programmes under heading 4 have a higher ratio, due to the complex cycle of negotiations linked to implementation. In its payment requests, the Commission takes these indicators into account.

3.3. Cash flow constraints vs. shortage of payment appropriations

The Commission cash-flow is mostly determined by the amounts called in from Member States on a monthly basis according to the own resources rules. The Commission is not allowed to borrow money to cover cash-flow shortages. Cash-flow constraints may lead to temporary delays in payments to beneficiaries of EU funds despite the fact that sufficient payment appropriations are authorised in the budget for the financial year. This may happen, usually in the first part of the year, because the sum of outstanding payment claims at the end of the previous year and those to be paid in the first months of the current year (for instance for the European Agricultural Guarantee Fund) are larger than the maximum monthly inflow of own resources made available to the Commission. As the backlog from the previous year is phased out and the monthly inflow of resources continues later in the year, the cash-flow constraint is no longer binding in the following months of the year.

Cash flow constraints at the beginning of the year are amplified by the shortage of payment appropriations, since the monthly call for funds is based on the revenue provided for in the authorised budget as it stands, before the adoption of amending budgets increasing the level of payments, which usually takes place towards the end of the year.

Depending on the precise date of adoption (i.e. before or after 16 November of the year in question), the corresponding additional call for own resources to cover the additional payment appropriations authorised in amending budgets adopted at the end of the year might lead to cash availability only in the beginning of the next financial year, leading to possible difficulties in implementing the amending budgets in the same year.

3.4. Backlog of outstanding payment claims at year-end

At the end of every year, there is a backlog of outstanding payment claims, i.e. claims that have been sent by the beneficiaries of EU funds and need to be paid within a defined delay (in general in less than 2 months) but that have yet not been paid[12]. That is because of one of the following three reasons:

a) Ongoing interruptions/suspensions: Payments were interrupted/suspended for certain beneficiaries/programmes. Interruptions of payments are normally short term formal actions by which the Commission delays the payment waiting for missing information or checks of the management and control system.

b) Timing: Payment claims not paid because they were transmitted in the very last days of the year, leaving insufficient time for processing before year-end.

c) Lack of credits: Payment claims unpaid because authorised payment appropriations on the relevant budget line were exhausted.

[12] Unpaid amounts resulting from the reduction of pre-financing rates to a rate below the legal/normal minimum are not included in the current definition of "outstanding payment claims": however, for a number of programmes, some reduction of pre-financing rates has been implemented in 2014 (in some case already in 2013) in order to postpone payments to a later date.

Part of the backlog is considered “normal” (see points a and b). The growth of the "abnormal" backlog of outstanding payment claims, most of which is in Cohesion policy, is associated with the shortage of payment appropriations (point c), whereas the cash-flow constraints in the beginning of the year (see section 3.3 above) also have an impact. Section 4 further develops the case of the Cohesion policy.

4. Heading 1b: evolution of backlog and outlook

This chapter looks at the specific case of the Cohesion policy (heading 1b). First, it sets out the main features of the structural funds and it explains how specific events in the past or in relation with the legislation created the present difficult situation. It then explores how a "normal" backlog could be defined and provides a detailed analysis of the situation at the end of 2014.

4.1. Implementing the structural funds 2007-2013

Structural funds 2007-2013: main features

Projects financed out of heading 1b are organised in operational programmes. These operational programmes are proposed by Member States, and negotiated and adopted by the Commission at the beginning of the period for the whole duration of the period. Each operational programme is implemented in shared management through individual projects. This means that Member States implement the funds. The Commission participates in monitoring committees, where it has an advisory role in the project selection and monitors project implementation through annual implementation reports.

Programmes are co-financed by the EU budget; this means that the Commission does not pay the entire cost of the programme. Member States must find "match-funding" to finance part of the programmes.

Once a programme is adopted, the European Union has contracted a legal obligation for the whole period. The Commission committed automatically the appropriations on an annual basis before the end of April from 2007 to 2013, based on the financial plan of the programme and not on the actual implementation of the projects of the programme. While the EU payments can never exceed the EU budget commitments, expenditure is eligible from the beginning of the period (i.e. even before the adoption of the programme) until the end of the eligibility period.

After the approval of the programme, the Commission pays pre-financing. These payments are made automatically to the Member State and remain at its disposal until its clearing at the closure.

As the implementation of the various projects is ongoing, the Member States submit interim payments through their certifying authority. The interim payment claims are paid by the Commission based on the co-financing rate in force and provided that no interruption or suspension is decided.

This mechanism works as long as the total of pre-financing paid by the Commission and interim payment claims submitted by Member States for the programmes does not reach 95% of the share of the allocation of the programmes. Once this threshold is reached, the Member State may still send its payment claims but they are used to clear any outstanding prefinancing. The remainder will be settled at closure of the programme. Member States need to justify eligible expenditure to cover the amount of pre-financing received at the beginning of the period and the amount retained for closure (5% of the total allocation).

After the end of the eligibility period, a period of 15 months is then foreseen to prepare and submit the closure documents to the Commission and request the final payment to be settled. Before the final payment can be done, the Commission examines the closure package (i.e. closure declaration, Final Implementation Report and final claim). Given that these documents are expected by 31 March 2017, the decision on the closure (and the related final payments) will occur between 2017 and 2019.

Based on the outcome of this exercise, the 5% retained for the closure are used to pay the outstanding payment claims. Otherwise, the Commission does not pay the full amount at the closure. The amount that is not paid will be decommitted. If corrections are higher than 5%, the Commission will recover the amount unduly paid.

The N+2/N+3 rule

The N+2/N+3 rule was first established for the programming period 2000-2006. The rule foresees that a commitment made at year N has to be covered by the same amount of pre-financing and interim payment claims before 31 December N+2 (N+2 rule). For example, a commitment made in 2012 has to be fully covered by payment claims before 31 December 2014. The amount not covered is decommitted, which means that the Member State loses the funding. At present, however, there is no history of significant N+2/N+3 decommitments in the entire history of the structural funds.

The purpose of the rule is to ensure financial discipline in managing the EU funds. As commitments are made automatically once a programme has been approved, the rule obliges the Member States to implement the projects in a dynamic manner and to avoid problems at the very end of the cycle. Its existence also enables having a smoother profile of payments by obliging the Member States to submit payment claims at regular intervals. However, as explained in the next chapter, "softening" of the rule, especially in the wake of the financial crisis of 2008, reduced its regulatory effect.

This rule is at the source of the year-end concentration of payment claims: Member States have to send their payment claims before 31 December midnight, through a specific IT system. Although they are legally required to send their claims regularly throughout the year[13], experience form the past shows that many wait for the last weeks to send large amounts.

[13] Art. 87 of CR 1083/2006: " *...requests for interim payments are grouped together, as far as possible, on 3 separate occasions a year*"

4.2. Payment claims profile for the 2007-2013 programming period

Main drivers of the payment cycle

At the beginning of the period, significant amounts of pre-financing are paid, followed during some years by a relatively low level of interim payments as programmes set up their structures and start implementation of projects. As the N+2/N+3 rule only begins to produce its effects at the earliest at the end of the third year of the programming period, there is no pressure at the start of the framework to submit claims. Moreover, the pre-financing still covers a large part of the commitments made at the beginning of the programming period. About 2-3 years before the end of the programming period, the annual level of interim payments begins to increase as programmes reach maturity and payments claims are at cruising speed. A peak is observed at the end of the period/beginning of the following programming period, followed by a decrease to nearly zero in the following years when programmes reach the 95% threshold. As mentioned above, closure payments are made between one and three years after the end of the eligibility period.

Derogations

Three developments in the legislative framework applicable to the 2007-2013 programming period amplified the cyclical character level of interim payments:

1. The switch from N+3 to N+2. As part of the global compromise establishing the 2007-2013 MFF, the new Member States as well as Greece and Portugal were submitted to a N+3 rule for the 2007-2010 commitment tranches and then to an N+2 rule until the end of the period. This means that by the end of 2013, these Member States had to cover two commitment tranches: the 2010 tranche and the one of 2011. Of course, Member States did not wait necessarily until the decommitment deadline to implement the programmes and to submit their payment claims, so there was not a doubling of payment claims in 2013. Nevertheless, this rule reinforced strongly the peak of 2013 with a spill-over effect on the following years through the accumulation of a growing backlog.
2. The Member States were required to carry out a compliance check on their control systems for the funds. The results of the compliance check had to be approved by the Commission. Interim payment claims could be submitted, but only reimbursed by the Commission following approval of the compliance assessment. While most of the programmes were adopted in 2007, the submission of claims (or at least their reimbursements by the Commission) was delayed, with nearly no interim payment made in 2008.
3. As a response to the financial crisis, there were strong calls from Member States to neutralise the 2007 commitment tranche for the N+2/N+3 rule. This was accepted by the Commission but instead of postponing the decommitment threshold of the 2007 tranche by one year, the N+2/N+3 rules were weakened further through an unanimous vote in Council to spread the obligation related to 2007 tranche in six sixths over the whole period. This so-called "Greek rule" made it possible to submit fewer payment claims in the beginning of the period, balanced by more payment claims at the end of the period.

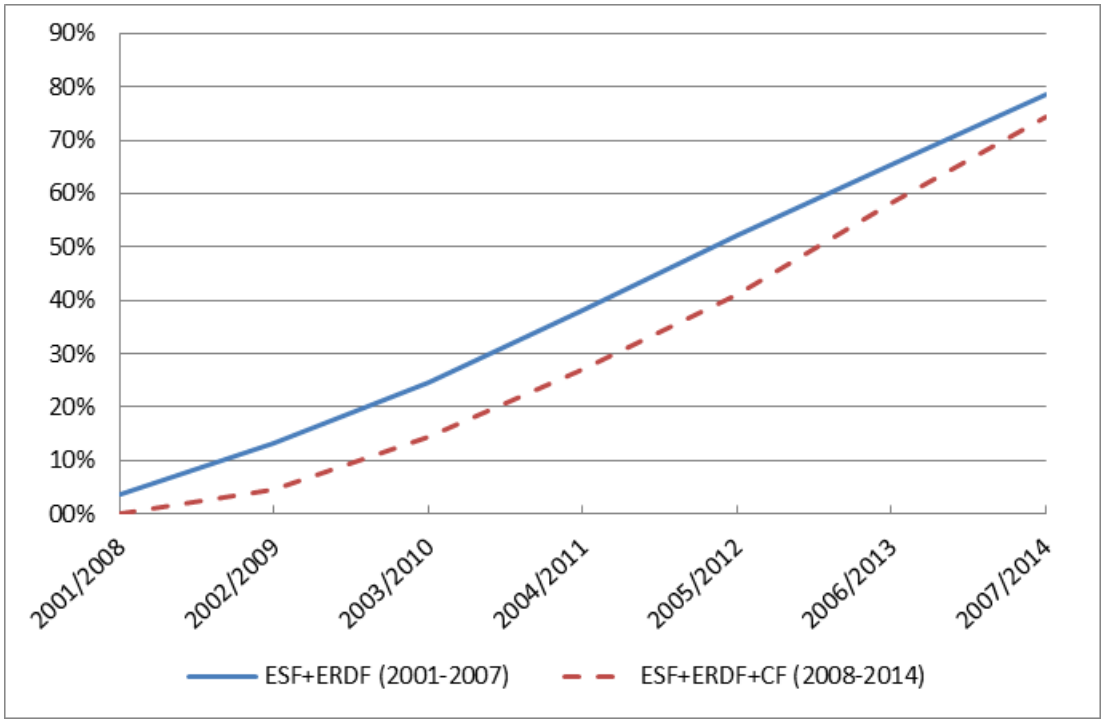
In addition, also in response to the crisis, the eligibility period of expenditure for the 2000-2006 programmes was extended from late 2008 to 2009 (by modifying the Commission decision approving the programme) and therefore Member States continued to focus on the implementation of the 2000-2006 programmes. As a result, implementation of 2007-2013 programmes and the related submissions of 2007-2013 interim payment claims were delayed.

Comparing the 2000-2006 programmes with the 2007-2013 programmes

Whereas the 2007-2013 programming period switched from N+3 to N+2 at the end of the fourth year, the 2000-2006 programming period only had an N+2 rule, albeit with some adjustments in 2004 because of the accession of 10 Member States.

The chart below compares the cumulated interim payments for the 2000-2006 period which were made over the years 2001-2007 as a percentage of the total envelope, with the cumulated interim payments for the 2007-2013 programmes which were made from 2008 to 2014, again as a percentage of the total envelope.

Chart 1: Annual pattern of cumulative interim payments (with 1-year time-lag): 2000-2006 (EU-15) vs. 2007-2013 period (% of total envelope excluding pre-financing)



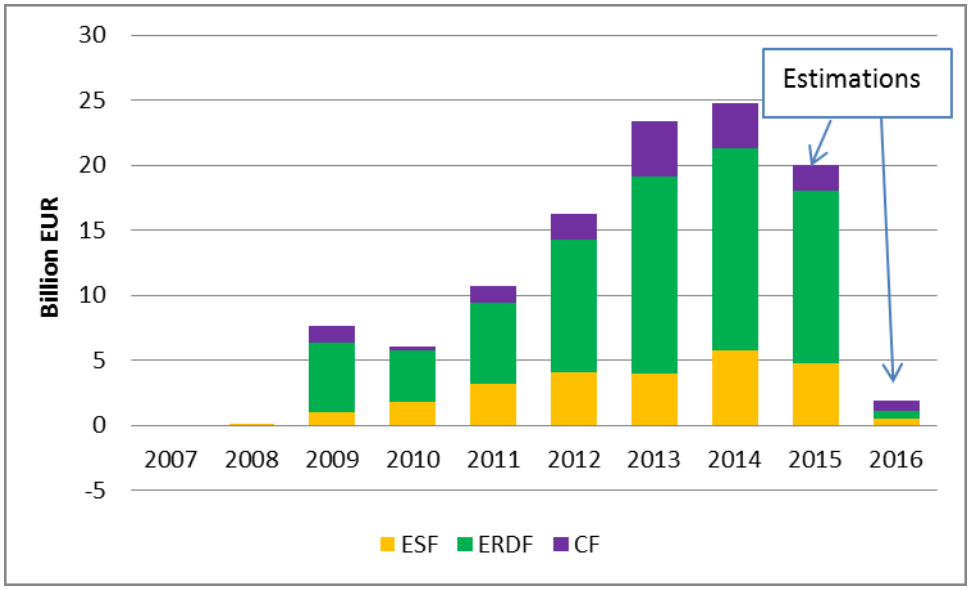
As shown in the chart, the cumulative payments for the 2007-2013 programmes consistently remained below the level experienced in the 2000-2006 period, albeit with a catching up towards the end of the period. This delayed profile for the 2007-2013 programmes resulted from the combination of factors set out above. It explains the under-execution of payment appropriations and the payment ceiling at the beginning of the period, as the payment profile for the 2000-2006 programmes had been used as reference for establishing the ceilings.

However, when the payment claims started catching up at a later stage, the payments were strongly constrained by the level of authorised payment appropriations and/or by the payment ceiling which led to building up of the backlog.

Evolution of backlog 2007-2014

The following chart[14] shows the evolution of the backlog for the 2007-2013 programmes over the period 2007-2016.

Chart 2: Cohesion policy programmes 2007-2013: evolution of the outstanding payment claims at year-end (in EUR billion)



As shown in the chart, the backlog for the 2007-2013 programmes started to increase in 2011, when it reached a level of EUR 11 billion, and arriving at a peak of EUR 24.7 billion in 2014. As explained below, the projections show a still high level of the backlog at the end of 2015, before returning to a "normal" and sustainable backlog at the end of 2016.

4.3. Components and types of backlog

Over the year, the Commission receives the following payment claims for the structural funds:

a) Eligible payment claims that are covered by payments in the course of the year.
b) Payment claims that have already been covered by the pre-financing at the beginning of the programming period and that are consequently not followed by additional payments.
c) Payment claims which can only be paid after the closure will have to wait until the Commission and the beneficiary reach an agreement on the closure.
d) Payment claims not paid because they were transmitted in the very last days of the year, too late to be processed before year-end.

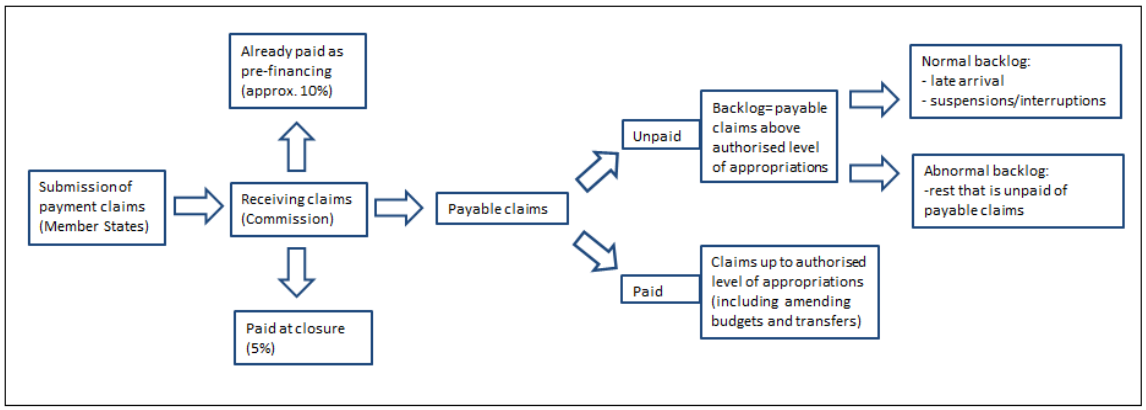
[14] Identical to the one included in the executive summary.

e) Payment claims which are interrupted/suspended for certain beneficiaries. Suspensions or interruptions of payments are normally short term formal actions by which the Commission delays the payment waiting for missing information or checks of the management and control system.

f) Payment claims unpaid at year-end because authorised payment appropriations on the relevant budget line were exhausted.

The last four categories (from c to f) remain outstanding claims at year-end, but the *backlog* includes outstanding payment claims according to reasons d, e and f. A certain level of outstanding payment claims at the end of the year is considered 'normal' when they correspond to reason d and e. The *"abnormal" backlog* only includes outstanding payment claims according to reason f.

The following chart illustrates the flow of payment claims for heading 1b, from the submission by the Member States via the identification of "payable claims" to the "normal" and "abnormal" backlog.



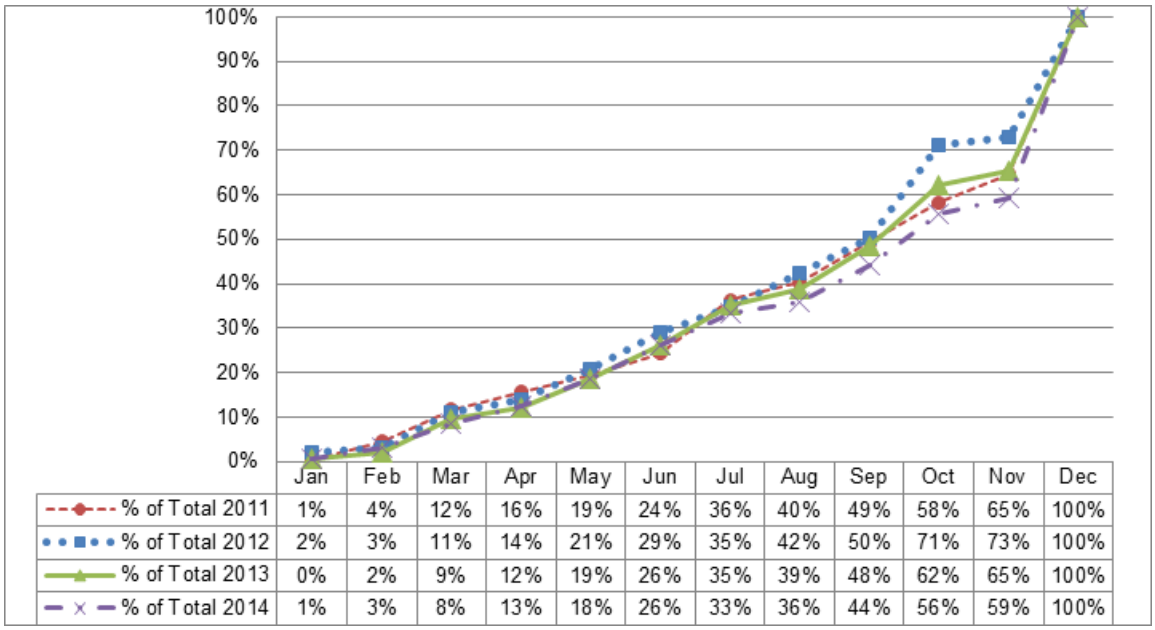
Year-end concentration of claims and time to pay

There is a very high concentration of payment claims sent by Member States in the month of December, ranging from 27% to 35% of the annual total over the period 2011-2014. For each payment claim received, the Commission needs to carry out controls before proceeding with the disbursement. The larger the number of claims received in the last weeks of the year, the higher the risk of claims not being reimbursed before the end of the year.

For this reason, the Commission regularly encourages Member States to send their claims more regularly throughout the year.

The following chart shows the monthly evolution of the submission of payment claims for the 2007-2013 programmes between 2011 and 2014.

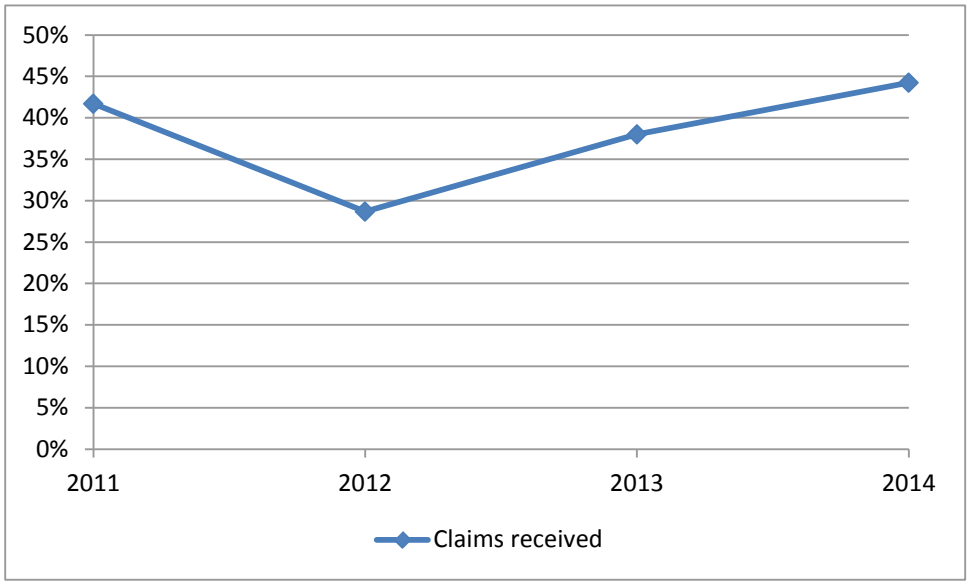
Chart 3a: Monthly pattern of cumulative interim payment claim submission for 2007-2013 period (in % of total)



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
% of Total 2011	1%	4%	12%	16%	19%	24%	36%	40%	49%	58%	65%	100%
% of Total 2012	2%	3%	11%	14%	21%	29%	35%	42%	50%	71%	73%	100%
% of Total 2013	0%	2%	9%	12%	19%	26%	35%	39%	48%	62%	65%	100%
% of Total 2014	1%	3%	8%	13%	18%	26%	33%	36%	44%	56%	59%	100%

This chart above shows clearly a recurrent very steep increase of the request of payment claims at the end of the year.

Chart 3b: Concentration of payment claims submission during the last two months of the year (percentage received in November and December) **between 2011 and 2014**



The charts illustrate that more and more claims have arrived late in the year, due to the growing pressure of the N+2 rule. The removal of the N+3 rule in 2013 meant that all Member States had an N+2 rule except Romania, Slovakia and Croatia. It had a major impact on the volume of claims received in that year. The amount of claims arriving too late to be paid in the year depends on the total amount of claims received in the year and on its profile within the year.

Impact of interruptions and suspensions

The Commission uses a number of preventive mechanisms to protect the EU budget before it makes payments to Member States when it is aware of potential deficiencies. These are especially valuable for improving control systems in the Member States and thus reducing the need for future financial corrections by the Commission.

As a consequence, some payment claims are not immediately payable as they have been interrupted or suspended by the Commission pending improvements in the control systems to be made. While most of these claims will ultimately not be rejected, they cannot be paid immediately.

In accordance with the regulation[15], the Commission may:

- **interrupt** the payment deadline for a maximum period of 6 months for 2007-13 programmes if there is evidence to suggest a significant deficiency in the functioning of the management and control systems of the Member State concerned; or if the Commission services have to carry out additional verifications following information that expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected.
- **suspend** all or part of an interim payment to a Member State for 2007-13 programmes if there is evidence of serious deficiency in the management and control system of the programme and the Member State has not taken the necessary corrective measures; or if expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected; or in case of serious breach by a Member State of its management and control obligations. Where the required measures are not taken by the Member State, the Commission may impose a financial correction.

Estimating the "normal" backlog

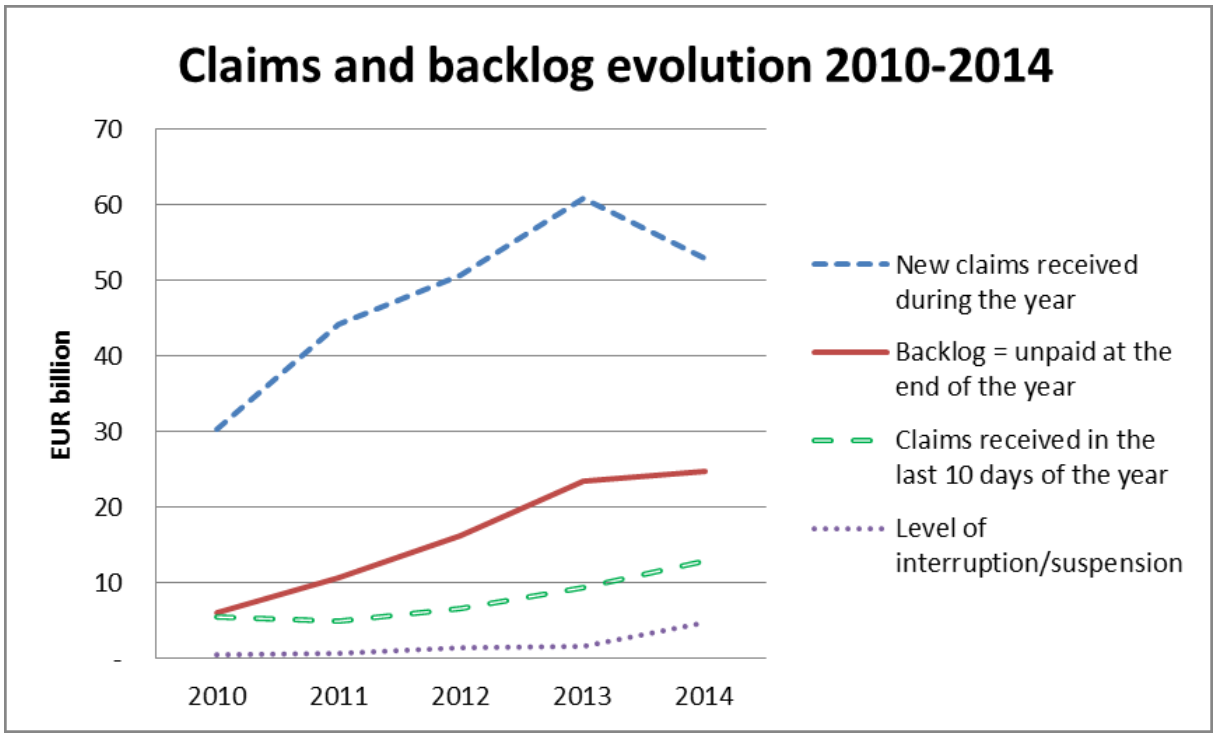
As explained before, the "normal" backlog is the total of the claims that are interrupted or suspended and the claims that arrive too late to be paid in the year. Claims arriving during the last ten calendar days of the year can be considered as claims arriving too late to be paid as the Commission must have sufficient insurance that it will be able to fully execute the appropriations available in the budget. However, some of the claims interrupted or suspended are also part of the claims arriving too late to be paid and should not be counted twice.

[15] Articles 91 and 92 respectively of Regulation 1083/2006 for programming period 2007-2013.

Accordingly, the "normal" backlog will grow with the total number of claims received over the year and its relative concentration over the last days of the year.

For the 2010-2014 period, the chart below gives an overview of the payment claims received, the backlog at year-end and the claims arriving too late to be paid or suspended.

Chart 4 Heading 1b: Claims, backlog, suspensions 2010-2014



Over the last three years (2012-2014), the "normal" backlog (i.e. payment claims received in the last ten days of the year or interrupted or suspended claims even if they have been received before the last ten days) can be estimated at about half the value of the total backlog reached at the end of each year. The other half was linked to the shortage of payment appropriations authorised in the budget, which has created a "snowball effect"[16].

With the declining level of claims expected in 2015 and 2016, the expected reduction of cases interrupted/suspended and the absence of pressure from the N+2 rule at end 2015[17], the "normal" backlog is also expected to decline sharply.

[16] Due to the cash-flow constraints in the first months of the year (see section 3.3 above), part of the backlog might not be paid within the regulatory deadlines at the beginning of the year.

[17] Except for Croatia, Romania, Slovakia

4.4. Outlook for 2007-2013 payments (claims) in 2015 and 2016

2015 and 2016 estimate based on Member States' forecasts

The Regulation governing the 2007-2013 Funds[18] requires Member States to send the Commission a forecast of their likely interim payment claims for the year N and the year N+1 at the latest by 30 April of year N. During the last years, Member States have agreed to update of this information in September of year N, in order to assess more accurately the growing level of outstanding payment claims (backlog) and the significant concentration of payment claims submitted in the last months of the year.

However, the new Regulation governing the 2014-2020 Funds[19] requires the Member States to send their forecast of interim payment applications for the year N and N+1 by 31 January of year N (with an update by 31 July). This new deadline has been applied on voluntary basis by Member States in 2015 for their 2007-13 programmes on the basis of a request of the Commission, confirmed in December 2014. According to the data received by the Commission as at 3 March 2015, Member States currently estimate to submit around EUR 48 billion of payment claims (both payable and non-payable) in 2015 and around EUR 18 billion in 2016[20].

[18] Article 76 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

[19] Article 112 of Regulation (EU) No 1303/2013 of the European Parliament and of 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 (OJ L 347, 20.12.2013, p. 320).

[20] The forecasts submitted by Member States in January 2015 did not cover all operational programmes. For these cases, the Commission has used the forecasts received last September. Such an extrapolation of missing Member States' forecasts is not possible for 2016, since the forecasts submitted in September 2014 covered 2014 and 2015 only (not yet 2016). This means that the forecast for 2016 includes only the operational programmes for which the Member States transmitted the information and might have to be revised upward when the missing information is transmitted.

As previously explained, not all payment claims will directly result in payments because of the need to take into account the "95% ceiling" in payments set by Article 79 of Regulation 1083/2006[21]. As more and more programmes reach the "95% ceiling", this correction will become far more significant in 2015 and later years. Consequently, the actual figures of the expected payable claims are lower than those forecasted by Member States, because the claims above the 95% ceiling are considered at closure only. Based on these capped forecasts, the Commission expects to receive a total amount of payable payment claims of around EUR 35 billion in 2015. The corresponding figure for 2016 is currently around EUR 3 billion. This amount for 2016 will become more precise (and could be slightly higher) once Member States submit missing data or revise transmitted data for some operational programmes.

Annex 2 provides more details regarding the Member States' forecasts of payment claims to be submitted in 2015 and 2016 for the 2007-2013 Cohesion programmes.

Commission estimate based on execution

At the end of 2014, the total amount of pre-financing and interim payments made was EUR 266.1 billion. The total envelope for the programmes of the Cohesion policy 2007-2013 is EUR 347.3 billion. Taking into account the decommitments already made so far and the decommitment risk due to the implementation of the N+2/N+3 rule at the end of 2014 but still pending confirmation (a total maximum amount of some EUR 0.9 billion since the beginning of the period), the maximum amount still to be paid is around EUR 80.3 billion. However, 5% of the amounts of each programme have to be paid only at the closure (EUR 17.3 billion).

Consequently, the expected level of interim payment claims still to be paid in 2015 or the following years is around EUR 63 billion or 18% of the total envelope, which includes the backlog at the end of 2014 (EUR 24.7 billion). The maximum level of payable new payment claims to be received in 2015 or in the following years, before the closure, is EUR 38.3 billion. If an amount up to EUR 35 billion of payment claims are to be received in 2015, the remaining amount of up to EUR 3.5 billion would be received in 2016.

[21] Article 79 of Council Regulation (EC) No 1083/2006 lays down that "*The cumulative total of pre-financing and interim payments made by the Commission shall not exceed 95% of the seven-year contribution from the Funds to the Operational Programme; the remaining 5% will only be paid at the closure of the Operational Programme.*"

Estimated backlog at the end of 2015 based on corrected Member States' forecasts

The level of payment appropriations authorised in the 2015 budget is EUR 39.5 billion. This amount will cover both the pre-2015 backlog (EUR 24.7 billion) and the new claims (estimated at EUR 35 billion). Consequently, the expected backlog at the end of 2015 would amount to EUR 20 billion, of which at least about half of it or about EUR 10 billion would remain as abnormal backlog.

In EUR billion

Backlog end 2014 (adjusted)	**Member States' forecasts of 2015 claims corrected by 95% threshold**	**Payment appropriations authorised in the 2015 budget**	**Forecasted backlog end 2015**
24.7	**~35**	**39.5**	**~20**

4.5. Payment claims expected for 2016

As set out above, the backlog at the end of 2015 is expected to be around EUR 20 billion, provided Member States' forecasts prove accurate. Furthermore, up to EUR 3.5 billion of payable claims are still expected before the closure of the programmes. Given this relatively limited amount of payment claims and since there will be no N+2 pressure anymore, there is no reason to assume that a large amount of these payment claims will arrive too late to be paid in 2016.

The Commission will fine-tune its request in the 2016 Draft Budget, taking into account the "normal" backlog at the end of 2016. This "normal" backlog – covering the very late submission of claims and the remaining interruptions/suspensions – would however be very low compared to previous years, since the level of new claims to be received in 2016 is also very low and the Commission expects Member States to correct deficiencies and submit "clean" claims. It could be in the order of magnitude of EUR 2 billion. This "normal" backlog at year-end 2016 will therefore have to be covered in the 2017 budget. The amount to be included in the 2016 budget would therefore be around EUR 21.5 billion.

4.6. Summary of information used to calculate the payment claims and the backlogs

The following table summarizes the information on the envelope of the programme, the expected use of the budget appropriations available in the budget 2015 and the maximum payment claims expected in 2016.

Outstanding interim payments 2015-2017 (EUR billion)

Envelope of the programme	**(1)**	**347.3**
- Of which pre-financing and interim payments made until end-2014	(2)	266.1
- Of which reserved for closure (5%) and decommitments made	(3)	18.2
Maximum amount of payable interim payments (2015-2017)	(4)=(1)-(2)-(3)	~63.0
- Of which backlog end-2014 (outstanding payment claims)	(5)	24.7
- Of which maximum amount of payable interim payments in 2015-2017	(6)=(4)-(5)	38.3

Budget year 2015, EUR billion

Appropriations available Budget 2015	**(1)**	**39.5**
- Of which end-2014 backlog	(2)	24.7
- Of which forecasts 2015 corrected by 95% threshold	(3)	~35
Expected backlog end-2015	**(4)=(1)-(2)-(3)**	**~20**

Budget year 2016, EUR billion

Expected backlog end-2015	**(1)**	**~20**
Maximum remaining payment claims expected to be received in 2016 before closure	(2)	~3.5
Maximum payment claims to be covered in the 2016 budget	**(3)=(1)+(2)**	**~23.5**

4.7. Payment at closure

The closure of structural funds has its own payment dynamics. Each Member State sends its closure documents by programme at the latest by 31 March 2017. The Commission informs the Member State of its opinion on the content of the closure declaration within five months of the date of its receipt, provided that all information has been submitted in the initial closure document[22]. As a rule, payments for the closure will occur only after 2016. The total amount reserved for the closure (5% of the overall allocation) is EUR 17.3 billion, but the level of payments will be influenced by the quality of implementation of the programme during the whole period. Possible closure decommitments in the Cohesion policy may reduce the needs for payments.

As an indicative estimate, for the period 2000-2006, the percentage of de-commitment at closure was 2.6% of the total envelope for the European Social Fund (ESF) and 0.9% for the European Regional Development Fund (ERDF). However, for ESF there are still some EUR 0.5 billion of RAL that is related to problematic cases with irregularities, and consequently the Commission estimates that the final percentage of decommitments at the closure will be around 3% for that Fund. The Commission does not exclude that decommitments at closure could be higher than in the past period so the above mentioned estimate should be considered as a prudent indication.

Closure requests are not taken into account in the analysis of the reduction of the normal part of the backlog, as most of them are paid in 2017-2019 or subsequent years and will in any event not all lead to payments, since unduly paid amounts will first be cleared before the final payment will be made.

[22] Article 89 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ L 210, 31.7.2006, p. 25).

5. Other headings: outlook for the 2007-2013 programmes

5.1. Overview

Following the detailed analysis of the specific case of the Cohesion policy (heading 1b) as set out in section 4 above, this section looks at the situation in the other headings, which can be summarised as follows:

- Appropriations for the European Agricultural Guarantee Fund (heading 2) are non-differentiated whereby payments and commitments are budgeted at the same level. Consequently, there is no backlog at year-end;
- The management of Rural Development, the European Fisheries Fund (heading 2) and the Asylum, Migration, Borders and Security funds (heading 3) is shared with Member States, in a manner similar to Cohesion policy. Whereas Rural Development so far had no backlog, this is not the case for the other funds;
- Most of the other programmes (headings 1a and 4) are managed by the Commission. In view of payment shortages, many of these programmes have been subject to the mitigating measures which the Commission has put in place during 2014 (and in some case already in 2013), ranging from reduction of pre-financing (with due consideration of the type and financial soundness of implementing partners, recipients and beneficiaries), to postponement of final payments or budget support payments, abstaining from launching new commitments, and delaying contracting. Most of these mitigating measures, however, only postpone the time of disbursement, while commitments still have to be honoured.

The table below provides an overview of the evolution of the backlog for headings 1a and 4. Whereas there is a clear upward trend for the backlog for heading 4, which in 2014 reached its highest level in recent years, the evolution of heading 1a is less clear.

Backlog at year-end *(in EUR million)*

	2007	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Heading 1a	1 679	507	291	628	604	567	551	541
Heading 4	172	178	284	226	387	367	389	630

5.2. Shared management programmes in heading 2 and 3

5.2.1. Heading 2

European Agricultural Guarantee Fund (EAGF)

There is no backlog for the European Agricultural Guarantee Fund (EAGF) as the fund is based on non-differentiated appropriations.

European Agricultural Fund for Rural development (EAFRD)

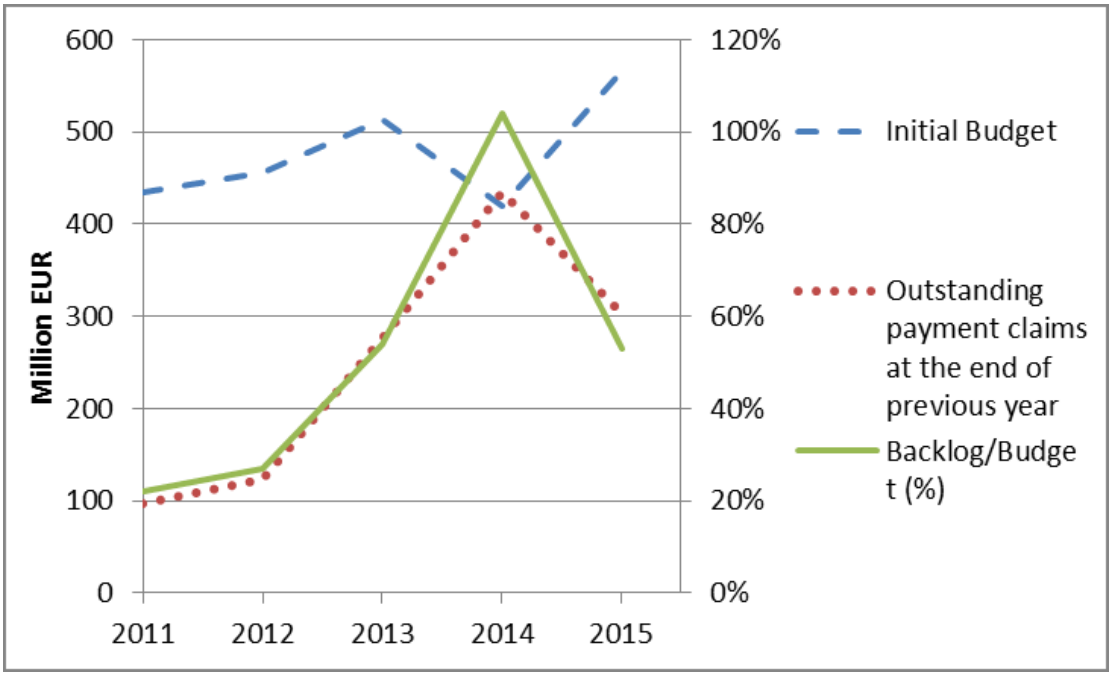
So far there has been no backlog for Rural Development: the Commission has always been able to pay all payment claims in time. Taking into account the size of the Rural Development programme and the 95% rule which also applies, the maximum level of interim payments which might still be paid before the closure is around EUR 8.7 billion for the 2007-2013 period. The payment appropriations authorised in the 2015 budget for the 2007-2013 programmes amount to EUR 5.9 billion. The remaining amount of EUR 2.8 billion is due to be paid in 2016, following the submission by the Member States of the final quarterly declaration, due in January 2016.

The total amount reserved for the closure is around EUR 4.8 billion. The actual amount to be paid will depend on the decommitments. As an illustration, by applying the 1.5% rate of decommitments experienced during of the previous 2000-2006 closure period, some EUR 1.5 billion would be decommitted. Closure payments are expected to take place between 2016 and 2019.

European Fisheries Fund (EFF)

The EFF management mode is similar to the Cohesion policy (heading 1b). However, since it has no N+3 rule, the EFF did not encounter the specific problem of the transformation of the N+3 rule to the N+2 rule between the commitment tranche 2010 and the commitment tranche 2011. Moreover, it did not have the "Greek rule" either, although the start of the programmes was also slightly delayed by the obligations related to the management and control systems. Nevertheless, in recent years, the EFF backlog has been very important. At the beginning of 2014, the level of the backlog was at the level of the voted payment appropriations for the programmes 2007-2013.

As to the timing of payment claims during the year, throughout 2010-2014 two-thirds of the annual payment claims were received in the months November and December. The following chart shows the level of the backlog from 2011 to 2014 for the programmes 2007-2013 of the EFF together with the initial payment appropriations of the following year.



The main reason behind the reduction of the EFF backlog at the end of 2014 has been the redeployment of all available payment appropriations within the budget chapter (including all payment appropriations for the EMFF shared management – due to the delay in the adoption of the new legal basis) and the reinforcements received in the draft amending budget 3/2014 (adopted as amending budget 2/2014) and in the end-of-year transfer.

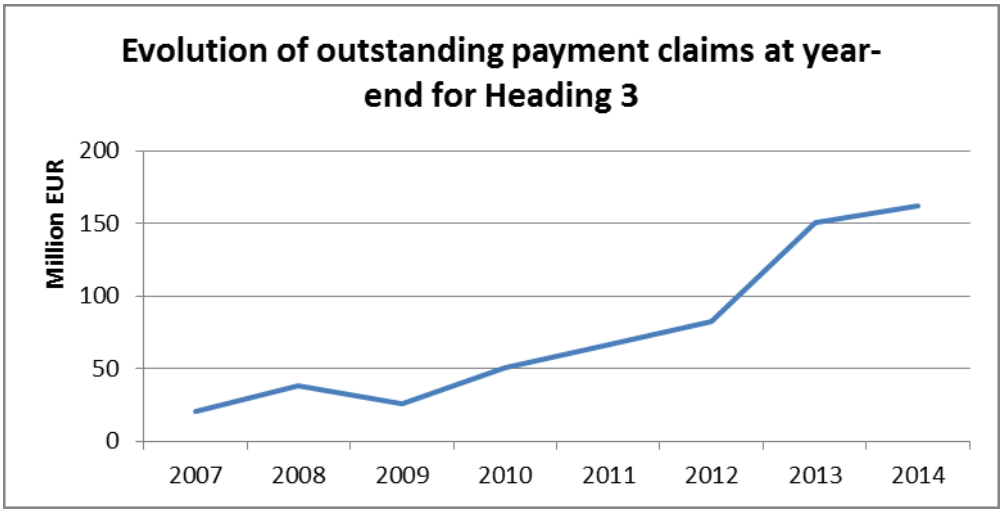
The higher level of payments authorised in the 2015 budget should allow reducing the backlog to its normal level of around EUR 0.1 billion.

5.2.2. Heading 3

Asylum, Migration, Borders and Security policies

The common asylum and immigration policies in the 2007-2013 period were mainly implemented through the General Programme "Solidarity and Management of Migration Flows" (SOLID). This General Programme consisted of four instruments: External Borders Fund (EBF), European Return Fund (RF), European Refugee Fund (ERF) and European Fund for the Integration of third-country nationals (EIF).

The following graph shows the growing level of outstanding payment claims at year-end for the programmes in the field of asylum, migration, borders and security.



The RAL has increased from EUR 150 million at the beginning of 2007 to EUR 2.6 billion in 2014, despite EUR 300 million decommitted during the period 2007-2014. Some EUR 1.9 billion remains to be paid on the programmes 2007-2013. The payment appropriations authorised for the programmes in the 2015 budget are slightly above EUR 600 million, including the appropriations for the initial and annual pre-financing payments of the new programmes 2014-2020.

Taking into account the amount which will be paid at the closure (estimated at some EUR 1 billion) and the fact that second pre-financings could not be paid in 2013 and 2014 due to lack of payment appropriations, the payment needs to reduce the backlog for the programmes 2007-2013 to a normal level at the end of 2016 are estimated at around EUR 235 million.

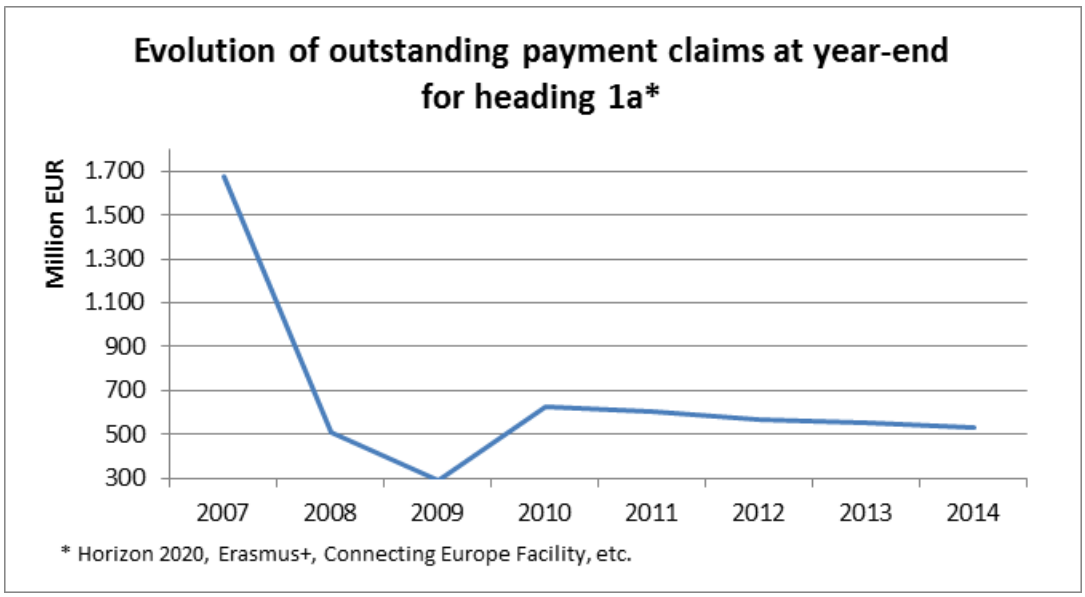
5.3. Direct management programmes in heading 1a and 4

5.3.1. Heading 1a

This section gives an overview of the payments situation of the programmes under heading 1a at the end of 2014.

Outstanding payment claims at year-end

The chart below shows the evolution of the outstanding payment claims at year-end for the main programmes under heading 1a.

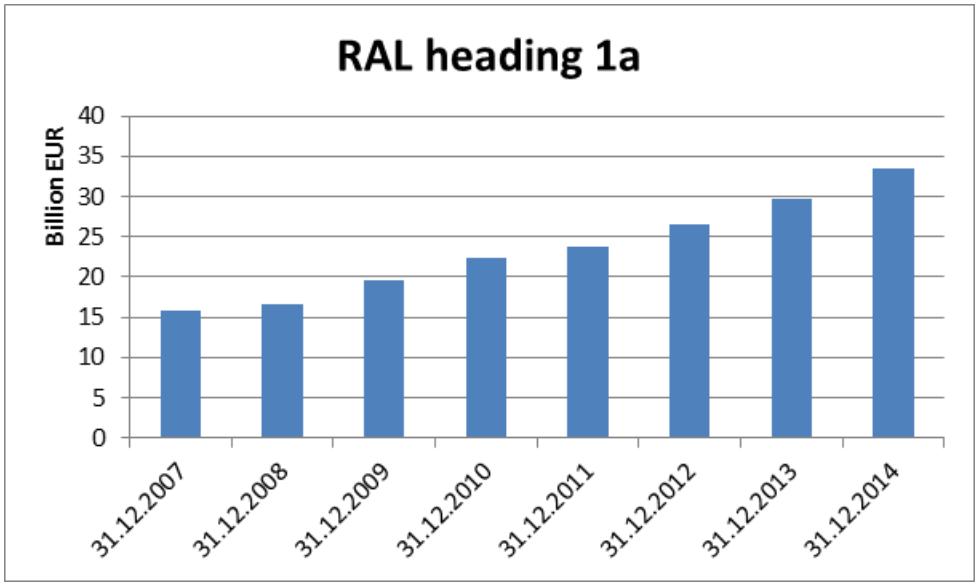


The high level of outstanding payment claims at the end of 2007 mainly results from the project cycle of the 6th Framework Programme for Research (FP-6), and the particularly high number of open commitments at that time. In addition, the research contracts stipulated that audit certificates were required before cost claims could finally be paid.

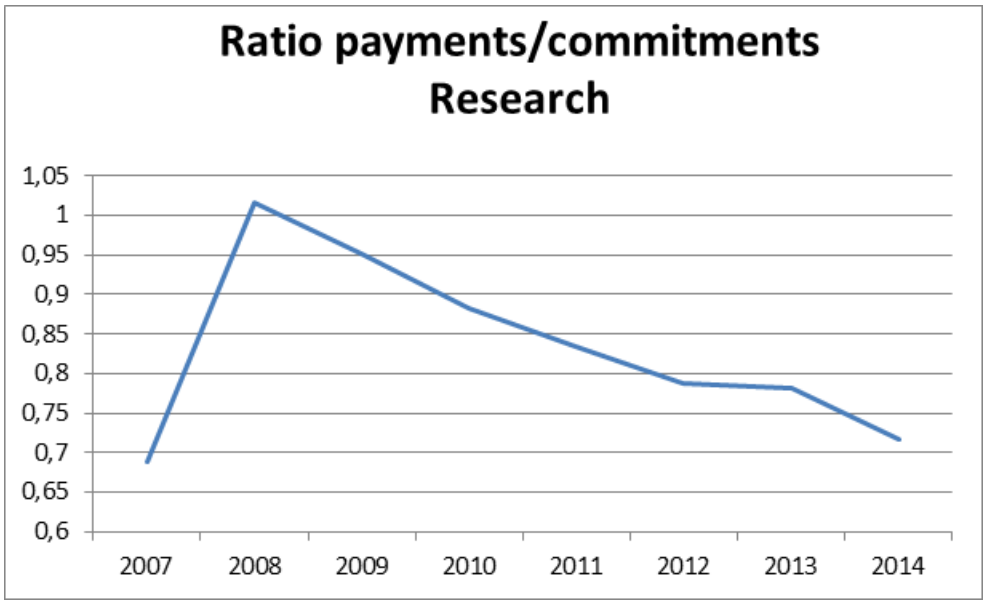
The mitigating measures taken by the Commission in 2014 (see section 2.2 above) to address the shortage of payment appropriations prevented the increase of outstanding payment claims at the end of 2014. Measures included the reduction the level of pre-financing and delaying the signature of new contracts/grant agreements, thus shifting part of the payments to the following year. While containing the level of outstanding payment claims, a resulting side-effect of those measures has been the slowing down of the implementation of the 2014-2020 programmes. In some cases, more drastic measures had to be taken as to give priority to payments addressed to the more vulnerable beneficiaries.

Evolution of outstanding commitments (RAL)

The broadly stable level of outstanding payment claims at year-end for programmes under heading 1a is in sharp contrast with the clear upward trend in the level of outstanding commitments (RAL), as shown in the chart below:



To a large extent, the increasing RAL in heading 1a results from the widening gap between the commitment and payment appropriations for research, the largest spending programme in this heading. This is illustrated in the chart below, which shows the declining pattern of the ratio between payments and commitments.



As an example of how projects in heading 1a are being implemented, the project cycle for the Research programmes is described below.

Project cycle Research

Research programmes are implemented through multiannual work programmes which include calls for proposals, public procurements, studies, experts groups, participation in international organisations, seminars and workshops, evaluation and monitoring. Around 90% of the research programmes are related with calls for proposals, the remaining 10% with other activities.

The annual work programme for year N is adopted by the Commission in the middle of year N-1. From the second half of year N-1 the calls for proposals are launched. In most cases the submission of proposals usually takes place within three months after the publication of the call for proposals. Global commitments are made after the adoption of the work programme in year N and at the latest before the contract negotiations (usually at the time of the call deadline). The evaluation of proposals (three months) and selection (one-two months) are followed by the contract negotiation (from one to six months) and signature (up to a few months). The Commission / executive agency has eight months between the call deadline and the grant signature (the so-called "time to grant"), of which five months to inform the applicants about the outcome of scientific evaluation and three months for preparation of the grant agreement. Once the individual commitment is made and contract is signed, the pre-financing should be paid within 30 days from the signature of the agreement or from 10 days before the starting date of the action whichever is the latest. Following the structural measures taken by Research DGs in 2014, in many cases, the pre-financing of the year N commitment is now paid in year N+1 instead of year N. Interim payments are based on financial statements and linked to periodic reports, usually every 18 months. The final payment of 10% is paid on acceptance of the final report.

For all other actions foreseen in the work programme, the provisional commitments are made in year N and the advance payments are paid the same year. The rest is paid in year N+1.

Payment shortages Research: practical consequences

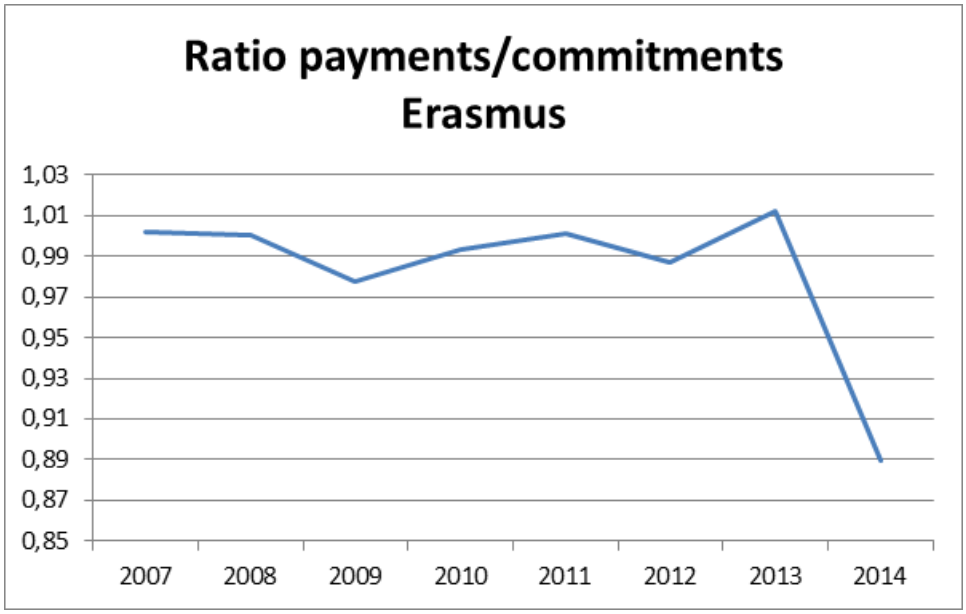
In order to manage the shortage of payment appropriations within the Research programmes, in 2014 a total amount of EUR 236.5 million was transferred from "Horizon 2020" 2014-2020 lines to reinforce 2007-2013 completion budget lines for the same programmes, delaying the pre-financing of the Horizon 2020 calls launched in 2014 to 2015. This was not the case in previous years, and results in a delay in the implementation of new programmes.

Research takes time and withholding signature of contracts and funding is not consistent with the objective of enhanced research efforts to support economic growth. The increase in the level of payment appropriations authorised for Horizon 2020 in the 2015 budget is expected to allow a partial catching up of this key programme.

Erasmus+

Erasmus+ provides a good example of an annual programme for which the level of payments closely follows the level of commitments, since the lifecycle of most actions is linked to the academic calendar.

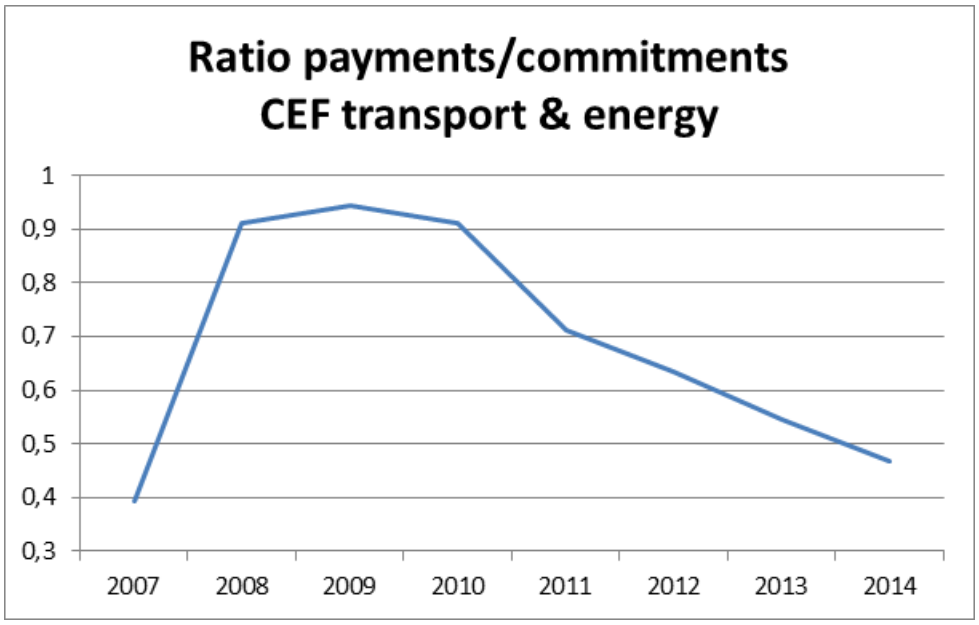
Because of the payments shortage, however, the increase in payment appropriations in 2014 did not match the increase of commitment appropriations which is set to continue over the 2014-2020 period. This shortfall in payments in 2014 can also be seen in the ratio between payments and commitments in the chart below.



As a result, in 2014 it was not possible to pay part of the second pre-financing to National Agencies, which are meant to finance mobility actions. While the situation should improve slightly, Erasmus+ is expected to still be confronted with similar constraints in 2015.

Transport and Energy

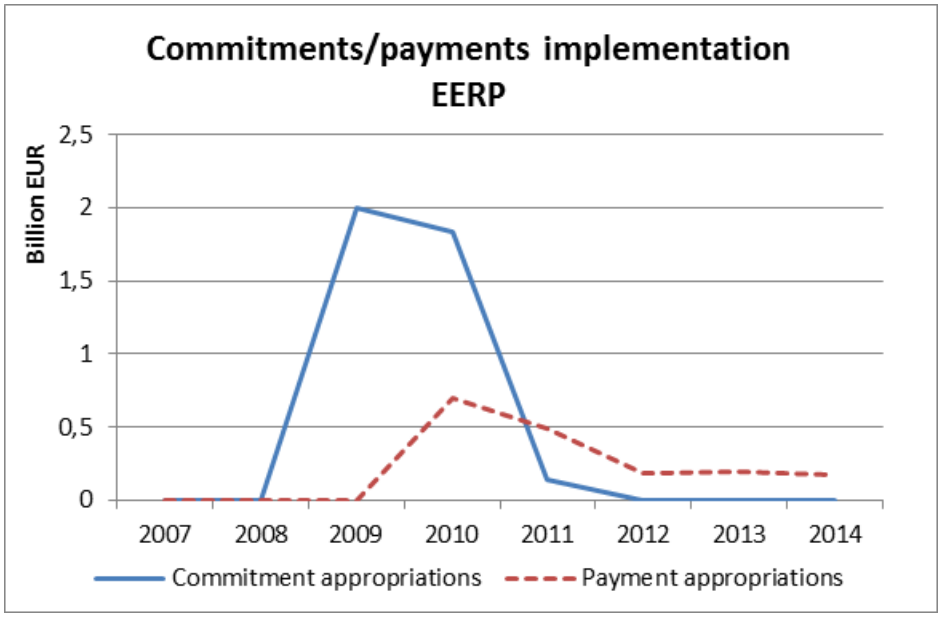
The chart below shows the growing divergence between the level of commitments and payments for the Transport and Energy policy areas.



The payment appropriations authorised in the 2015 budget will suffice to cover the first pre-financing of the 2014-2020 projects and to partially tackle the 2007-2013 RAL, which is estimated at more than EUR 2 billion.

European Economic Recovery Plan (EERP)

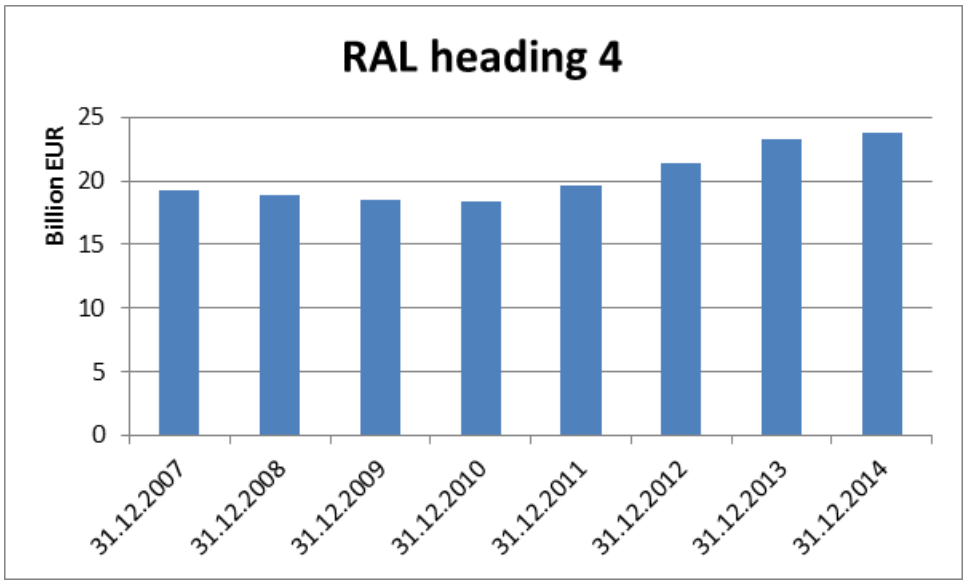
Compared to the high level of commitments in 2009 and 2010, the implementation of payments for this programme started slowly since EERP projects mostly consist of large-scale infrastructure projects.



In particular in 2014, payment appropriations were not sufficient to cover all the payment claims received during the year, even after the late adoption of draft amending budget 3/2014 which provided additional payment appropriations. At the end of 2014, the RAL still stood at EUR 2 billion, half of the amount initially committed for the EERP. The level of payment appropriations authorised in 2015 amounts to EUR 407 million, which is expected to cover estimated needs for the year.

5.3.2. Heading 4

The chart below shows the level of outstanding commitments (RAL) for programmes under heading 4 since 2007.



Heading 4 comprises short-term crisis-response instruments, longer-term instruments which use multiannual programming, and ad-hoc instruments such as Macro-Financial loan and grant assistance. Three large instruments (the Instrument for Pre-accession Assistance II (IPA), the European Neighbourhood Instrument (ENI) and the Development Cooperation Instrument (DCI)), using multiannual programming, account for 73% of expenditure under this heading. The support to third countries which is funded under these programmes typically has a life-cycle of around 6-8 years. The crisis-response instruments (Humanitarian Aid, Instrument contributing to Stability and Peace, Common Foreign and Security Policy) and the Macro-Financial Assistance, on the other hand, have much shorter payment cycles of 12-18 months.

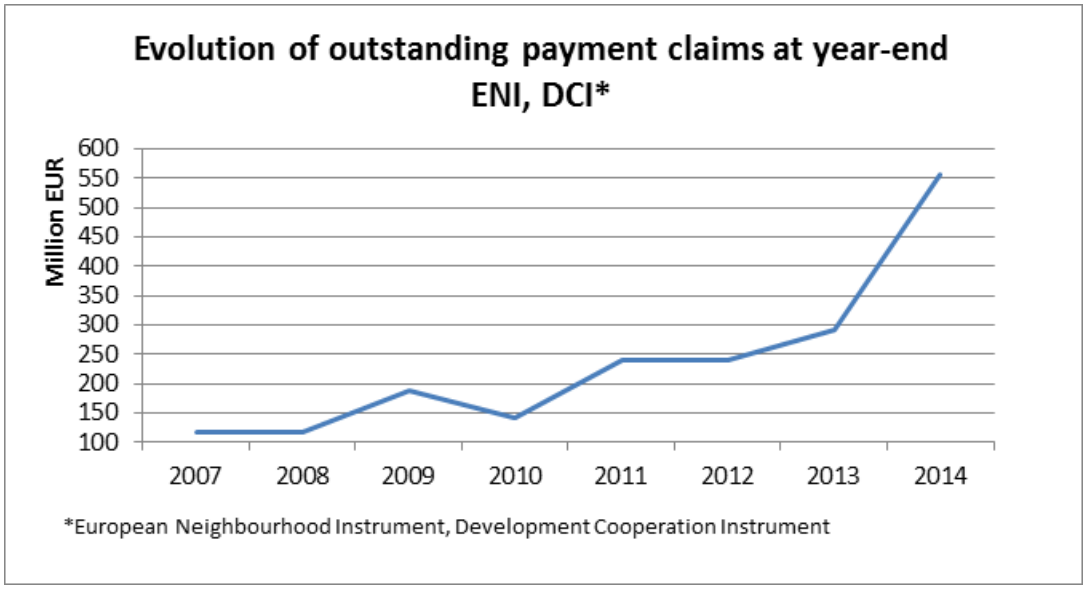
Since 2013, most instruments in heading 4 experienced serious shortages in payment appropriations, affecting first the humanitarian and crisis-related instruments with fast-disbursing implementation cycles, and thereafter instruments such as the Development Cooperation Instrument and the European Neighbourhood Instrument where the payments are mostly related to existing contracts and commitments. The situation worsened in 2014, due to the overall reduction in the available payments compared to 2013. For some of the programmes, the reinforcement through draft amending budget 3/2014 (and other actions such as transfers)[23] came very late and was insufficient to cover the outstanding backlog.

Measures put in place (see section 2.2 above) could only partly mitigate the effects of the payment shortage by postponing the time of disbursement, while past commitments still have to be honoured.

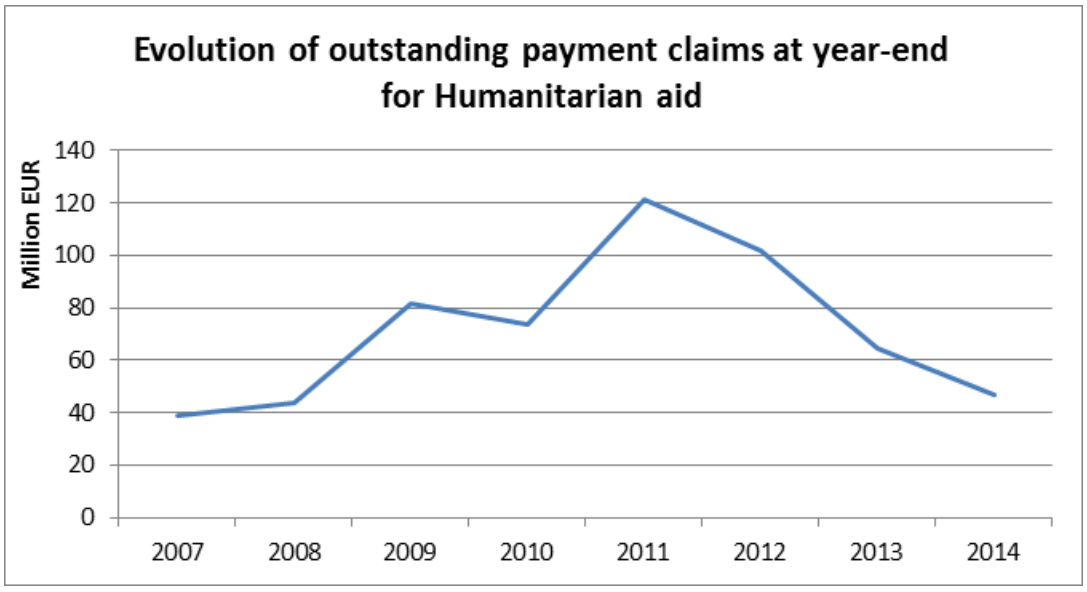
[23] + EUR 406 million (net increase in payment appropriations) for Humanitarian Aid, + EUR 30 million for DCI and + EUR 250 million for ENI.

Outstanding payment claims at year-end

Overall, the outstanding payment claims at year-end 2014 for heading 4 increased considerably. This is mostly due to a sharp increase of claims and the lack of related payment appropriations as in the case of the European Neighbourhood Instrument and the Development Cooperation Instrument, as shown in the chart below.



On the other hand, the reinforcements in payment appropriations authorised in the 2013 and 2014 budgets allowed redressing the level of outstanding payment claims for Humanitarian Aid[24]:



[24] The graph however does not reflect the impact of the reduced level of pre-financing.

As set out above, the RAL of heading 4 and of the three large long-term instruments in particular, has been steadily rising over the past five years, in line with the commitment levels of the previous MFF. Programmes initially committed in 2010, for example, will have been formalised with the beneficiary third country during 2011, and contracts concluded up to 2014. It follows that many of these larger programmes, committed at a time when commitments were rising steeply, now need to be paid for. The level of payment appropriations authorised in the 2015 budget is expected to reduce the gap, which should help to stabilise the situation but the situation will continue to be tense and both the gap and RAL is still expected to increase for many instruments such as the Development Cooperation Instrument.

6. outlook for 2014-2020 programmes

The 2016 budget will have to include sufficient payment appropriations not only to phase out the abnormal level of outstanding payment claims stemming from commitments related to 2007-2013 programmes, but also for the 2014-2020 programmes in heading 1a and 4, whose implementation has been hampered by the payment shortages. The 2016 budget must also include the necessary payment appropriations for other funds, such as rural development (heading 2) to avoid the creation of a new backlog which did not exist in the past.

The Commission will assess the 2016 payment needs for the 2014-2020 programmes in the 2016 Draft Budget.

7. Conclusions

In recent years, and particularly in 2014, the level of payment appropriations was insufficient to cover incoming payment claims. In turn, this led to a growing backlog of outstanding payment claims at year-end, in particular for the 2007-2013 programmes of the Cohesion policy. The Commission took a number of mitigating measures to minimise the negative effects of payment shortages, by meeting, as far as possible, obligations stemming from past commitments. However, as a side-effect, implementation of the 2014-2020 programmes was hampered.

Payment appropriations in the 2015 budget are expected to lead to a reduction in the backlog of outstanding payment claims for the 2007-2013 programmes. The Commission has identified the payment level necessary to phase out the abnormal level of outstanding payment claims for the 2007-2013 programmes by the end of 2016. In its draft budget 2016, the Commission will propose payment appropriations, accordingly.

The Commission considers that, on this basis, the three institutions can engage to implement a plan to reduce the level of unpaid bills corresponding to the implementation of the 2007-2013 programmes to a sustainable level by the end of 2016.

Annex 1: information sent by the Commission on 15 December 2014

On 15 December 2014, the Commission presented the expected backlog for 2007-2013 Cohesion programmes at the end of 2014 and 2015, as follows:

	2010	***2011***	***2012***	***2013***	***2014 (*)***	***2015 (*)***
Backlog of unpaid bills at year-end (EUR billion)	***6.1***	***10.8***	***16.2***	***23.4***	*Up to* ***25*** *(1)*	***19*** *(2)*

(*) Commission estimates based on adjusted Member States' forecasts

(1) Taking account of additional payment appropriations in Draft Amending Budget 3/2014 as finally approved.
(2) Taking account of additional payment appropriations in Draft Amending Budget 3/2014 as finally approved and payment appropriations authorised in the budget 2015.

The Commission also gave a breakdown of the expected backlog for 2007-2013 Cohesion programmes at end-2014. As set out in the table below, the total level of payment claims actually received by year-end 2014 was some EUR 1.5 billion below the forecasts prepared by the Member States, and some EUR 2.5 billion above the upper range forecasted by the Commission.

EXPECTED BACKLOG AT THE END OF 2014

EUR billion

(1)	*Payment claims received by end of 2013 and not paid by end-2013 (backlog)*	*23.4*
(2)	*Payment claims received by end November 2014*	*31.4*
(3) = (1) + (2)	*Payment claims requested by end-November to be paid in 2014*	*54.8*
(4)	*Authorised level of payment appropriations (with Amending Budget 3/2014)*	*49.4*
(5) = (3) – (4)	*Backlog by end of November 2014, requested to be paid by end-2014*	*5.4*

	Forecast	***Actual realisation***
Member States' forecasts of payment claims to be submitted in December 2014	*23*	*21.5*
Commission forecasts of payment claims to be submitted in December 2014	*18 - 19*	*21.5*

Forecast for backlog of unpaid bills at the end of 2014: up to EUR 25 billion.

Finally, the Commission presented by country the Member States' estimates of payment claims to be submitted for the Cohesion policy in 2014 (EUR 54,33 billion), the payment claims sent up to 31 October 2014 (EUR 31,36 billion) and as a consequence, the payment claims to be submitted in November and December (EUR 22,97 billion).

The Commission added that "*Taking into account the average error rates observed in the 'gross' forecasts of Member States over recent years and the 95% ceiling in payments before closure required by Art. 79 of Reg. 1083/2006, the Commission estimates at EUR 18-19 billion the claims to be received in December*". This is consistent with the tables set out above.

Annex 2: Heading 1b: latest forecasts from Member States

This annex sets out the latest forecasts from the Member States as regards the submission of payment claims for the 2007-2013 Cohesion programmes in 2015 and 2016, making a distinction between gross forecasts (listed by Member States) and capped forecasts (see explanation in section 4.4).

Member States' forecasts (in EUR billion)			
Period 2007-2013		**2015* Gross forecasts**	**2016 Gross forecast**
AT	Austria	0,09	0,00
BE	Belgium	0,24	0,06
BG	Bulgaria	1,35	0,00
CY	Cyprus	0,06	0,00
CZ	Czech Republic	4,01	3,75
DE	Germany	2,43	0,95
DK	Denmark	0,04	0,03
EE	Estonia	0,09	0,00
ES	Spain	4,65	1,74
FI	Finland	0,21	0,02
FR	France	1,92	0,34
GR	Greece	0,75	0,00
HR	Croatia	0,22	0,31
HU	Hungary	3,86	1,24
IE	Ireland	0,03	0,01
IT	Italy	5,07	1,44
LT	Lithuania	0,09	0,00
LU	Luxemburg	0,01	0,00
LV	Latvia	0,54	0,09
MT	Malta	0,14	0,04
NL	Netherlands	0,21	0,10
PL	Poland	8,92	3,99
PT	Portugal	0,52	0,06
RO	Romania	6,64	2,81
SE	Sweden	0,11	0,00
SI	Slovenia	0,38	0,18
SK	Slovakia	2,68	0,64
UK	United Kingdom	1,52	0,25
CB	Territorial Cooperation	1,16	0,25
TOTAL		**47,93**	**18,32**
TOTAL CAPPED FORECASTS*		***34,74***	***2,95****

* The figures of 2015 forecasts are calculated using - for the Operational Programmes for which Member States have not sent any forecast in January 2015 - the related forecasts sent in September 2014.

** The maximum payable amount in 2016 is EUR 3,5 billion of which EUR 3 billion is already confirmed by Member States at this stage.

*** Capping is the application of the 95% rule which foresees that interim payments may only be paid before the closure as long as the sum of payments is lower than 95% of the allocation of the programmes.