Regulation (EU) No 1297/2013 of the European Parliament and of the Council of 11 December 2013 amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability, to the decommitment rules for certain Member States, and to the rules on payments of the final balance

REGULATION (EU) No 1297/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 December 2013

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The unprecedented enduring global financial crisis and economic downturn have seriously damaged economic growth and financial stability and provoked a strong deterioration in financial, economic and social conditions in the Member States. In particular, certain Member States are experiencing serious difficulties or are threatened with such difficulties, in particular with problems in their economic growth and financial stability and with a deterioration in their deficit and debt position, also as a result of the international economic and financial environment.

(2) Whilst important actions to counterbalance the negative effects of the financial crisis have already been taken, including amendments of the legislative framework, the impact of that crisis on the real economy, the labour market and citizens is being widely felt. Pressure on national financial resources is increasing and further steps should be taken urgently to alleviate that pressure through the maximal and optimal use of the funding from the Structural Funds and the Cohesion Fund (‘the Funds’). In view of the persistence of the financial difficulties, it is necessary to extend the application of the

measures adopted by Regulation (EU) No 1311/2011 of the European Parliament and of the Council[(3)]. Those measures were adopted pursuant to Article 122(2) and Articles 136 and 143 of the Treaty on the Functioning of the European Union.

(3) In order to facilitate the management of Union funding, to help accelerate investments in Member States and regions, and to improve the availability of funding to the economy, Council Regulation (EC) No 1083/2006[(4)] was amended by Regulation (EU) No 1311/2011 of the European Parliament and of the Council to allow the increase of interim payments from the Funds by an amount corresponding to ten percentage points above the actual co-financing rate for each priority axis for Member States which are facing serious difficulties with respect to their financial stability and have requested to benefit from this measure.

(4) Article 77(6) of Regulation (EC) No 1083/2006 allows for the application of an increased co-financing rate up to 31 December 2013. However, since Member States still face serious difficulties with respect to their financial stability, the duration of the application of an increased co-financing rate should not be limited to 31 December 2013.

(5) In line with the European Council conclusions of 7-8 February 2013 and as provided for in Article 22 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council[(5)], the co-financing rate increased by 10 percentage points is to apply with regard to the 2014-2020 programming period until 30 June 2016, when the possibility of the increase is to be reviewed. As the 2007-2013 and 2014-2020 programming periods overlap, it is necessary to ensure coherent and uniform treatment of Member States receiving financial assistance during the two periods. Therefore, these Member States receiving financial assistance should also benefit from the increase of the co-financing rate until the end of the eligibility period and to claim it in their requests for final balance even if the financial assistance is not anymore provided.

(6) Regulation (EU) No 1303/2013 aims to contribute to achieving adequate concentration of cohesion funding on the least developed regions and Member States. In order to contribute to the reduction of disparities in average per capita aid intensities, the maximum level of transfer (capping) from the Funds to each individual Member State pursuant to future Regulations is to be fixed at 2,35 % of the GDP of the Member State. The capping is to be applied on an annual basis, and, if applicable, is to proportionally reduce all transfers (except for the more developed regions and the European territorial cooperation goal) to the Member State concerned in order to obtain the maximum level of transfer. For Member States which acceded to the Union before 2013 and whose average real GDP growth in the 2008-2010 period was lower than – 1 %, the maximum level of transfer is to be fixed at 2,59 % of their GDP.

(7) Regulation (EU) No 1303/2013 caps the allocations per Member State at 110 % of their level in real terms for the 2007-2013 period. Member States affected by this capping need to be further protected from the risk of automatic decommitment of allocations in the 2007-2013 period.

(8) In its conclusions of 8 February 2013, the European Council invited the Commission to explore practical solutions with regard to reducing the risk of automatic decommitment

of the Funds from the 2007-2013 national envelope for Romania and Slovakia, including the amendment of Regulation (EC) No 1083/2006.

(9) The European Council also highlighted the need to ensure a manageable level and profile for the payments in all headings in order to limit the outstanding budgetary commitments in particular by applying rules for automatic decommitment in all headings. Hence, provisions releasing the decommitment rules for Member States affected by the capping set out in Regulation (EU) No 1303/2013 should be balanced in view of its effects on the outstanding budgetary commitments.

(10) The deadline for the calculation of the automatic decommitment of the annual budget commitments for years 2011 and 2012 should be extended by one year, but the 2012 budget commitment, which will still be open on 31 December 2015, is to be justified by 31 December 2015. That extension should help to improve the absorption of funding committed for operational programmes in Member States that are affected by the capping of their future cohesion policy allocations at 110 % of their level in real terms for the 2007-2013 period. Such flexibility is necessary in order to address a slower than expected implementation of programmes affecting those Member States in particular.

(11) Limited adjustments of the maximum amount of assistance from the Funds for each priority axis should be applied when establishing the amount of the final balance to be paid to the operational programmes in order to optimise the absorption of the Funds.

(12) Given the unprecedented nature of the crisis, swift adoption of support measures is needed and therefore it is appropriate that this Regulation enters into force on the day of its publication in the *Official Journal of the European Union*.

(13) Regulation (EC) No 1083/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1083/2006 is amended as follows:

(1) Article 77 is amended as follows:

(a) Paragraph 2 is amended as follows:

2. By way of derogation from Article 53(2), from the second sentence of Article 53(4) and from the ceilings set out in Annex III, interim payments and payments of the final balance shall be increased by an amount corresponding to 10 percentage points above the co-financing rate applicable to each priority axis, but not exceeding 100 %, to be applied to the amount of eligible expenditure newly declared in each certified statement of expenditure submitted until the end of the programming period, where, after 21 December 2013 a Member State meets one of the following conditions:

a financial assistance is made available to it in accordance with Council Regulation (EU) No 407/2010[(6)] or financial assistance is made available to it by other euro area Member States before the entry into force of that Regulation;

b medium-term financial assistance is made available to it in accordance with Council Regulation (EC) No 332/2002[(7)];