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(Legislative acts)

REGULATIONS

REGULATION (EU, EURATOM) No 966/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 October 2012

on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002

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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 322 thereof, in conjunction with the Treaty establishing the European Atomic Energy Community, and in particular Article 106a 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 Court of Auditors [1],

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

Whereas:

(1) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities [3] has been substantially amended several times. Since further amendments are to be made, including changes to take account of the entry into force of the Treaty of Lisbon, Regulation (EC, Euratom) No 1605/2002 should be repealed and replaced by this Regulation, in the interests of clarity.

(2) Regulation (EC, Euratom) No 1605/2002 laid down the budgetary principles and financial rules governing the establishment and implementation of the general budget of the Union (the "budget"), ensuring sound and effective management, control and protection of the Union's financial interests and increasing transparency, that are to be respected in all legal acts and by all institutions. The fundamental principles, the concept and the structure of that Regulation and the basic rules of budgetary and financial management should be maintained. Derogations to those fundamental principles should be reviewed and simplified as far as possible, taking into account their continuing relevance, their added-value for the budget, and the burden they impose on stakeholders. It is necessary to maintain and strengthen the key elements of the financial rules: the role of the financial actors, the integration of controls in operational services, the internal auditors, activity-based budgeting, the modernisation of accounting principles and rules, and the basic principles for grants.

(3) Due to the specific nature and tasks of the European Central Bank (ECB), in particular its independence as regards the management of its finances, it should be excluded from the scope of this Regulation, except where otherwise provided for in this Regulation.

(4) In the light of practical experience, rules should be included in this Regulation in order to follow evolving requirements of budget implementation such as co-financing with other donors, to increase the efficiency of external aid, to facilitate the use of specific financial instruments including those concluded with the European Investment Bank (EIB) and to facilitate budget implementation through public-private partnerships ("PPPs").

(5) Regulation (EC, Euratom) No 1605/2002 was confined to stating broad budgetary principles and financial rules in line with the Treaties while the implementing provisions were laid down in Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 [4] in order to produce a better hierarchy of rules and make Regulation (EC, Euratom) No 1605/2002 easier to read. Under Article 290 TFEU a legislative act may delegate to the Commission the power to adopt non-legislative acts only to supplement or amend certain non-essential elements of that legislative act. As a consequence, some provisions laid down in Regulation (EC, Euratom) No 2342/2002, should be incorporated into this Regulation.

(6) Police and judicial cooperation in criminal matters have become an integral part of other Union policies and internal actions. The specific financial provisions applicable to that policy area are thus no longer justified and should therefore not be included in this Regulation.

(7) In order to ensure transparency, the budget should record guarantees for borrowing-and-lending operations entered into by the Union, including the European Financial Stability Mechanism and Balance of Payment Facility operations.

(8) The existing rules governing interest generated by pre-financing payments should be simplified as they generate an excessive administrative burden both for recipients and Commission services and create misunderstandings between Commission services and recipients. In the interests of simplification, in particular with regard to beneficiaries, and in accordance with the principle of sound financial management, there should no longer be an obligation to generate interest on pre-financing payments and to recover such interest. However, it should be possible to include such an obligation in a delegation agreement in order to allow the re-use of interest generated by pre-financing payments for the programmes, the deduction of such interest from the payment requests or its recovery.

(9) Carry-over rules for assigned revenue should take into account the distinction between external and internal assigned revenue. In order to comply with the purpose assigned by the donor, external assigned revenue should be carried over automatically and used until all the operations relating to the programme or action to which it is

[1] OJ C 145, 3.6.2010, p. 1

[2] Position of the European Parliament of 23 October 2012 (not yet published in the Official Journal) and decision of the Council of 25 October 2012.

[3] OJ L 248, 16.9.2002, p. 1.

[4] OJ L 357, 31.12.2002, p. 1.

assigned have been carried out. Where the external assigned revenue is received during the last year of the programme or action, it should also be possible to use it in the first year of the succeeding programme or action. It should be possible to carry over internal assigned revenue for one year only, except where this Regulation provides otherwise.

(10) The rules regarding provisional twelfths should be clarified with regard to both the number of additional twelfths that may be requested, and the cases where the European Parliament decides to reduce the amount of the additional expenditure in excess of the provisional twelfths adopted by the Council.

(11) The derogation from the principle of universality concerning assigned revenue should be modified to take into account the specificities of, on the one hand, internal assigned revenue which arises from appropriations authorised by the European Parliament and the Council, and, on the other hand, external assigned revenue which is collected from and assigned by various donors to a specific programme or action. Furthermore, external donors should be allowed to co-finance external action, in particular humanitarian operations, even in cases where the basic act does not expressly provide for such co-financing.

(12) The presentation of assigned revenue in the draft budget should be made more transparent by providing that amounts of assigned revenue are to be included in the draft budget for the amounts which are certain at the date of the establishment of the draft budget.

(13) As regards the principle of specification, since no distinction is now made between compulsory and non-compulsory expenditure, the rules governing transfers of appropriations should be adapted accordingly.

(14) The rules governing transfers of appropriations should also be adapted to the changes resulting from the entry into force of the Treaty of Lisbon. In addition, recent experience has shown the importance of increasing flexibility for end-of-the-year transfer of payment appropriations, in particular for structural funds. It is necessary to ensure better budget implementation, especially in relation to payment appropriations, assigned revenue and administrative appropriations that are common to several titles. To that end, the typology of transfers should be simplified and the adoption procedure of some transfers should be more flexible. In particular, it has proven to be relevant and efficient for the Commission to have the possibility of deciding on transfers of unused appropriations in cases of international humanitarian disasters and crises. That possibility should therefore be extended to similar events occurring after 1 December of a financial year. In such cases, for reasons of transparency, the Commission should inform the European Parliament and the Council immediately of its decision to transfer unused appropriations.

(15) Concerning provisions on sound financial management, the authorising officer by delegation should take account of the expected level of risk of error and cost and benefits of controls when preparing legislative proposals and when setting up the respective management and control systems. The authorising officer by delegation should report on the results of controls, and their costs and benefits in the annual activity report. Management declarations on such systems submitted by the bodies designated by the Member States to be responsible for the management and control of Union funds, are integral to the effectiveness of national management and control systems.

(16) The principle of transparency, enshrined in Article 15 TFEU which requires the institutions to work as openly as possible, implies, in the area of the implementation of the budget, that citizens are able to know where, and for what purpose, funds are spent by the Union. Such information fosters democratic debate, contributes to the participation of citizens in the Union's decision-making process and reinforces institutional control and scrutiny over Union expenditure. Such objectives should be achieved by the publication, preferably using modern communication tools, of relevant information concerning final contractors and beneficiaries of Union funds which takes into account such contractors' and beneficiaries' legitimate interests of confidentiality and security and, as far as natural persons are concerned, their right to privacy and the protection of their personal data. Institutions should therefore adopt a selective approach in the publication of information, in accordance with the principle of proportionality. Decisions to publish should be based on relevant criteria in order to provide meaningful information.

(17) In accordance with Article 316 TFEU, the European Council and the Council should share the same section in the budget.

(18) The annual budgetary procedure under the TFEU should be reflected in this Regulation.

(19) With regard to the establishment of the budget, it is important to clearly define the structure and the presentation of the draft budget drawn up by the Commission. The content of the general introduction preceding the draft budget should be described more precisely. It is also necessary to include a provision on financial programming for future years as well as a provision on the possibility for the Commission to submit working documents to support budget requests.

(20) With regard to the specific features of the Common Foreign and Security Policy, the forms which basic acts can take under the TFEU and under Title V and VI of the TEU should be updated. In addition, the adoption procedure for preparatory measures in the area of external action should be adapted to the TFEU.

(21) The rules on methods of implementation of the budget, which govern in particular the conditions of externalisation of implementing powers to third parties, have become too complex over the years and should be simplified. At the same time, the initial objective of externalisation, namely that whatever the method of implementation, expenditure is implemented with a level of control and transparency equivalent to that expected from the Commission services, should be maintained.

(22) A clear distinction should be made between situations in which the budget is implemented directly, by the Commission or its executive agencies, situations in which the budget is implemented by Member States under shared management and situations in which the budget is implemented indirectly through third parties. This should allow for the establishment of a harmonised regime for shared and indirect management which can be adapted in accordance with sector-specific rules, in particular where the budget is implemented by Member States under shared management. Such a harmonised regime should include in particular the basic principles to be respected by the Commission when it decides to implement the budget under shared management or indirectly and the basic principles to be respected by parties entrusted with budget implementation tasks. The Commission should be able to apply Union rules and procedures or to accept the application of the rules and procedures of the entrusted party, provided the latter guarantees an equivalent protection of the Union's financial interests. As part of the supervision tasks of the Commission, it is also necessary to provide for a set of control and audit obligations, including the examination and acceptance of accounts, for all methods of implementation.

(23) Rules on *ex ante* assessment of entities and persons entrusted with budget implementation tasks under indirect management, should be adapted to ensure that all entrusted entities and persons provide a level of protection of the Union's financial interests equivalent to that required under this Regulation.

(24) The experience of having PPPs institutionalised as Union bodies under Article 185 of Regulation (EC, Euratom) No 1605/2002 demonstrates that additional categories of PPPs should be provided for in order to increase the choice of instruments and include bodies whose rules are more flexible and accessible for private partners than those applicable to the Union institutions. Those additional categories should cover bodies governed by the private law of a Member State and bodies that are established by a basic act and which have financial rules that respect the principles necessary to ensure sound financial management of Union funds.

(25) For the purposes of Article 317 TFEU, this Regulation should strengthen Member States' basic control and audit obligations where they implement the budget under shared management, since such obligations currently exist only in sector-specific rules. It is necessary, therefore, to include provisions, setting out a coherent framework for all policy areas concerned, on harmonised administrative structures at national level. That framework should not create any additional control structures but should allow the Member States to designate bodies entrusted with the management and control of Union funds. Furthermore, this Regulation should contain provisions on common management and control obligations for those structures, the annual management declaration by which managers assume the responsibility for the management of Union funds they are entrusted with, examination and acceptance of the accounts, and suspension and correction mechanisms operated by the Commission in order to create a coherent legislative framework which also improves the overall legal certainty and efficiency of controls and remedial action, as well as the protection of the Union's financial interests. Detailed provisions should remain in sector-specific Regulations. Within the context of the single audit approach and with the objective of reducing additional administrative burden stemming from multiple controls, Member States may provide the Commission with declarations, signed at the appropriate national or regional level in accordance with their respective constitutional requirements.

(26) Some provisions regarding the duties of the authorising officer by delegation should be clarified, in particular those concerning the *ex ante* and *ex post* controls that the authorising officer by delegation puts in place as well as the latter's reporting duties. In this respect, the content of the authorising officer by delegation's annual activity report should be updated in line with practice which consists of including therein the required financial and management information to support the authorising officer by delegation's declaration of assurance on the performance of his or her duties.

(27) The responsibilities of the accounting officer of the Commission should be clarified. In particular, it should be specified that the accounting officer of the Commission is the only person who is entitled to define the accounting rules and harmonised charts of accounts, while accounting officers of all other institutions define accounting procedures applicable in their institutions.

(28) In order to facilitate the implementation of certain programmes or actions entrusted, in particular, to financial institutions, the possibility of opening fiduciary accounts should be provided for in this Regulation. Such bank accounts should be opened in the name, or on behalf, of the Commission in the books of a financial institution. They should be managed by that financial institution under the responsibility of the authorising officer and it should be possible to open them in currencies other than euro.

(29) Concerning revenue operations, it is necessary to streamline the rules on estimates of amounts receivable in order to take into account budgetary needs. Registration should be required when an expectation of revenue has a certain degree of probability and can be translated into figures with a reasonable degree of approximation. In the interests of simplification, some specific provisions on procedures of adjustment or cancellation of an estimate of amount receivable should be introduced.

(30) The rules on recovery should be both clarified and strengthened. In particular, it should be specified that the cancellation of an established amount receivable does not imply a waiver of an established Union entitlement. Moreover, in order to reinforce the safeguarding of the Union's financial interests, Union funds claimed for reimbursement should be treated by Member States no less favourably than claims of public bodies on their territory.

(31) Taking into account the need to reduce the risk associated with the management of amounts received on a temporary basis by way of fines, penalties and sanctions, as well as any income generated by them, those amounts should be recorded as budget revenue as soon as possible and at the latest in the financial year following the exhaustion of all remedies against the decisions imposing them.

(32) Clarification of the various types of payments should, in accordance with the principle of sound financial management, be provided. Moreover, pre-financing payments should be cleared regularly by the authorising officer responsible in accordance with the accounting rules defined by the accounting officer of the Commission. To this effect, appropriate provisions should be included in contracts, grant decisions, grant agreements as well as in delegation agreements.

(33) This Regulation should foster the objective of e-Government, and in particular the use of electronic data in the exchange of information between the institutions and third parties.

(34) The possibility of conducting joint procurement procedures with the European Free Trade Association (EFTA) states or Union candidate countries should be allowed under certain conditions.

(35) The rules for exclusion from, in particular, participation in procurement procedures should be improved in order to strengthen the protection of the Union's financial interests.

(36) Given that the use of the ECB and the EIBown resources is of financial interest to the Union, they should be given access to the information contained in the central exclusion database, which was created to protect the Union's financial interests.

(37) A sound legal basis for the publication of decisions applying administrative and financial penalties, in particular relating to public procurement, should be introduced, in line with data protection requirements. Such publication should remain optional for reasons of data protection and security.

(38) The requirement for contractors to lodge guarantees should no longer be automatic, but should be based on a risk analysis.

(39) For reasons of legal certainty, the scope of grants and financial instruments should be clarified. A more detailed definition of the specific conditions applicable to grants, on the one hand, and to financial instruments, on the other, should also contribute to maximising the impact of those two types of financial support.

(40) The grant rules applicable to entities specifically established for the purpose of an action should be adjusted so as to facilitate access to Union funding and management of grants by applicants and beneficiaries having decided to work together within a partnership or grouping constituted in accordance with relevant national law, in particular where the legal form chosen offers a solid and reliable cooperation environment. In addition, in the light of the limited financial risks for the Union and the need to avoid adding a layer of contractual requirements to existing structural arrangements, entities affiliated to a beneficiary through permanent capital or legal links should be entitled to declare eligible costs without having to comply with all the obligations of a beneficiary.

(41) Experience gained in the use of lump sums or flat-rate financing has shown that, such forms of financing significantly simplified administrative procedures and reduced the risk of error substantially. In addition, output-based funding has proved appropriate for certain types of actions. In this context, the conditions for using simplified forms of grants determined on the basis of lump sums, unit costs and flat rates should be made more flexible. In particular, amounts determined by the application of a beneficiary-by-beneficiary approach should be allowed, including where such amounts are declared by the beneficiary in accordance with its usual cost accounting practices, in order to alleviate the administrative burden and the costs borne by that beneficiary specifically for the purpose of financial reporting to the Union.

(42) In order to remove the barriers to participation in Union grant programmes by persons having the necessary expertise but who are not paid in the form of a salary, as may be the case for those working in small structures, grant rules should take account of the specific remuneration schemes applied by small and medium-sized enterprises ('SMEs'), as defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises [1].

(43) The principles of no-profit and co-financing should be adjusted in the light of practical experience and of the diverging interpretations and application of such principles, which results in errors and occasionally in counterproductive effects. In particular, the definition of profit should focus on eligible costs and the receipts specifically financing those costs, in order to simplify reporting by beneficiaries and to encourage them to diversify their sources of funding. Moreover, the Commission should not presume that other donors will not recover any surplus generated by their own contributions, and should, therefore, only recover profit in

[1] OJ L 124, 20.5.2003, p. 36.

proportion to its grant. Finally, the degressivity principle has not proved to be an effective tool in limiting the risk of dependence of beneficiaries of operating grants on Union funds. In addition, the applicability of the principle of degressivity has been considerably reduced following the necessary introduction of exceptions in a number of basic acts and in the case of simplified forms of grants. In view of these drawbacks, the degressivity requirement applicable to operating grants should be removed.

(44) Access to Union funding for entities with limited administrative resources, which can represent a priority target population for certain grant schemes and be indispensable to achieving Union policy objectives, should be facilitated by further simplifying procedures applicable to low value grants.

(45) In order to ensure legal certainty and establish a single set of basic financial rules which beneficiaries can refer to throughout Union programmes, this Regulation should lay down the cost eligibility criteria and specific conditions governing certain categories of costs and should provide for their consistent application.

(46) The conditions for accepting contributions in kind from third parties as co-financing and for determining the value of those contributions should be harmonised so as to reduce the risks of error and litigation.

(47) For the sake of transparency and in order to take account of the planning constraints specific to them, grant applicants should be informed in the call for proposals of the expected time it will take for grant agreements to be signed or grant decisions to be notified to them. For the same purpose, this Regulation should lay down a reference time, based on experience and on the anticipated effects of the simplification measures introduced.

(48) Where systemic or recurrent errors, having a material impact on a number of grants, are detected, extension of audit findings to the non-audited grants that are impacted should be authorised under strict conditions, so as to alleviate the financial and administrative burden created by on-the-spot controls and audits. The Commission should only resort to extrapolation of the reduction or recovery rate applied to grants for which systemic or recurrent errors have been demonstrated, where it is not possible or practicable with proportionate effort to quantify precisely the amount of ineligible costs for each grant concerned.

(49) This Regulation should establish standard periods for which documents relating to Union grants should be kept by beneficiaries so as to avoid divergent or disproportionate contractual requirements while still providing for sufficient time for the Commission and the Court of Auditors to obtain access to such data and documents and perform the *ex post* checks and audits necessary to protect the Union's financial interests.

(50) The possibility for a beneficiary to award financial support to third parties should be extended under certain conditions in order to facilitate the correct implementation of programmes targeting, inter alia, numerous natural persons who can only be reached through cascading grants. Nevertheless, the principle according to which a beneficiary may not exercise discretion when awarding financial support to third parties should be maintained, in particular to avoid any confusion between the possibility offered to beneficiaries to design and implement, under their responsibility, actions which involve financial support as an eligible activity and the possibility to entrust budget implementation tasks under shared or indirect management to certain bodies, entities or persons.

(51) As a valuable type of financial support, the use of prizes should be facilitated and the applicable rules clarified by separating prizes from the grant regime and removing any reference to predictable costs. Nevertheless, prizes are not well-suited to all Union policy objectives and should, therefore, be seen as complementing, not substituting, other funding instruments such as grants.

(52) Financial instruments can be valuable in multiplying the effect of Union funds when those funds are pooled with other funds and include a leverage effect. Since such financial instruments cannot be assimilated to services or grants, a new type of financial support should be established. Financial instruments should only be implemented under strict conditions, so that there are no budgetary risks for the budget and no risk of market distortion which is inconsistent with state aid rules.

(53) Within the framework of the annual appropriations authorised by the European Parliament and the Council for a given programme, financial instruments should be used on a complementary basis, on the basis of an *ex ante* evaluation demonstrating that they are more effective for the achievement of the Union's policy objectives than other forms of Union funding, including grants.

(54) Financial instruments should be authorised by means of a basic act, defining in particular their objectives and duration. Where financial instruments are established without a basic act in duly justified cases, they should be authorised by the European Parliament and the Council in the budget.

(55) The instruments that potentially fall under Title VIII of Part One, such as loans, guarantees, equity investments, quasi-equity investment and risk-sharing instruments should be defined. The definition of risk-sharing instruments should allow for the inclusion of credit enhancements for project bonds, covering the debt service risk of a project and mitigating the credit risk of bond holders through credit enhancements in the form of a loan or a guarantee.

(56) Annual repayments, including capital repayments, guarantees released and repayments of the principal of loans should constitute internal assigned revenue. Revenue including dividends, capital gains, guarantee fees and interest on loans and on amounts on fiduciary accounts should be entered in the budget after deduction of management costs and fees. This Regulation should lay down the principles and conditions for financial instruments and rules on the limitation of the financial liability of the Union, the fight against fraud and money laundering, the winding down of financial instruments and reporting.

(57) The presentation of accounts should be simplified by providing that the Union's accounts comprise only the consolidated financial statements and the aggregated budgetary accounts. It should also be clarified that the consolidation process only concerns the institutions, bodies which are set up under the TFEU and the Euratom Treaty and which have legal personality and receive contributions charged to the budget, and other bodies whose accounts are required to be consolidated in accordance with the accounting rules adopted by the accounting officer.

(58) As required by the internationally accepted accounting standards on which Union accounting rules are based, pension liability, together with other employee benefits liabilities, should be recorded in the Union accounts, separately disclosed on the face of the Union balance sheet and explained further in the notes to the financial statements.

(59) In order to clearly separate the duties and responsibilities of the Commission's accounting officer from those of the accounting officers of institutions or bodies which are set up under the TFEU and the Euratom Treaty and which have legal personality and receive contributions charged to the budget, and other bodies whose accounts are required to be consolidated in accordance with the accounting rules adopted by the accounting officer, the report on budgetary and financial management of the financial year should be prepared by each institution or body and then sent to the European Parliament, the Council and the Court of Auditors by 31 March of the following financial year.

(60) It is necessary to update the Union rules and principles on accounting in order to ensure their consistency with the rules of the International Public Sector Accounting Standard Board.

(61) The Court of Auditors should ensure that any of its findings that could have an impact on the final accounts of auditees or the legality or regularity of their underlying transactions, are transmitted to the institution or body concerned in good time in order to allow such auditees sufficient time to address those findings.

(62) The provisions concerning provisional and final accounts should be updated, in particular, in order to specify the reporting information that should accompany the accounts sent to the Commission's accounting officer for the purpose of consolidation.

(63) As regards the information which is to be submitted by the Commission in the context of discharge, the Commission should, in particular, submit to the European Parliament and to the Council an evaluation report on the Union's finances, in accordance with Article 318 TFEU.

(64) As regards the specific provisions of this Regulation concerning the structural funds, cohesion funds, the European Fisheries Fund, the European Agricultural Fund for Rural Development and funds in the area of Freedom, Security and Justice managed in shared management, the provision for repayment of pre-financing payments, and making appropriations available again, contained in the Commission declaration annexed to Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds [1] should be retained. Moreover, by way of derogation from the carry-over rule, the Commission should be allowed to carry over commitment appropriations available at the end of the financial year, arising from repayments of pre-financing payments, until the closure of the programme, and to use those commitment appropriations when other commitment appropriations are no longer available.

(65) The participation of the Joint Research Centre (JRC) in procurement and grant procedures should be clarified. Moreover, in order to carry out the related activities effectively, revenue stemming from participation in such procedures should exceptionally be considered external assigned revenue.

(66) The specific provisions relating to the implementation of external actions should be adapted to the changes in the methods of implementation and a differentiated approach should be provided for when the Union is required to respond to humanitarian emergencies, international crises or the needs of third countries undergoing a process of democratic transition.

(67) This Regulation should establish general conditions under which budget support may be used as an instrument in external action. Such conditions should relate to ensuring a sufficiently transparent, reliable and effective management of public finances. Furthermore, the Commission should decide in a financing decision on the objectives and expected results to which the payment of budget support should be linked. Such elements, as well as the conditions under which budget support is to be reimbursed, should be contained in the financing agreement concluded with the beneficiary country.

[1] OJ L 161, 26.6.1999, p. 1.

(68) In order to strengthen the international role of the Union in external actions and development and to increase its visibility and efficiency, the Commission should be authorised to create and manage Union trust funds for emergency, post-emergency or thematic actions. Although not integrated in the budget, those trust funds should be managed in accordance with this Regulation to the extent necessary for the security and transparency of the use of Union funds. For that purpose, the Commission should chair the governing board established for each trust fund to ensure the representation of donors and to decide upon the use of the funds. Moreover, the accounting officer of each trust fund should be the accounting officer of the Commission.

(69) The period for the conclusion of contracts and grant agreements by entities entrusted, under indirect management, with implementing external actions should be limited to three years following the signature of the delegation agreement, unless specific exceptional and external circumstances exist. However, that deadline should not apply to multiannual programmes implemented under the structural funds procedures. Detailed rules for decommitment of appropriations in the case of such multiannual programmes should be laid down in sector-specific rules.

(70) With regard to specific rules on procurement applicable to external actions, third country nationals established in beneficiary countries should be allowed to participate in tendering procedures, also in the case of implementation of a programme without a basic act and where there are duly justified exceptional circumstances.

(71) The manner in which the institutions currently report on building projects to the European Parliament and the Council should be improved. Institutions should inform the European Parliament and the Council in advance of their future building projects and at the different stages of those projects. The approval rather than just the opinion of the European Parliament and the Council should be required for building projects which have a significant impact on the budget.

(72) Institutions should be allowed to develop a long-term real estate policy and profit from lower interest rates resulting from the favourable credit rating of the Union on the financial market. To this end, they should be authorised to raise loans to acquire real estate assets. This would allow the possibility of addressing the complexity of the current system, while saving costs and introducing more transparency.

(73) In the light of experience, this Regulation should clarify the scope of activities, the selection procedure and the payment conditions of natural persons selected as experts.

(74) In order to supplement and amend certain aspects of this Regulation the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. The content and scope of each delegation is set out in detail in the relevant Articles. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for delegated acts, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

(75) This Regulation should be revised only when necessary, and at the latest two years before the end of the first post-2013 multiannual financial framework. Excessively frequent revisions generate a disproportionate cost in adjusting administrative structures and procedures to the new rules. Furthermore, time may be too short to allow for valid conclusions to be drawn from the application of the rules in force.

(76) Transitional provisions should be set out. This Regulation should only apply following the adoption of the delegated acts, containing the rules of application, which are expected to enter into force in December 2012. In order to avoid the application of this Regulation in the last month of the year, it is appropriate to defer its application to 1 January 2013. Moreover, in order to ensure coherence with the sector-specific rules, it is appropriate to defer application of the provisions on the methods of implementation and financial instruments to 1 January 2014. Finally, in order to allow for their application already to the 2012 budget, it is appropriate that the provisions on the transfer of payment appropriations for Structural Funds for the end of the year apply from the date of entry into force of this Regulation.

(77) This Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union* in order to allow for the timely adoption of the delegated acts under this Regulation. The timely entry into force of this Regulation is necessary for the application of the rules set out in the delegated acts from 1 January 2013, in order to avoid the difficulties linked to a modification of financial rules during the financial year.

(78) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [1] and delivered an opinion on 15 April 2011 [2],

[1] OJ L 8, 12.1.2001, p. 1.
[2] OJ C 215, 21.7.2011, p. 13.

HAVE ADOPTED THIS REGULATION:

PART ONE

COMMON PROVISIONS

TITLE I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

1. This Regulation lays down the rules for the establishment and the implementation of the general budget of the European Union and the presentation and auditing of the accounts.

2. This Regulation shall apply to the implementation of the budget for the Euratom Supply Agency.

Article 2

Definitions

For the purposes of this Regulation:

(a) "Union" means the European Union, the European Atomic Energy Community, or both, as the context may require;

(b) "institution" means the European Parliament, the European Council, the Council, the European Commission, the Court of Justice of the European Union, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Ombudsman, the European Data Protection Supervisor and the European External Action Service (the "EEAS"); the European Central Bank shall not be considered as an institution of the Union;

(c) "budget" means the instrument which, for each financial year, forecasts and authorises all revenue and expenditure considered necessary for the Union;

(d) "basic act" means a legal act which provides a legal basis for an action and for the implementation of the corresponding expenditure entered in the budget.

A basic act may take any of the following forms:

(i) in implementation of the Treaty on the Functioning of the European Union (TFEU) and the Treaty establishing the European Atomic Energy Community (the Euratom Treaty), the form of a regulation, a directive or a decision within the meaning of Article 288 TFEU; or

(ii) in implementation of Title V of the Treaty on European Union (TEU), one of the forms specified in Articles 26(2), 28(1), 29, 31(2), 33 and 37 TEU.

Recommendations and opinions shall not constitute basic acts;

(e) "method of implementation" means the method of budget implementation described in Articles 58, 59 or 60;

(f) "delegation agreement" means an agreement concluded with entities and persons entrusted with budget implementation tasks pursuant to points (i) to (viii) of Article 58(1)(c);

(g) "beneficiary" means a natural or legal person with whom a grant agreement has been signed or to whom a grant decision has been notified;

(h) "contractor" means a natural or legal person with whom a procurement contract has been concluded;

(i) "recipient" means a beneficiary, contractor, or any natural or legal person that receives prizes or funds under a financial instrument;

(j) "prize" means a financial contribution given as a reward following a contest.

(k) "loan" means an agreement which obliges the lender to make available to the borrower an agreed sum of money for an agreed period of time and under which the borrower is obliged to repay that amount within the agreed time;

(l) "guarantee" means a written commitment to assume responsibility for all or part of a third party's debt or obligation or for the successful performance by that third party of its obligations if an event occurs which triggers such guarantee, such as a loan default;

(m) "equity investment" means the provision of capital to a firm, invested directly or indirectly in return for total or partial ownership of that firm and where the equity investor may assume some management control of the firm and may share the firm's profits;

(n) "quasi-equity investment" means a type of financing that ranks between equity and debt, having a higher risk than senior debt and a lower risk than common equity. Quasi-equity investments can be structured as debt, typically unsecured and subordinated and in some cases convertible into equity, or as preferred equity;

(o) "risk-sharing instrument" means a financial instrument which allows for the sharing of a defined risk between two or more entities, where appropriate in exchange for an agreed remuneration;

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

(q) "Staff Regulations" means the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 [1];

(r) "control" means any measure taken to provide reasonable assurance regarding the effectiveness, efficiency and economy of operations, the reliability of reporting, the safeguarding of assets and information, the prevention and detection and correction of fraud and irregularities and their follow-up, and the adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned. Controls may involve various checks, as well as the implementation of any policies and procedures to achieve the objectives described in the first sentence;

(s) "check" means the verification of a specific aspect of a revenue or expenditure operation.

Article 3

Compliance of secondary legislation with this Regulation

1. Provisions concerning the implementation of the revenue and expenditure of the budget, and contained in a basic act, shall respect the budgetary principles set out in Title II of Part One.

2. Without prejudice to paragraph 1, any proposal or amendment to a proposal submitted to the legislative authority containing derogations from provisions other than those in Title II of Part One or from delegated acts adopted pursuant to this Regulation shall clearly indicate such derogations and shall state the specific reasons justifying them in the recitals and in the explanatory memorandum of such proposals.

Article 4

Periods, dates and time limits

Unless otherwise provided, Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits [2] shall apply to deadlines set by this Regulation.

Article 5

Protection of personal data

This Regulation is without prejudice to the requirements of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [3] and of Regulation (EC) No 45/2001.

TITLE II

BUDGETARY PRINCIPLES

Article 6

Respect for budgetary principles

The budget shall be established and implemented in accordance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management which requires effective and efficient internal control, and transparency as set out in this Regulation.

CHAPTER 1

Principles of unity and of budgetary accuracy

Article 7

Scope of the budget

1. The budget shall comprise:

(a) the revenue and expenditure of the Union, including administrative expenditure occasioned for the institutions by the provisions of the TEU relating to the Common Foreign and Security Policy, and the operational expenditure occasioned by implementation of those provisions where this is charged to the budget;

(b) the revenue and expenditure of the European Atomic Energy Community.

2. The budget shall record the guarantees for borrowing-and-lending operations entered into by the Union, including the European Financial Stability Mechanism and Balance of Payment Facility operations, in accordance with point (d) of Article 49(1).

Article 8

Specific rules on the principles of unity and budgetary accuracy

1. Without prejudice to Article 83, no revenue shall be collected and no expenditure effected unless booked to a line in the budget.

2. No expenditure may be committed or authorised in excess of the authorised appropriations.

3. An appropriation may be entered in the budget only if it is for an item of expenditure considered necessary.

[1] OJ L 56, 4.3.1968, p. 1

[2] OJ L 124, 8.6.1971, p. 1.

[3] OJ L 281, 23.11.1995, p. 31.

4. Interest generated by pre-financing payments made from the budget shall not be due to the Union except as otherwise provided for in the delegation agreements, with the exception of those agreements concluded with third countries or the bodies they have designated. In cases in which it is provided for, such interest shall either be re-used for the corresponding action, deducted from payment requests in accordance with point (c) of the first subparagraph of Article 23(1) or recovered.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the accounting of interest generated by pre-financing payments.

CHAPTER 2

Principle of annuality

Article 9

Definition

The appropriations entered in the budget shall be authorised for a financial year which shall run from 1 January to 31 December.

Article 10

Type of appropriations

1. The budget shall contain differentiated appropriations, which consist of commitment appropriations and payment appropriations, and non-differentiated appropriations.

2. Commitment appropriations shall cover the total cost of the legal commitments entered into during the financial year, subject to Article 86(4) and Article 189(2).

3. Payment appropriations shall cover payments made to honour the legal commitments entered into in the financial year or preceding financial years.

4. Paragraphs 1 and 2 of this Article are without prejudice to the special provisions of Titles I, IV and VI of Part Two and shall not prevent appropriations being committed globally or budgetary commitments being made in annual instalments.

Article 11

Accounting for revenue and appropriations

1. The revenue of a financial year shall be entered in the accounts for the financial year on the basis of the amounts collected during that financial year. However, the own resources for the month of January of the following financial year may be made available in advance pursuant to Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the European Communities' own resources [1].

2. The entries in respect of value-added-tax own resources, of the additional resource based on gross national income and of any financial contributions may be adjusted in accordance with Regulation (EC, Euratom) No 1150/2000.

3. The appropriations authorised for a financial year shall be used solely to cover expenditure committed and paid in that financial year and to cover amounts due against commitments from preceding financial years.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules for appropriations for the financial year.

4. Commitments shall be entered in the accounts on the basis of the legal commitments entered into up to 31 December. By way of exception, the global budgetary commitments referred to in Article 86(4) and the financing agreements referred to in Article 189(2) and concluded with third countries shall be entered in the accounts on the basis of the budgetary commitments up to 31 December.

5. Payments shall be entered in the accounts for a financial year on the basis of the payments effected by the accounting officer by 31 December of that year.

6. By way of derogation from paragraphs 3, 4 and 5, the expenditure of the European Agricultural Guarantee Fund shall be entered in the accounts for a financial year in accordance with the rules laid down in Title I of Part Two.

Article 12

Commitment of appropriations

The appropriations entered in the budget may be committed with effect from 1 January, once the budget has been definitively adopted, except as otherwise provided for in Title I and Title VI of Part Two.

Article 13

Cancellation and carry-over of appropriations

1. Appropriations which have not been used by the end of the financial year for which they were entered shall be cancelled.

However, they may be carried over, but only to the following financial year, by a decision taken by 15 February by the institution concerned, in accordance with paragraphs 2 and 3, or they may be carried over automatically in accordance with paragraph 4.

2. Differentiated commitment appropriations and non-differentiated appropriations not yet committed at the end of the financial year may be carried over in respect of:

(a) amounts corresponding to commitment appropriations, or to non-differentiated appropriations relating to building projects, for which most of the preparatory stages of the commitment procedure have been completed by 31 December. Such amounts may then be committed up to 31 March of the following year, or up to 31 December of the following year for amounts relating to building projects;

[1] OJ L 130, 31.5.2000, p. 1.

(b) amounts which are necessary when the legislative authority has adopted a basic act in the final quarter of the financial year and the Commission has been unable to commit the appropriations provided for this purpose by 31 December.

3. Payment appropriations may be carried over in respect of amounts needed to cover existing commitments or commitments linked to commitment appropriations carried over, where the payment appropriations provided for in the relevant budget lines for the following financial year are not sufficient to cover requirements.

The institution concerned shall first use the appropriations authorised for the current financial year and shall not use the appropriations carried over until the former are exhausted.

4. Non-differentiated appropriations corresponding to obligations duly contracted at the end of the financial year shall be carried over automatically to the following financial year only.

5. The institution concerned shall inform the European Parliament and the Council by 15 March of the carry-over decision it has taken and shall state, for each budget line, how the criteria in paragraphs 2 and 3 have been applied to each carry-over.

6. Without prejudice to Article 14, appropriations placed in reserve and appropriations for staff expenditure shall not be carried over. For the purpose of this Article, staff expenditure comprises the remuneration and allowances for members and staff of the institutions to which the Staff Regulations apply.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules for the cancellation and carry-over of appropriations.

Article 14

Carry-over rules for assigned revenue

Carry-over of assigned revenue referred to in Article 21, and of appropriations not used and available at 31 December arising from such revenue, shall comply with the following rules:

(a) external assigned revenue shall be carried over automatically and shall be fully used by the time all the operations relating to the programme or action to which it is assigned have been carried out. External assigned revenue received during the last year of the programme or action may be used in the first year of the succeeding programme or action;

(b) internal assigned revenue shall be carried over for one year only, with the exception of internal assigned revenue defined in point (g) of Article 21(3), which shall be carried over automatically.

Article 15

Decommitment of appropriations

Without prejudice to Articles 178 and 182, where appropriations are decommitted in any financial year after that in which the appropriations were entered in the budget as a result of total or partial non-implementation of the actions for which they were earmarked, the appropriations concerned shall be cancelled.

Article 16

Rules applicable in the event of late adoption of the budget

1. If the budget has not been definitively adopted at the beginning of the financial year, the procedure set out in the first paragraph of Article 315 TFEU (the provisional twelfths regime) shall apply. Commitments and payments may be made within the limits laid down in paragraph 2 of this Article.

2. Commitments may be made per chapter up to a maximum of one quarter of the total appropriations authorised in the relevant chapter of the previous financial year plus one twelfth for each month which has elapsed.

The limit of the appropriations provided for in the draft budget shall not be exceeded.

Payments may be made monthly per chapter up to a maximum of one twelfth of the appropriations authorised in the relevant chapter of the preceding financial year. That sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.

3. The appropriations authorised in the relevant chapter of the preceding financial year, as specified in paragraphs 1 and 2, shall be understood as referring to the appropriations voted in the budget, including by amending budgets, and after adjustment for the transfers made during that financial year.

4. If the continuity of action by the Union and management needs so require, the Council, acting by qualified majority on a proposal of the Commission, may authorise expenditure in excess of one provisional twelfth but not exceeding the total of four provisional twelfths, except in duly justified cases, both for commitments and for payments over and above those automatically made available in accordance with paragraphs 1 and 2. It shall forward the decision on authorisation without delay to the European Parliament.

The decision shall enter into force 30 days following its adoption unless the European Parliament:

(a) acting by a majority of its component Members, decides to reduce that expenditure within that time limit, in which case the Commission shall submit a new proposal;or

(b) informs the Council and the Commission that it does not wish to reduce that expenditure, in which case the decision shall enter into force before the expiry of the 30 days.

The additional twelfths shall be authorised in full and shall not be divisible.

5. If, for a given chapter, the authorisation of four provisional twelfths granted in accordance with paragraph 4 is not sufficient to cover the expenditure necessary to avoid a break in continuity of action by the Union in the area covered by the chapter in question, authorisation may exceptionally be given to exceed the amount of the appropriations entered in the corresponding chapter of the budget of the preceding financial year. The European Parliament and the Council shall act in accordance with the procedures provided for in paragraph 4. However, the overall total of the appropriations available in the budget of the preceding financial year or in the draft budget, as proposed, may in no circumstances be exceeded.

CHAPTER 3

Principle of equilibrium

Article 17

Definition and scope

1. Revenue and payment appropriations shall be in balance.

2. The Union and the bodies referred to in Article 208, may not raise loans within the framework of the budget.

Article 18

Balance from financial year

1. The balance from each financial year shall be entered in the budget for the following financial year as revenue in the case of a surplus or as a payment appropriation in the case of a deficit.

2. The estimates of such revenue or payment appropriations shall be entered in the budget during the budgetary procedure and in a letter of amendment presented pursuant to Article 39. The estimates shall be drawn up in accordance with Regulation (EC, Euratom) No 1150/2000.

3. After the presentation of the provisional accounts for each financial year, any discrepancy between those accounts and the estimates shall be entered in the budget for the following financial year through an amending budget devoted solely to that discrepancy. In such a case, the Commission shall submit the draft amending budget simultaneously to the European Parliament and the Council within 15 days of submission of the provisional accounts.

CHAPTER 4

Principle of unit of account

Article 19

Use of euro

1. The multiannual financial framework and the budget shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for the cash-flow purposes referred to in Article 68(1), the accounting officer and, in the case of imprest accounts, the imprest administrators, and, for the needs of the administrative management of the Commission and the EEAS, the authorising officer responsible, shall be authorised to carry out operations in other currencies as laid down in the delegated acts adopted pursuant to this Regulation.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the rate of conversion between euro and other currencies.

CHAPTER 5

Principle of universality

Article 20

Definition and scope

Without prejudice to Article 21, total revenue shall cover total payment appropriations. Without prejudice to Article 23, all revenue and expenditure shall be entered in full without any adjustment against each other.

Article 21

Assigned revenue

1. External assigned revenue and internal assigned revenue shall be used to finance specific items of expenditure.

2. The following shall constitute external assigned revenue:

(a) financial contributions from Member States to certain research programmes pursuant to Regulation (EC, Euratom) No 1150/2000;

(b) financial contributions from Member States and third countries, including in both cases their public agencies, entities or natural persons, to certain external aid projects or programmes financed by the Union and managed by the Commission on their behalf;

(c) interest on deposits and the fines provided for in Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure [1];

(d) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests, including the earmarked revenue specific to each institution;

(e) financial contributions, not covered by point (b), to Union activities from third countries or from non-Union bodies;

(f) assigned revenue referred to in Articles 181(2) and 183(2);

(g) internal assigned revenue referred to in paragraph 3, to the extent that it is ancillary to the other revenue under this paragraph.

3. The following shall constitute internal assigned revenue:

(a) revenue from third parties in respect of goods, services or work supplied at their request;

[1] OJ L 209, 2.8.1997, p. 6.

(b) proceeds from the sale of vehicles, equipment, installations, materials, and scientific and technical apparatus which are replaced or scrapped when the book value is fully depreciated;

(c) revenue arising from the repayment, in accordance with Article 80, of amounts wrongly paid;

(d) revenue arising from interest on pre-financing payments, subject to Article 8(4);

(e) proceeds from the supply of goods, services and works for other departments within an institution, institutions or bodies, including refunds by other institutions or bodies of mission allowances paid on their behalf;

(f) insurance payments received;

(g) revenue from lettings;

(h) revenue from the sale of publications and films, including those on an electronic medium;

(i) repayments to financial instruments pursuant to Article 140(6);

(j) revenue arising from subsequent reimbursement of taxes pursuant to point (b) of Article 23(3).

4. A basic act may also assign the revenue for which it provides to specific items of expenditure. Unless specified otherwise in the basic act, such revenue shall constitute internal assigned revenue.

5. The budget shall include lines to accommodate external assigned revenue and internal assigned revenue and wherever possible shall indicate the amount.

Assigned revenue may be included in the draft budget only for the amounts which are certain at the date of the establishment of the draft budget.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the establishment of the structure to accommodate external and internal assigned revenue and the provision of the corresponding appropriations, and concerning rules for the contribution from Member States to research programmes. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the proceeds of sanctions imposed pursuant to Article 126(11) TFEU, and concerning assigned revenue resulting from the participation of EFTA states in certain Union programmes.

Article 22

Donations

1. The Commission may accept any donation made to the Union, such as foundations, subsidies, gifts and bequests.

2. Acceptance of a donation of a value of EUR 50 000 or more which involves a financial charge, including follow-up costs, exceeding 10 % of the value of the donation made, shall be subject to the authorisation of the European Parliament and of the Council, both of which shall act on the matter within two months of receiving the request from the Commission. If no objection is made within that period, the Commission shall take a final decision regarding the acceptance of the donation.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the acceptance of donations made to the Union.

Article 23

Rules on deductions and exchange rate adjustments

1. The following deductions may be made from payment requests which shall then be passed for payment of the net amount:

(a) penalties imposed on parties to procurement contracts or beneficiaries;

(b) discounts, refunds and rebates on individual invoices and cost statements;

(c) interest generated by pre-financing payments;

(d) adjustments for amounts unduly paid.

The adjustments referred to in point (d) of the first subparagraph may be made, by means of direct deduction, against a new interim payment or payment of a balance to the same payee under the chapter, article and financial year in respect of which the excess payment was made.

Union accounting rules shall apply to the deductions referred to in points (c) and (d) of the first subparagraph.

2. The cost of products or services, provided to the Union, incorporating taxes refunded by the Member States pursuant to the Protocol on the Privileges and Immunities of the European Union, shall be charged to the budget for the ex-tax amount.

3. The cost of products or services, provided to the Union, incorporating taxes refunded by third countries on the basis of relevant agreements, may be charged to the budget for:

(a) the ex-tax amount; or

(b) the tax-inclusive amount. In such a case, subsequently reimbursed taxes shall be treated as internal assigned revenue.

4. Adjustments may be made in respect of exchange differences occurring in the implementation of the budget. The final gain or loss shall be included in the balance for the year.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the accounts for recoverable taxes.

CHAPTER 6

Principle of specification

Article 24

General provisions

Appropriations shall be earmarked for specific purposes by title and chapter. The chapters shall be further subdivided into articles and items.

Article 25

Transfers by institutions other than the Commission

1. Any institution other than the Commission may, within its own section of the budget, transfer appropriations:

(a) from one title to another up to a maximum of 10 % of the appropriations for the year shown on the line from which the transfer is made;

(b) from one chapter to another and from one article to another without limit.

2. Three weeks before making a transfer, as referred to in paragraph 1, the institution shall inform the European Parliament and the Council of its intention to do so. In the event that duly justified reasons are raised within that period by either the European Parliament or the Council, the procedure laid down in Article 27 shall apply.

3. Any institution other than the Commission may propose to the European Parliament and the Council, within its own section of the budget, transfers from one title to another exceeding the limit of 10 % of the appropriations for the year shown on the line from which the transfer is to be made. Those transfers shall be subject to the procedure laid down in Article 27.

4. Any institution other than the Commission may, within its own section of the budget, make transfers within articles without informing the European Parliament and the Council beforehand.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the calculation of percentages of transfers by institutions other than the Commission.

Article 26

Transfers by the Commission

1. The Commission may, within its own section of the budget, autonomously:

(a) transfer appropriations within each chapter;

(b) with regard to expenditure on staff and administration which is common to several titles, transfer appropriations from one title to another up to a maximum of 10 % of the appropriations for the year shown on the line from which the transfer is made, and up to a maximum of 30 % of the appropriations for the year shown on the line to which the transfer is made;

(c) with regard to operational expenditure, transfer appropriations between chapters within the same title, up to a maximum of 10 % of the appropriations for the year shown on the line from which the transfer is made.

Three weeks before making the transfers referred to in point (b) of the first subparagraph, the Commission shall inform the European Parliament and the Council of its intention to do so. In the event that duly justified reasons are raised within that period by the European Parliament or the Council, the procedure laid down in Article 27 shall apply.

By way of exception from the second subparagraph, the Commission may, during the last two months of the financial year, autonomously transfer appropriations concerning expenditure on staff, external staff and other agents from one title to another within the total limit of 5 % of the appropriations for the year. The Commission shall inform the European Parliament and the Council within two weeks after its decision on those transfers.

2. The Commission may, within its own section of the budget, decide on the following transfer of appropriations from one title to another, provided it immediately informs the European Parliament and the Council of its decision:

(a) transfer of appropriations from the "provisions" title referred to in Article 46, where the only condition for lifting the reserve is the adoption of a basic act pursuant to Article 294 TFEU;

(b) in duly justified exceptional cases such as international humanitarian disasters and crises occurring after 1 December of the financial year, transfer unused appropriations for that financial year still available in the budget titles falling under heading 4 of the multiannual financial framework to the budget titles concerning crisis management aid and humanitarian aid operations.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the calculation of percentages of internal transfers by the Commission, and grounds for transfer requests.

Article 27

Transfer proposals submitted to the European Parliament and the Council by the institutions

1. Each institution shall submit its transfer proposals simultaneously to the European Parliament and the Council.

2. The European Parliament and the Council shall take decisions on transfers of appropriations as provided for in paragraphs 3 to 6 of this Article, except as otherwise provided for in Title I of Part Two.

3. Except in urgent circumstances, the European Parliament and the Council, the latter acting by qualified majority, shall deliberate upon each transfer proposal within six weeks of its receipt by both institutions.

4. The transfer proposal shall be approved, if, within the six-week period, any of the following occurs:

(a) the European Parliament and the Council approve it;

(b) either the European Parliament or the Council approves it and the other institution refrains from acting;

(c) the European Parliament and the Council refrain from acting or do not take a decision to amend or refuse the transfer proposal.

5. The six-week period referred to in paragraph 3 shall be reduced to three weeks, unless either the European Parliament or the Council requests otherwise, in the following cases:

(a) the transfer represents less than 10 % of the appropriations of the line from which the transfer is made and does not exceed EUR 5 000 000;

(b) the transfer concerns only payment appropriations and the overall amount of the transfer does not exceed EUR 100 000 000.

6. If either the European Parliament or the Council has amended the amount of the transfer while the other institution has approved it or refrains from acting, or if the European Parliament and the Council have both amended the amount of the transfer, the lesser of the two amounts shall be deemed approved, unless the institution concerned withdraws its transfer proposal.

Article 28

Specific rules on transfers

1. Appropriations may only be transferred to budget lines for which the budget has authorised appropriations or which carry a token entry "*pro memoria*".

2. Appropriations corresponding to assigned revenue may be transferred only if such revenue is used for the purpose for which it is assigned.

Article 29

Transfers subject to special provisions

1. Transfers within the titles of the budget devoted to the European Agricultural Guarantee Fund, the Structural Funds, the Cohesion Fund, the European Fisheries Fund, the European Agricultural Fund for Rural Development and Research shall be the subject of special provisions under Titles I, II and III of Part Two.

2. Decisions on transfers to allow the use of the Emergency Aid Reserve shall be taken by the European Parliament and the Council on a proposal from the Commission. A separate proposal shall be submitted for each emergency action.

For the purposes of this paragraph, the procedure provided for in Article 27(3) and 27(4) shall apply. If the European Parliament and the Council do not agree to the Commission proposal and cannot reach a common position on the use of this reserve, they shall refrain from acting on the Commission's transfer proposal.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on requests for transfers from the Emergency Aid Reserve.

CHAPTER 7

Principle of sound financial management

Article 30

Principles of economy, efficiency and effectiveness

1. Appropriations shall be used in accordance with the principle of sound financial management, namely in accordance with the principles of economy, efficiency and effectiveness.

2. The principle of economy requires that the resources used by the institution in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.

The principle of efficiency concerns the best relationship between resources employed and results achieved.

The principle of effectiveness concerns the attainment of the specific objectives set and the achievement of the intended results.

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget. The achievement of those objectives shall be monitored by performance indicators for each activity, and the information referred to in point (e) of Article 38(3) shall be provided by the spending authorities to the European Parliament and the Council. That information shall be provided annually and at the latest in the documents accompanying the draft budget.

4. In order to improve decision-making, institutions shall undertake both *ex ante* and *ex post* evaluations in line with guidance provided by the Commission. Such evaluations shall be applied to all programmes and activities which entail significant spending and evaluation results shall be disseminated to the European Parliament, the Council and spending administrative authorities.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on *ex ante*, mid-term and *ex post* evaluations.

Article 31

Compulsory financial statement

1. Any proposal or initiative submitted to the legislative authority by the Commission, the High Representative of the Union for Foreign Affairs and Security Policy (the "High Representative") or by a Member State, which may have an impact on the budget, including changes in the number of posts, shall be accompanied by a financial statement and by an ex-ante evaluation as provided for in Article 30(4).

Any amendment to a proposal or initiative submitted to the legislative authority which may have appreciable implications for the budget, including changes in the number of posts, shall be accompanied by a financial statement prepared by the institution proposing the amendment.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the requirements of the financial statement.

2. During the budgetary procedure, the Commission shall provide the necessary information for a comparison between changes in the appropriations required and the initial forecasts made in the financial statement in the light of the progress of deliberations on the proposal or initiative submitted to the legislative authority.

3. In order to reduce the risk of fraud and irregularities, the financial statement referred to in paragraph 1 shall provide information on the internal control system set up, an estimate of the costs and benefits of the controls implied by such system and an assessment of the expected level of risk of error, as well as existing and planned fraud prevention and protection measures.

Such analysis shall take into account the likely scale and type of errors, as well as the specific conditions of the policy area concerned and the rules applicable thereto.

Article 32

Internal control of budget implementation

1. The budget shall be implemented in compliance with effective and efficient internal control as appropriate in each method of implementation, and in accordance with the relevant sector-specific rules.

2. For the purposes of the implementation of the budget, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives:

(a) effectiveness, efficiency and economy of operations;

(b) reliability of reporting;

(c) safeguarding of assets and information;

(d) prevention, detection, correction and follow-up of fraud and irregularities;

(e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned.

3. Effective internal control shall be based on best international practices and include, in particular, the following:

(a) segregation of tasks;

(b) an appropriate risk management and control strategy including control at recipient level;

(c) avoidance of conflicts of interests;

(d) adequate audit trails and data integrity in data systems;

(e) procedures for monitoring of performance and for follow-up of identified internal control weaknesses and exceptions;

(f) periodic assessment of the sound functioning of the internal control system.

4. Efficient internal control shall be based on the following elements:

(a) the implementation of an appropriate risk management and control strategy coordinated among appropriate actors involved in the control chain;

(b) the accessibility for all appropriate actors in the control chain of the results of controls carried out;

(c) reliance, where appropriate, on management declarations of implementation partners and independent audit opinions, provided that the quality of the underlying work is adequate and acceptable and that it was performed in accordance with agreed standards;

(d) the timely application of corrective measures including, where appropriate, dissuasive penalties;

(e) clear and unambiguous legislation underlying the policies;

(f) the elimination of multiple controls;

(g) improving the cost-benefit ratio of controls.

5. If, during implementation, the level of error is persistently high, the Commission shall identify the weaknesses in the control systems, analyse the costs and benefits of possible corrective measures and take or propose appropriate action, such as simplification of the applicable provisions, improvement of the control systems and re-design of the programme or delivery systems.

Article 33

Cost-effective control systems

When presenting revised or new spending proposals, the Commission shall estimate the costs and benefits of control systems, as well as the level of risk of error as referred to in Article 31(3).

CHAPTER 8

Principle of transparency

Article 34

Publication of accounts, budgets and reports

1. The budget shall be established and implemented and the accounts presented in accordance with the principle of transparency.

2. The President of the European Parliament shall have the budget and any amending budget, as definitively adopted, published in the *Official Journal of the European Union*.

The budgets shall be published within three months of the date on which they are declared definitively adopted.

The consolidated annual accounts and the report on budgetary and financial management drawn up by each institution shall be published in the *Official Journal of the European Union*.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the provisional publication of the budget.

Article 35

Publication of information on recipients and other information

1. Information on borrowing-and-lending operations contracted by the Union for third parties shall appear in an Annex to the budget.

2. The Commission shall make available, in an appropriate and timely manner, information on recipients, as well as the nature and purpose of the measure financed from the budget, where the latter is implemented directly in accordance with point (a) of Article 58(1), and information on recipients as provided by the entities, persons and Member States to which budget implementation tasks are entrusted under other methods of implementation.

The obligation set out in the first subparagraph shall also apply to the other institutions with regard to their recipients.

3. This information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data.

Where natural persons are concerned, the publication shall be limited to the name and locality of the recipient, the amount awarded and the purpose of the award.The disclosure of those data shall be based on relevant criteria such as the periodicity of award, or the type or importance of the award. The criteria for disclosure and the level of detail published shall take into account the specificities of the sector and of each method of implementation.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the establishment of detailed rules on the publication of information on recipients. Where applicable, the level of detail and criteria shall be defined in the relevant sector-specific rules.

TITLE III

ESTABLISHMENT AND STRUCTURE OF THE BUDGET

CHAPTER 1

Establishment of the budget

Article 36

Estimates of revenue and expenditure

1. Each institution other than the Commission shall draw up an estimate of its revenue and expenditure, which it shall send to the Commission, and in parallel, for information, to the European Parliament and the Council, before 1 July each year.

2. The High Representative shall hold consultations with the Members of the Commission responsible for development policy, neighbourhood policy and international cooperation, humanitarian aid and crisis response, regarding their respective responsibilities.

3. The Commission shall draw up its own estimates, which it shall also send, directly after their adoption, to the European Parliament and the Council.

In preparing its estimates, the Commission shall use the information referred to in Article 37.

Article 37

Estimated budget of the bodies referred to in Article 208

By 31 March each year, each body referred to in Article 208 shall, in accordance with the instrument establishing it, send the Commission, the European Parliament and the Council an estimate of its revenue and expenditure, including its establishment plan, and its draft work programme.

Article 38

Draft budget

1. The Commission shall submit a proposal containing the draft budget to the European Parliament and the Council by 1 September of the year preceding that in which the budget is to be implemented. It shall transmit that proposal, for information, also to the national parliaments.

The draft budget shall contain a summary general statement of the revenue and expenditure of the Union and shall consolidate the estimates referred to in Article 36. It may also contain different estimates from those drawn up by the institutions.

The draft budget shall follow the structure and presentation set out in Articles 44 to 49.

Each section of the draft budget shall be preceded by an introduction drawn up by the institution concerned.

The Commission shall draw up the general introduction to the draft budget. The general introduction shall comprise financial tables covering the main data by titles and justifications for the changes in the appropriations from one financial year to the next by categories of expenditure of the multiannual financial framework.

2. In order to provide more precise and reliable forecasts of the budgetary implications of legislation in force and of pending legislative proposals, the Commission shall attach to the draft budget a financial programming for the following years.

The financial programming shall be updated after the adoption of the budget, to incorporate the results of the budgetary procedure and any other relevant decisions.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on financial programming.

3. The Commission shall attach to the draft budget:

(a) where appropriate, the reasons for which the draft budget contains different estimates from those drawn up by other institutions;

(b) any working document it considers useful in connection with the establishment plans of the institutions and the contributions which the Commission awards to the bodies referred to in Article 208 and to the European Schools. Any such working document, showing the latest authorised establishment plan, shall present:

(i) all staff employed by the Union, including its legally separate entities, displayed by type of contract,

(ii) a statement of the policy on posts and external personnel and on gender balance,

(iii) the number of posts actually filled at the beginning of the year in which the draft budget is presented, indicating their distribution by grade and administrative unit,

(iv) a list of posts broken down per policy area,

(v) for each category of external staff, the initial estimated number of full-time equivalents on the basis of the authorised appropriations, as well as the number of persons actually in place at the beginning of the year in which the draft budget is presented, indicating their distribution by function group and, as appropriate, by grade.

(c) a working document on the planned implementation of appropriations for the financial year and on commitments outstanding, on the bodies referred to in Article 208 and the European Schools, and on the pilot projects and preparatory actions;

(d) as regards funding to international organisations, a working document containing:

(i) a summary of all contributions, with a breakdown per Union programme or fund and per international organisation,

(ii) a statement of reasons explaining why it was more efficient for the Union to fund those international organisations rather than to act directly;

(e) activity statements or any other relevant document containing the following:

(i) information on the achievement of all previously set specific, measurable, achievable, relevant and timed objectives for the various activities, as well as new objectives measured by indicators,

(ii) a full justification, including a cost-benefit analysis for proposed changes in the level of appropriations,

(iii) a clear rationale for intervention at Union level in accordance, inter alia, with the principle of subsidiarity,

(iv) information on the implementation rates of the preceding year's activity and implementation rates for the current year,

(v) a summary of evaluation results when relevant to budget changes,

(vi) information on prizes with a unit value of EUR 1 000 000 or more;

(f) a summary statement of the schedule of payments due in subsequent financial years to meet budgetary commitments entered into in previous financial years.

4. Where the Commission entrusts budget implementation to public-private partnerships (PPPs), it shall attach to the draft budget a working document presenting:

(a) an annual report on the performance of existing PPPs in the preceding financial year, including information on the legal form and the shareholders of entities entrusted pursuant to point (vii) of Article 58(1)(c);

(b) the targets set for the financial year to which the draft budget relates, indicating any specific budgetary needs dedicated to achieving this target;

(c) the administrative costs and the implemented budget in total and per body referred to in Article 209 and per PPP in the preceding financial year;

(d) the amount of financial contributions made from the budget, the amount of financial contributions and the value of contributions in kind made by the other partners for each PPP;

However, where PPPs make use of financial instruments, the information relating to those instruments shall be included in the working document referred to in paragraph 5.

5. Where the Commission makes use of financial instruments, it shall attach to the draft budget a working document presenting the following:

(a) the aggregate budgetary commitments and payments from the budget for each financial instrument;

(b) revenues and repayments under Article 140(6), and accrual for additional resources for the financial year;

(c) the total amount of provisions for risks and liabilities, as well as any information on the financial risk exposure of the Union;

(d) impairments of assets of equity or risk-sharing instruments, and called guarantees for guarantee instruments, both for the preceding year and the respective accumulated figures;

(e) the average duration between the budgetary commitment to the financial instruments and the legal commitments for individual projects in the form of equity or debt, where their duration exceeds three years. The Commission shall, in the report provided for under Article 140(8), explain the reasons and provide, where appropriate, an action plan for the reduction of the duration in the framework of the annual discharge procedure;

(f) the administrative expenditure arising from management fees and other financial and operating charges paid for the management of financial instruments, where that management has been entrusted to third parties, in total and per managing party and per financial instrument managed.

6. The Commission shall also attach to the draft budget any further working document it considers useful to support its budget requests.

7. In accordance with Article 8(5) of Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service [1] and in order to ensure budgetary transparency in the area of external action of the Union, the Commission shall transmit to the European Parliament and the Council, together with the draft budget, a working document presenting, in a comprehensive way:

(a) all administrative and operational expenditure relating to the external actions of the Union, including Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy tasks, and financed from the budget;

(b) the EEAS' overall administrative expenditure for the preceding year, broken down into expenditure per Union delegation and expenditure for the EEAS' central administration; together with operational expenditure, broken down by geographic area (regions, countries), thematic areas, Union Delegation and mission.

8. The working document referred to in paragraph 7 shall also:

(a) show the number of posts for each grade in each category and the number of permanent and temporary posts, including contractual and local staff authorised within the limits of the appropriations in each Union Delegation, as well as in the central administration of the EEAS;

(b) show any increase or reduction of posts by grade and category in the central administration of the EEAS, and in all Union Delegations based on the preceding financial year;

(c) show the number of posts authorised for the financial year, the number of posts authorised for the preceding year, as well as the number of posts occupied by diplomats seconded from the Member States, and Council and Commission staff;

(d) provide a detailed picture of all staff in place in Union Delegations at the time of presenting the draft budget, including a breakdown by geographic area, gender, individual country and mission, distinguishing establishment plan posts, contract agents, local agents and seconded national experts and appropriations requested in the draft budget for such other types of personnel with corresponding estimates of the equivalent full-time staff that may be employed within the limits of the appropriations requested.

[1] OJ L 201, 3.8.2010, p. 30.

Article 39

Letter of amendment to the draft budget

On the basis of any new information which was not available at the time the draft budget was established, the Commission may, on its own initiative or if requested by one of the other institutions in respect of its respective section, submit simultaneously to the European Parliament and the Council letters of amendment to the draft budget before the Conciliation Committee referred to in Article 314 TFEU is convened. The letters may include a letter of amendment updating, in particular, expenditure estimates for agriculture.

Article 40

Obligations of the Member States stemming from the adoption of the budget

1. The President of the European Parliament shall declare the budget definitively adopted in accordance with the procedure provided for in Article 314(9) TFEU and Article 106a of the Euratom Treaty.

2. Once the budget has been declared definitively adopted, each Member State shall, from 1 January of the following financial year or from the date of the declaration of definitive adoption of the budget if this occurs after 1 January, be bound to make the payments due to the Union, as specified in Regulation (EC, Euratom) No 1150/2000.

Article 41

Draft amending budgets

1. The Commission may present draft amending budgets which are primarily revenue-driven in the following circumstances:

— to enter in the budget the balance of the preceding financial year, in accordance with the procedure laid down in Article 18,

— to revise the forecast of own resources on the basis of updated economic forecasts, and

— to update the revised forecast of own resources and other revenue, as well as to review the availability of, and need for, payment appropriations.

If there are unavoidable, exceptional and unforeseen circumstances, in particular in view of the mobilisation of the European Union Solidarity Fund, the Commission may present draft amending budgets which are primarily expenditure-driven.

2. Requests for amending budgets, in the same circumstances as referred to in paragraph 1, from institutions other than the Commission shall be sent to the Commission.

Before presenting a draft amending budget, the Commission and the other institutions shall examine the scope for reallocation of the relevant appropriations, with particular reference to any expected under-implementation of appropriations.

Article 40 shall apply to amending budgets. Amending budgets shall be substantiated by reference to the budget the estimates of which they are amending.

3. The Commission shall, except in duly justified exceptional circumstances or in the case of the mobilisation of the European Union Solidarity Fund for which a draft amending budget can be presented at any time of the year, submit its draft amending budgets simultaneously to the European Parliament and the Council by 1 September of each financial year. It may attach an opinion to the requests for amending budgets from the other institutions.

4. The European Parliament and the Council shall discuss the draft amending budgets while having due regard to their urgency.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on draft amending budgets.

Article 42

Early transmission of estimates and draft budgets

The Commission, the European Parliament and the Council may agree to bring forward certain dates for the transmission of the estimates, and for the adoption and transmission of the draft budget. Such an arrangement may not, however, have the effect of shortening or extending the periods for which provision is made for consideration of those texts under Article 314 TFEU and Article 106a of the Euratom Treaty.

CHAPTER 2

Structure and presentation of the budget

Article 43

Structure of the budget

The budget shall consist of the following:

(a) a general statement of revenue and expenditure;

(b) separate sections for each institution, with the exception of the European Council and the Council which shall share the same section, subdivided into statements of revenue and expenditure.

Article 44

Budget nomenclature

1. Commission revenue and the revenue and expenditure of the other institutions shall be classified by the European Parliament and the Council according to their type or the use to which they are assigned under titles, chapters, articles and items.

2. The statement of expenditure for the Commission section shall be set out on the basis of a nomenclature adopted by the European Parliament and the Council and classified according to purpose.

Each title shall correspond to a policy area and each chapter shall, as a rule, correspond to an activity.

Each title may include operational appropriations and administrative appropriations.

The administrative appropriations for a title shall be grouped in a single chapter.

3. When presented by purpose, administrative appropriations for individual titles shall be classified as follows:

(a) expenditure on staff authorised in the establishment plan: there shall be an amount of appropriations and a number establishment plan posts corresponding to that expenditure;

(b) expenditure on external personnel and other expenditure referred to in point (b) of the first subparagraph of Article 26(1) and financed under the "administration" heading of the multiannual financial framework;

(c) expenditure on buildings and other related expenditure, including cleaning and maintenance, rental and hiring, telecommunications, water, gas and electricity;

(d) external personnel and technical assistance directly linked to the implementation of programmes.

Any administrative expenditure of the Commission of a type which is common to several titles shall be set out in a separate summary statement classified by type.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the classification of the budget.

Article 45

Prohibition of negative revenue

1. The budget shall not contain negative revenue.

2. The own resources paid under Council Decision 2007/436/EC, Euratom, of 7 June 2007 on the system of the European Communities' own resources [1] shall be net amounts and shall be shown as such in the summary statement of revenue in the budget.

Article 46

Provisions

1. Each section of the budget may include a "provisions" title. Appropriations shall be entered in that title where:

(a) no basic act exists for the action concerned when the budget is established; or

(b) there are serious grounds for doubting the adequacy of the appropriations or the possibility of implementing, under conditions in accordance with the principle of sound financial management, the appropriations entered on the lines concerned.

The appropriations in that title may be used only after transfer in accordance with the procedure laid down in point (c) of the first subparagraph of Article 26(1) of this Regulation, where the adoption of the basic act is subject to the procedure laid down in Article 294 TFEU, and in accordance with the procedure laid down in Article 27 of this Regulation, for all other cases.

2. In the event of serious implementation difficulties, the Commission may propose, in the course of a financial year, that appropriations be transferred to the "provisions" title. The European Parliament and the Council shall take a decision on such transfers as provided for in Article 27.

Article 47

Negative reserve

The Commission section of the budget may include a "negative reserve" limited to a maximum amount of EUR 200 000 000. Such a reserve, which shall be entered in a separate title, shall comprise payment appropriations only.

That negative reserve shall be drawn upon before the end of the financial year by means of transfer in accordance with the procedure laid down in Articles 26 and 27.

Article 48

Emergency Aid Reserve

1. The Commission section of the budget shall include a reserve for emergency aid for third countries.

2. The reserve referred to in paragraph 1 shall be drawn upon before the end of the financial year by means of transfer in accordance with the procedure laid down in Articles 27 and 29.

Article 49

Presentation of the budget

1. The budget shall show:

(a) in the general statement of revenue and expenditure:

(i) the estimated revenue of the Union for the financial year concerned ('year n');

(ii) the estimated revenue for the preceding financial year and the revenue for year n – 2;

(iii) the commitment and payment appropriations for year n;

(iv) the commitment and payment appropriations for the preceding financial year;

[1] OJ L 163, 23.6.2007, p. 17.

(v) the expenditure committed and the expenditure paid in year n – 2, the latter also expressed as a percentage of the budget of year n;

(vi) appropriate remarks on each subdivision, as set out in Article 44(1);

(b) in each section, the revenue and expenditure in the same structure as in point (a);

(c) with regard to staff:

(i) for each section, an establishment plan setting the number of posts for each grade in each category and in each service and the number of permanent and temporary posts authorised within the limits of the appropriations;

(ii) an establishment plan for staff paid from the research and technological development appropriations for direct action and an establishment plan for staff paid from the same appropriations for indirect action; the establishment plans shall be classified by category and grade and shall distinguish between permanent and temporary posts, authorised within the limits of the appropriations;

(iii) as regards scientific and technical staff, the classification may be based on groups of grades, in accordance with the conditions laid down in each budget; the establishment plan shall specify the number of highly qualified scientific or technical personnel who are accorded special advantages under the specific provisions of the Staff Regulations;

(iv) an establishment plan setting the number of posts by grade and by category for each body referred to in Article 208 which receives a contribution charged to the budget. The establishment plans shall show, next to the number of posts authorised for the financial year, the number authorised for the preceding year;

(d) with regard to borrowing-and-lending operations:

(i) in the general statement of revenue, the budget lines corresponding to the relevant operations and intended to record any reimbursements received from recipients who initially defaulted, leading to activation of the performance guarantee. Those lines shall carry a token entry "*pro memoria*" and be accompanied by appropriate remarks;

(ii) in the Commission section:

— the budget lines containing the Union's performance guarantees in respect of the operations concerned. Those lines shall carry a token entry "*pro memoria*", provided that no effective charge which has to be covered by definitive resources has arisen,

— remarks giving the reference to the basic act and the volume of the operations envisaged, the duration and the financial guarantee given by the Union in respect of such operations,

(iii) in a document annexed to the Commission section, as an indication:

— ongoing capital operations and debt management,

— the capital operations and debt management for year n;

(e) with regard to financial instruments under Title VIII of Part One:

(i) a reference to the basic act;

(ii) budget lines corresponding to the relevant operations;

(iii) a general description of the financial instruments, including their duration and their impact on the budget;

(iv) the envisaged operations, including target volumes based on the leverage effect arising from the existing financial instruments;

(f) with regard to the funding to entities entrusted pursuant to point (vii) of Article 58(1)(c):

(i) a reference to the basic act of the relevant programme;

(ii) corresponding budget lines;

(iii) a general description of the tasks entrusted, including their duration and their impact on the budget;

(g) the total amount of CFSP expenditure entered in a chapter, entitled 'CFSP', with specific articles. Those articles shall cover CFSP expenditure and shall contain specific lines identifying at least the single major missions.

2. In addition to the documents referred to in paragraph 1, the European Parliament and the Council may attach any other relevant documents to the budget.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the presentation of the budget, including a definition of actual expenditure in the last financial year for which the accounts have been closed, budget remarks and the establishment plans.

Article 50

Rules on the establishment plans for staff

1. The establishment plans described in point (c) of Article 49(1) shall constitute an absolute limit for each institution or body; no appointment may be made in excess of the limit set.

However, save in the case of grades AD 16, AD 15 and AD 14, each institution or body may modify its establishment plans by up to 10 % of posts authorised, subject to the following conditions:

(a) the volume of staff appropriations corresponding to a full financial year is not affected;

(b) the limit of the total number of posts authorised by each establishment plan is not exceeded; and

(c) the institution or body has taken part in a benchmarking exercise with other institutions and bodies of the Union as initiated by the Commission's staff screening exercise.

Three weeks before making the modifications referred to in the second subparagraph, the institution shall inform the European Parliament and the Council of its intention to do so. In the event that duly justified reasons are raised within this period by either the European Parliament or the Council, the institution shall refrain from making the modifications and the procedure referred to in Article 41 shall apply.

2. By way of derogation from the first subparagraph of paragraph 1, the effects of part-time work authorised by the appointing authority in accordance with the Staff Regulations may be offset by other appointments.

CHAPTER 3

Budgetary discipline

Article 51

Compliance with the multiannual financial framework

The budget shall comply with the multiannual financial framework.

Article 52

Compliance of Union acts with the budget

Where the implementation of a Union act exceeds the appropriations available in the budget, such an act may be implemented in financial terms only after the budget has been amended accordingly.

TITLE IV

IMPLEMENTATION OF THE BUDGET

CHAPTER 1

General provisions

Article 53

Budget implementation in accordance with the principle of sound financial management

1. The Commission shall implement the revenue and expenditure of the budget in accordance with this Regulation, under its own responsibility and within the limits of the appropriations authorised.

2. The Member States shall cooperate with the Commission so that the appropriations are used in accordance with the principle of sound financial management.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the implementation of the budget in accordance with the principle of sound financial management, and on information on transfers of personal data for audit purposes.

Article 54

Basic act and exceptions

1. A basic act shall first be adopted before the appropriations entered in the budget for any action by the Union may be used.

2. By way of derogation from paragraph 1 the following may be implemented without a basic act provided the actions which they are intended to finance fall within the competences of the Union:

(a) appropriations for pilot projects of an experimental nature designed to test the feasibility of an action and its usefulness. The relevant commitment appropriations may be entered in the budget for not more than two consecutive financial years.

The total amount of appropriations for the pilot projects shall not exceed EUR 40 000 000 in any financial year;

(b) appropriations for preparatory actions in the field of application of the TFEU and the Euratom Treaty, designed to prepare proposals with a view to the adoption of future actions. The preparatory actions shall follow a coherent approach and may take various forms. The relevant commitment appropriations may be entered in the budget for not more than three consecutive financial years. The procedure for the adoption of the relevant basic act shall be concluded before the end of the third financial year. In the course of that procedure, the commitment of appropriations shall correspond to the particular features of the preparatory action with regard to the activities envisaged, the aims pursued and the recipients. Consequently, the means implemented shall not correspond in volume to those envisaged for financing the definitive action itself.

The total amount of appropriations for new preparatory actions referred to under this point shall not exceed EUR 50 000 000 in any financial year, and the total amount of appropriations actually committed for preparatory actions shall not exceed EUR 100 000 000;

(c) appropriations for preparatory measures in the field of Title V of the TEU. Such measures shall be limited to a short period of time and shall be designed to establish the conditions for Union action in fulfilment of the objectives of the CFSP and for the adoption of the necessary legal instruments.

For the purpose of Union crisis management operations, preparatory measures shall be designed, inter alia, to assess the operational requirements, to provide for a rapid initial deployment of resources, or to establish the conditions on the ground for the launching of the operation.

Preparatory measures shall be agreed by the Council, on a proposal by the High Representative.

In order to ensure the rapid implementation of preparatory measures, the High Representative shall inform the European Parliament and the Commission as early as possible of the Council's intention to launch a preparatory measure and, in particular, of the estimated resources required for this purpose. The Commission shall take all the measures necessary to ensure a rapid disbursement of the funds.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules for the financing of preparatory measures in the field of the CFSP;

(d) appropriations for one-off actions, or even actions for an indefinite duration, carried out by the Commission by virtue of tasks resulting from its prerogatives at institutional level pursuant to the TFEU and the Euratom Treaty, other than its right of legislative initiative referred to in point (b), and under specific powers directly conferred on it by those Treaties, a list of which is to be given in the delegated acts adopted pursuant to this Regulation;

(e) appropriations for the operation of each institution under its administrative autonomy.

When the draft budget is presented, the Commission shall submit a report to the European Parliament and the Council on the actions referred to in points (a) and (b) of the first subparagraph which shall also contain an assessment of results and the follow-up envisaged.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the basic act and the exceptions enumerated in paragraph 2 of this Article.

Article 55

Implementation of the budget by institutions other than the Commission

The Commission shall confer on the other institutions the requisite powers for the implementation of the sections of the budget relating to them.

Detailed arrangements may be agreed between the EEAS and the Commission in order to facilitate the implementation of Union Delegations' administrative appropriations. Such arrangements shall not contain any derogation from this Regulation or the delegated acts adopted pursuant to this Regulation.

Article 56

Delegation of budget implementation powers

1. The Commission and each of the other institutions may, within their departments, delegate their powers of budget implementation in accordance with the conditions laid down in this Regulation and by their internal rules and within the limits which they lay down in the instrument of delegation. Those so empowered shall act within the limits of the powers expressly conferred upon them.

2. However, the Commission may delegate its powers of budget implementation concerning the operational appropriations of its own section to the Heads of Union Delegations. It shall, at the same time, inform the High Representative thereof. When Heads of Union Delegations act as subdelegated authorising officers of the Commission, they shall apply the Commission rules for the implementation of the budget and shall be subject to the same duties, obligations and accountability as any other subdelegated authorising officer of the Commission.

The Commission may withdraw the delegation in accordance with its own rules.

For the purposes of the first subparagraph, the High Representative shall take the measures necessary to facilitate cooperation between Union Delegations and Commission departments.

Article 57

Conflict of interests

1. Financial actors and other persons involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action which may bring their own interests into conflict with those of the Union.

Where such a risk exists, the person in question shall refrain from such action and shall refer the matter to the authorising officer by delegation who shall confirm in writing whether a conflict of interests exists. The person in question shall also inform his or her hierarchical superior. Where a conflict of interests is found to exist, the person in question shall cease all activities in the matter. The authorising officer by delegation shall personally take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 setting out what is likely to constitute a conflict of interests together with the procedure to be followed in such cases.

CHAPTER 2

Methods of implementation

Article 58

Methods of implementation of the budget

1. The Commission shall implement the budget in the following ways:

(a) directly ('direct management'), by its departments, including its staff in the Union Delegations under the authority of their respective Head of Delegation, in accordance with Article 56(2), or through executive agencies as referred to in Article 62;

(b) under shared management with Member States ('shared management'); or

(c) indirectly ('indirect management'), where this is provided for in the basic act or in the cases referred to in points (a) to (d) of the first subparagraph of Article 54(2), by entrusting budget implementation tasks to:

(i) third countries or the bodies they have designated;

(ii) international organisations and their agencies;

(iii) the EIB and the European Investment Fund;

(iv) bodies referred to in Articles 208 and 209;

(v) public law bodies;

(vi) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

(vii) bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

(viii) persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

2. The Commission remains responsible for the implementation of the budget in accordance with Article 317 TFEU and shall inform the European Parliament and the Council of the operations carried out by the entities and persons entrusted pursuant to point (c) of paragraph 1 of this Article. Where the entrusted entity or person is identified in a basic act, the financial statement provided for in Article 31 shall include a full justification for the choice of that particular entity or person.

3. The entities and persons entrusted pursuant to point (c) of paragraph 1 of this Article shall fully cooperate in the protection of the Union's financial interests. Delegation agreements shall provide for the right of the Court of Auditors and the European Anti-Fraud Office (OLAF) to comprehensively exert their competences under the TFEU in the audit of funds.

The Commission shall entrust budget implementation tasks to entities and persons under point (c) of paragraph 1 of this Article provided that transparent, non-discriminatory, efficient and effective review procedures concerning the actual implementation of such tasks are in place.

4. All delegation agreements shall be made available to the European Parliament and the Council at their request.

5. Entities and persons entrusted pursuant to point (c) of paragraph 1 of this Article shall ensure, in accordance with Article 35(2), appropriate annual *ex post* publication of information on recipients. The Commission shall be notified of the measures taken in this regard.

6. Entities and persons entrusted pursuant to point (c) of paragraph 1 shall not have the status of authorising officer by delegation.

7. The Commission shall not entrust executive powers to third parties, where such powers involve a large measure of discretion implying political choices.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the methods of implementation of the budget, including direct management, the exercise of powers delegated to executive agencies, and specific provisions for indirect management with international organisations, with bodies referred to in Articles 208 and 209, with public law bodies or bodies governed by private law with a public service mission, with bodies governed by the private law of a Member State and entrusted with the implementation of a public-private partnership and with persons entrusted with the implementation of specific actions in the CFSP.

Article 59

Shared management with Member States

1. Where the Commission implements the budget under shared management, implementation tasks shall be delegated to Member States. The Commission and the Member States shall respect the principles of sound financial management, transparency and non-discrimination and shall ensure the visibility of Union action when they manage Union funds. To this end, the Commission and the Member States shall fulfil their respective control and audit obligations and assume the resulting responsibilities laid down in this Regulation. Complementary provisions shall be laid down in sector-specific rules.

2. When executing tasks relating to the implementation of the budget, Member States shall take all the necessary measures, including legislative, regulatory and administrative measures, to protect the Union's financial interests, namely by:

(a) ensuring that actions financed from the budget are implemented correctly and effectively and in accordance with the applicable sector-specific rules and, for that purpose, designating in accordance with paragraph 3, and supervising bodies responsible for the management and control of Union funds;

(b) preventing, detecting and correcting irregularities and fraud.

In order to protect the Union's financial interests, Member States shall, respecting the principle of proportionality, and in compliance with this Article, and the relevant sector-specific rules, carry out *ex ante* and *ex post* controls including, where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions. They shall also recover funds unduly paid and bring legal proceedings where necessary in this regard.

Member States shall impose effective, dissuasive and proportionate penalties on recipients where provided for in sector-specific rules and in specific provisions in national legislation.

As part of its risk assessment and in accordance with sector-specific rules, the Commission shall monitor the management and control systems established in the Member States. The Commission shall, in its audit work, respect the principle of proportionality and shall take into account the level of assessed risk in accordance with the sector-specific rules.

3. In accordance with the criteria and procedures laid down in sector-specific rules, Member States shall, at the appropriate level, designate bodies to be responsible for the management and control of Union funds. Such bodies may also carry out tasks not related to the management of Union funds and may entrust certain of their tasks to other bodies.

When deciding on the designation of bodies, Member States may base their decision on whether the management and control systems are essentially the same as those already in place for the previous period and whether they have functioned effectively.

If audit and control results show that the designated bodies no longer comply with the criteria set out in the sector-specific rules, Member States shall take the measures necessary to ensure that deficiencies in the implementation of the tasks of these bodies are remedied, including by ending the designation in accordance with the sector-specific rules.

The sector-specific rules shall define the role of the Commission in the process set out in this paragraph.

4. Bodies designated pursuant to paragraph 3 shall:

(a) set up and ensure the functioning of an effective and efficient internal control system;

(b) use an accounting system that provides accurate, complete and reliable information in a timely manner;

(c) provide the information required under paragraph 5;

(d) ensure *ex post* publication in accordance with Article 35(2). Any processing of personal data shall comply with national provisions implementing Directive 95/46/EC.

5. Bodies designated pursuant to paragraph 3 shall, by 15 February of the following financial year, provide the Commission with:

(a) their accounts on the expenditure that was incurred, during the relevant reference period as defined in the sector-specific rules, in the execution of their tasks and that was presented to the Commission for reimbursement. Those accounts shall include pre-financing and sums for which recovery procedures are underway or have been completed. They shall be accompanied by a management declaration confirming that, in the opinion of those in charge of the management of the funds:

(i) the information is properly presented, complete and accurate,

(ii) the expenditure was used for its intended purpose, as defined in the sector-specific rules,

(iii) the control systems put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;

(b) an annual summary of the final audit reports and of controls carried out, including an analysis of the nature and extent of errors and weaknesses identified in systems, as well as corrective action taken or planned.

The accounts referred to in point (a) of the first subparagraph and the summary referred to in point (b) of the first subparagraph shall be accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the accounts give a true and fair view, whether expenditure for which reimbursement has been requested from the Commission is legal and regular, and whether the control systems put in place function properly. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration referred to in point (a) of the first subparagraph.

The deadline of 15 February may exceptionally be extended by the Commission to 1 March, upon communication by the Member State concerned.

Member States may, at the appropriate level, publish the information referred to in this paragraph.

In addition, Member States may provide declarations signed at the appropriate level based on the information referred to in this paragraph.

6. In order to ensure that Union funds are used in accordance with the applicable rules, the Commission shall:

(a) apply procedures for the examination and acceptance of the accounts of the designated bodies, ensuring that the accounts are complete, accurate and true;

(b) exclude from Union financing expenditure for which disbursements have been made in breach of applicable law;

(c) interrupt payment deadlines or suspend payments where provided for in the sector-specific rules.

The Commission shall end all or part of the interruption of payment deadlines or suspension of payments after a Member State has presented its observations and as soon as it has taken any necessary measures. The annual activity report referred to in Article 66(9) shall cover all the obligations under this subparagraph.

7. Sector-specific rules shall take account of the needs of European Territorial Cooperation programmes as regards, in particular, the content of the management declaration, the process set out in paragraph 3 and the audit function.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on shared management with Member States, including the compilation of a register of bodies responsible for the management and control of Union funds, and on measures to promote best practices.

Article 60

Indirect management

1. Entities and persons entrusted with budget implementation tasks pursuant to point (c) of Article 58(1) shall respect the principles of sound financial management, transparency and non-discrimination and shall ensure the visibility of Union action when they manage Union funds. They shall guarantee a level of protection of the financial interests of the Union equivalent to that required under this Regulation when they manage Union funds, with due consideration for:

(a) the nature of the tasks entrusted to them and the amounts involved;

(b) the financial risks involved;

(c) the level of assurance stemming from their systems, rules and procedures together with the measures taken by the Commission to supervise and support the implementation of the tasks entrusted to them.

2. In order to protect the financial interests of the Union, the entities and persons entrusted pursuant to point (c) of Article 58(1) shall, in accordance with the principle of proportionality:

(a) set up and ensure the functioning of an effective and efficient internal control system;

(b) use an accounting system that provides accurate, complete and reliable information in a timely manner;

(c) be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the entity or person concerned;

(d) apply appropriate rules and procedures for providing financing from Union funds through grants, procurement and financial instruments;

(e) ensure, in accordance with Article 35(2), the *ex post* publication of information on recipients;

(f) ensure a reasonable protection of personal data, as laid down in Directive 95/46/EC and Regulation (EC) No 45/2001.

Persons entrusted pursuant to point (viii) of Article 58(1)(c) shall adopt their financial rules with the Commission's prior consent. They shall satisfy the requirements laid down in points (a) to (e) of this paragraph no later than six months after the start of their mandate. Where, at the end of this period, they comply with those requirements only in part, the Commission shall take appropriate remedial measures to supervise and support the implementation of the tasks entrusted to them.

3. The entities and persons entrusted pursuant to point (c) of Article 58(1) shall prevent, detect and correct irregularities and fraud when executing tasks relating to the implementation of the budget. To this end, they shall carry out, in accordance with the principle of proportionality, *ex ante* and *ex post* controls including, where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions, to ensure that the actions financed from the budget are effectively carried out and implemented correctly. They shall also recover funds unduly paid and bring legal proceedings where necessary in this regard.

4. The Commission may suspend payments to entities and persons entrusted pursuant to point (c) of Article 58(1), in particular when systemic errors are detected which call into question the reliability of the internal control systems of the entity or person concerned or the legality and regularity of the underlying transactions.

Notwithstanding Article 92, the authorising officer responsible may interrupt payments to such entities or persons fully or partially for the purpose of carrying out further checks where:

(i) information comes to the notice of the authorising officer responsible indicating a significant deficiency in the functioning of the internal control system or that the expenditure certified by the entity or person concerned is linked to a serious irregularity and has not been corrected;

(ii) the interruption is necessary to prevent significant damage to the financial interests of the Union.

5. Without prejudice to paragraph 7, the entities and persons entrusted pursuant to point (c) of Article 58(1) shall provide the Commission with:

(a) a report on the implementation of the tasks entrusted to them;

(b) their accounts drawn up for the expenditure incurred in the execution of the tasks entrusted to them. Those accounts shall be accompanied by a management declaration confirming that, in the opinion of those in charge of the management of the funds:

(i) the information is properly presented, complete and accurate,

(ii) the expenditure was used for its intended purpose, as defined in the delegation agreements or, where applicable, in the relevant sector-specific rules,

(iii) the control systems put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;

(c) a summary of the final audit reports and of controls carried out, including an analysis of the nature and extent of errors and weaknesses identified in systems, as well as corrective action taken or planned.

The documents referred to in the first subparagraph shall be accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the accounts give a true and fair view, whether the control systems put in place function properly, and whether the underlying transactions are legal and regular. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration under point (b) of the first subparagraph.

The documents referred to in the first subparagraph shall be provided to the Commission no later than 15 February of the following financial year. The opinion referred to in the second subparagraph shall be provided to the Commission no later than 15 March.

The obligations set out in this paragraph shall be without prejudice to agreements concluded with international organisations and third countries. Such agreements shall include at least the obligation of those international organisations and third countries to provide the Commission annually with a statement that, during the financial year concerned, the Union contribution was used and accounted for in compliance with the requirements set out in paragraph 2 and with the obligations laid down in such agreements.

6. Without prejudice to paragraph 7, the Commission shall:

(a) supervise the fulfilment by those persons and entities of their responsibilities, in particular by carrying out audits and evaluations on the programme implementation;

(b) apply procedures for the examination and acceptance of the accounts of the entrusted entities and persons, ensuring that the accounts are complete, accurate and true;

(c) exclude from Union financing expenditure disbursements which have been made in breach of the applicable rules.

7. Paragraphs 5 and 6 shall not apply to the contribution of the Union to entities which are subject to a separate discharge procedure under Article 208.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on indirect management, including the establishment of the conditions under indirect management according to which the systems, rules and procedures of entities and persons are to be equivalent to those of the Commission, management declarations and compliance statements, and the procedures for the examination and acceptance of the accounts and the exclusion from Union financing of expenditure incurredin breach of the applicable rules.

Article 61

Ex ante assessments and delegation agreements

1. Before the Commission entrusts tasks of budget implementation to entities or persons pursuant to point (c) of Article 58(1), it shall obtain evidence that the requirements set out in points (a) to (d) of the first subparagraph of Article 60(2) are being fulfilled.

Where substantial changes are made to the systems or rules of an entity or person entrusted pursuant to point (c) of Article 58(1), or to the procedures that relate to the management entrusted to that entity or person of Union funds, the entity or person concerned shall inform the Commission thereof without delay. The Commission shall review the delegation agreements concluded with the entity or person concerned in order to ensure continued fulfilment of the requirements set out in points (a) to (d) of the first subparagraph of Article 60(2).

2. Unless the entrusted entity is identified in the basic act, the Commission shall select an entity from one of the categories listed in points (ii), (v), (vi) and (vii) of Article 58(1)(c) taking due account of the nature of the tasks to be entrusted to the entity, as well as the experience and the operational and financial capacity of the entities concerned. The selection shall be transparent, justified on objective grounds and shall not give rise to a conflict of interests.

3. Delegation agreements shall set out the requirements laid down in points (a) to (d) of the first subparagraph of Article 60(2). They shall clearly define the tasks entrusted to the entity and contain an undertaking by the entities or persons concerned to fulfil the obligations laid down in points (e) and (f) of the first subparagraph of Article 60(2), and to refrain from any action which may give rise to a conflict of interests.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the *ex ante* assessment of rules and procedures under indirect management and the content of delegation agreements.

Article 62

Executive agencies

1. The Commission may delegate powers to the executive agencies to implement all or part of a Union programme or project, on its behalf and under its responsibility, in accordance with Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes [1]. The executive agencies shall be created by means of a Commission Decision and shall be legal persons under Union law.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the exercise of powers delegated to the executive agencies.

2. The director of the executive agency shall implement the corresponding operational appropriations under direct management.

Article 63

Limits to delegation of powers

1. The Commission shall not entrust tasks relating to implementation of Union funds, including payment and recovery, to external private sector entities or bodies, except in the case referred to in points (v), (vi) and (vii) of Article 58(1)(c), or in specific cases where the payments involved:

(i) are to be made to payees determined by the Commission;

(ii) are subject to conditions and amounts fixed by the Commission; and

(iii) do not involve the exercise of discretion by the entity or body making the payments.

2. The Commission may entrust the following tasks by contract to external private sector entities or bodies that do not have a public service mission: technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary powers of judgment.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on entrusting tasks to certain external private sector entities or bodies in accordance with the procurement rules set out in Title V of Part One.

CHAPTER 3

Financial actors

Section 1

Principle of segregation of duties

Article 64

Segregation of duties

1. The duties of authorising officer and accounting officer shall be segregated and mutually exclusive.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the rights and obligations of all financial actors.

Section 2

Authorising officer

Article 65

The authorising officer

1. Each institution shall perform the duties of authorising officer.

[1] OJ L 11, 16.1.2003, p. 1.

2. For the purposes of this Title, the term "staff" refers to persons covered by the Staff Regulations.

3. Each institution shall delegate, in compliance with the conditions in its rules of procedure, the duties of authorising officer to staff of an appropriate level. It shall indicate, in its internal administrative rules, the staff to whom it delegates those duties, the scope of the powers delegated and whether the persons to whom those powers are delegated may subdelegate them.

4. The powers of authorising officer shall be delegated or subdelegated only to staff.

5. Authorising officers responsible shall act within the limits set by the instrument of delegation or subdelegation. The authorising officer responsible may be assisted by one or more members of staff entrusted, under his or her responsibility, with carrying out certain operations necessary for implementing the budget and presenting the accounts.

6. Where Heads of Union Delegations act as authorising officers by subdelegation in accordance with Article 56(2), they shall be subject to the Commission as the institution responsible for the definition, exercise, monitoring and appraisal of their duties and responsibilities as authorising officers by subdelegation. The Commission shall, at the same time, inform the High Representative thereof.

7. The authorising officer responsible may be assisted by staff entrusted, under his or her responsibility, with certain tasks required for the implementation of the budget and production of the financial and management information. Staff assisting authorising officers responsible shall be subject to Article 57.

8. Each institution shall inform the Court of Auditors, the European Parliament and the Council of the appointment and release of authorising officers by delegation, internal auditors and accounting officers, and of any internal rules it adopts in respect of financial matters.

9. Each institution shall inform the Court of Auditors of the appointment of imprest administrators and of delegation decisions under Article 69(1) and Article 70.

10. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the assistance provided to authorising officers responsible and the internal provisions governing delegations.

Article 66

Powers and duties of the authorising officer

1. The authorising officer shall be responsible in each institution for implementing revenue and expenditure in accordance with the principle of sound financial management and for ensuring compliance with the requirements of legality and regularity.

2. For the purposes of paragraph 1, the authorising officer by delegation shall, in accordance with Article 32 and the minimum standards adopted by each institution and having due regard to the risks associated with the management environment and the nature of the actions financed, put in place the organisational structure and the internal control systems suited to the performance of his or her duties. The establishment of such structure and systems shall be supported by a comprehensive risk analysis, which takes into account their cost-effectiveness.

3. To implement expenditure, the authorising officer responsible shall make budgetary and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminary steps for the implementation of appropriations.

4. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements, where appropriate.

5. Each operation shall be subject at least to an *ex ante* control, based on a desk review of documents and on the available results of controls already carried out, relating to the operational and financial aspects of the operation.

Ex ante controls shall comprise the initiation and the verification of an operation.

For a given transaction, the verification shall be carried out by staff other than those who initiated the operation. The staff who carry out the verification shall not be subordinate to the members of staff who initiated the operation.

6. The authorising officer by delegation may put in place *ex post* controls to verify operations already approved following *ex ante* controls. Such controls may be organised on a sample basis according to risk.

The *ex ante* controls shall be carried out by staff other than those responsible for the *ex post* controls. The staff responsible for the *ex post* controls shall not be subordinate to the members of staff responsible for the *ex ante* controls.

Where the authorising officer by delegation implements financial audits of beneficiaries as ex-post controls, the related audit rules shall be clear, consistent and transparent, and shall respect the rights of both the Commission and the auditees.

7. Staff responsible for controlling the management of financial operations shall have the necessary professional skills. They shall respect a specific code of professional standards established by each institution.

8. If a member of staff, involved in the financial management and control of transactions, considers that a decision he or she is required by his or her superior to apply or to agree to is irregular or contrary to the principle of sound financial management or the professional rules which that member of staff is required to observe, he or she shall inform his or her hierarchical superior accordingly. If the member of staff does so in writing, the hierarchical superior shall reply in writing. If the hierarchical superior fails to take action or confirms the initial decision or instruction and the member of staff believes that such confirmation does not constitute a reasonable response to his or her concern, the member of staff shall inform the authorising officer by delegation in writing. If that officer fails to take action, the member of staff shall inform the relevant panel referred to in Article 73(6).

In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, the member of staff shall inform the authorities and bodies designated by the applicable legislation. Contracts with external auditors carrying out audits of the financial management of the Union shall provide for an obligation of the external auditor to inform the authorising officer by delegation of any suspected illegal activity, fraud or corruption which may harm the interests of the Union.

9. The authorising officer by delegation shall report to his or her institution on the performance of his or her duties in the form of an annual activity report containing financial and management information, including the results of controls, declaring that, except as otherwise specified in any reservations related to defined areas of revenue and expenditure, he or she has reasonable assurance that:

(a) the information contained in the report presents a true and fair view;

(b) the resources assigned to the activities described in the report have been used for their intended purpose and in accordance with the principle of sound financial management;

(c) the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

The activity report shall indicate the results of the operations by reference to the objectives set, the risks associated with those operations, the use made of the resources provided and the efficiency and effectiveness of internal control systems, including an overall assessment of the costs and benefits of controls.

No later than 15 June each year, the Commission shall send to the European Parliament and the Council a summary of the annual activity reports for the preceding year. The annual activity report of each authorising officer by delegation shall also be made available to the European Parliament and the Council.

10. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on *ex ante* and *ex post* controls, the keeping of supporting documents, on the code of professional standards, the failure of the authorising officer to act, transmission of information to the accounting officer, and reports on negotiated procedures.

Article 67

Powers and duties of Heads of Union Delegations

1. Where Heads of Union Delegations act as authorising officers by subdelegation in accordance with Article 56(2), they shall cooperate closely with the Commission with regard to the proper implementation of the funds, in order to ensure, in particular, the legality and regularity of financial transactions, respect for the principle of sound financial management in the management of the funds and the effective protection of the financial interests of the Union.

To this effect, they shall take the measures necessary to prevent any situation susceptible to put at stake the responsibility of the Commission for the implementation of the budget subdelegated to them, as well as any conflict of priorities which is likely to have an impact on the implementation of the financial management tasks subdelegated to them.

Where a situation or conflict referred to in the second subparagraph arises, the Heads of Union Delegations shall inform the Directors-General responsible of the Commission and of the EEAS thereof without delay. Those Directors-General shall take appropriate steps to remedy the situation.

2. If Heads of Union Delegations find themselves in a situation as referred to in Article 66(8), they shall refer the matter to the specialised financial irregularities panel set up pursuant to Article 73(6). In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, they shall inform the authorities and bodies designated by the applicable legislation.

3. Heads of Union Delegations acting as authorising officers by subdelegation in accordance with Article 56(2) shall report to their authorising officer by delegation so that the latter can integrate their reports in his or her annual activity report referred to in Article 66(9). The reports of the Heads of Union Delegations shall include information on the efficiency and effectiveness of internal control systems put in place in their Delegation, as well as on the management of operations subdelegated to them, and provide the assurance referred to in the third subparagraph of Article 73(5). Those reports shall be annexed to the annual activity report of the authorising officer by delegation, and shall be made available to the European Parliament and the Council having due regard, where appropriate, to their confidentiality.

The Heads of Union Delegations shall fully cooperate with institutions involved in the discharge procedure and provide, as appropriate, any necessary additional information. In this context, they may be requested to attend meetings of the relevant bodies and assist the authorising officer by delegation responsible.

4. Heads of Union Delegations acting as authorising officers by subdelegation in accordance with Article 56(2) shall reply to any request by the Commission's authorising officer by delegation at the Commission's own request or, in the context of discharge, at the request of the European Parliament.

5. The Commission shall ensure that subdelegating powers are not detrimental to the discharge procedure under Article 319 TFEU.

Section 3

Accounting officer

Article 68

Powers and duties of the accounting officer

1. Each institution shall appoint an accounting officer who shall be responsible in each institution for the following:

(a) properly implementing payments, collecting revenue and recovering amounts established as being receivable;

(b) preparing and presenting the accounts in accordance with Title IX of Part One;

(c) keeping the accounts in accordance with Title IX of Part One;

(d) laying down the accounting procedures and the chart of accounts, in accordance with Title IX of Part One;

(e) laying down and validating the accounting systems and where appropriate validating systems laid down by the authorising officer to supply or justify accounting information; in this respect, the accounting officer shall be empowered to verify at any time compliance with validation criteria;

(f) treasury management.

The responsibilities of the accounting officer of the EEAS shall concern only the EEAS section of the budget as implemented by the EEAS. The accounting officer of the Commission shall remain responsible for the entire Commission section of the budget, including accounting operations relating to appropriations subdelegated to Heads of Union Delegations.

The accounting officer of the Commission shall, subject to Article 213, also act as the accounting officer of the EEAS in respect of the implementation of the EEAS section of the budget.

2. The accounting officer of the Commission shall be responsible for laying down the accounting rules and the harmonised charts of accounts in accordance with Title IX of Part One.

3. The accounting officers shall obtain from authorising officers all the information necessary for the production of accounts which give a true and fair view of the institutions' financial situation and of budgetary implementation. The authorising officers shall guarantee the reliability of that information.

4. Before the adoption of the accounts by the institution, or body referred to in Article 208, the accounting officer shall sign them off, thereby certifying that he or she has reasonable assurance that the accounts present a true and fair view of the financial situation of the institution or body referred to in Article 208.

For that purpose, the accounting officer shall verify that the accounts have been prepared in accordance with the accounting rules, referred to in Article 143, and the accounting procedures, referred to in point (d) of paragraph 1 of this Article, and that all revenue and expenditure is entered in the accounts.

The authorising officers by delegation shall forward any information that the accounting officer needs in order to fulfil his or her duties.

The authorising officers shall remain fully responsible for the proper use of the funds they manage, the legality and regularity of the expenditure under their control and the completeness and accuracy of the information forwarded to the accounting officer.

5. The accounting officer shall be empowered to check the information received as well as to carry out any further checks he or she deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

6. Except as otherwise provided for in this Regulation, only the accounting officer shall be empowered to manage cash and cash equivalents. The accounting officer shall be responsible for their safekeeping.

7. Within the implementation of a programme or an action, fiduciary accounts may be opened in the name of the Commission and on its behalf in order to allow their management by an entity entrusted pursuant to points (ii), (iii), (v) or (vi) of Article 58(1)(c).

Such accounts shall be opened under the responsibility of the authorising officer in charge of the implementation of the programme or action in agreement with the accounting officer of the Commission.

Such accounts shall be managed under the responsibility of the authorising officer.

8. The accounting officer of the Commission shall lay down rules for the opening, management and closure of fiduciary accounts and their use.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the powers and duties of the accounting officer, including his or her appointment and termination of duties, his or her opinion on accounting and inventory systems, treasury and bank account management, signatures on accounts, management of account balances, transfer and conversion operations, methods of payment, legal entity files and the keeping of supporting documents.

Article 69

Powers which may be delegated by the accounting officer

1. The accounting officer may, in the performance of his or her duties, delegate certain tasks to subordinate staff.

The instrument of delegation shall set out those tasks.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on persons empowered to administer accounts in a local unit.

Section 4

Imprest administrator

Article 70

Imprest accounts

1. Imprest accounts may be set up for the collection of revenue other than own resources and for the payment of small sums as defined in the delegated acts adopted pursuant to this Regulation.

However, in the field of crisis management aid and humanitarian aid operations within the meaning of Article 128, imprest accounts may be used without any limitation on the amount, while respecting the level of appropriations decided by the European Parliament and the Council on the corresponding budget line for the current financial year.

2. Imprest accounts shall be endowed by the institution's accounting officer and shall be placed under the responsibility of imprest administrators designated by the institution's accounting officer.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the conditions for imprest accounts, including maximum amounts to be paid by imprest administrators and rules also for external actions, including rules regarding the choice of imprest administrators, the endowment of imprest accounts, checks by authorising and accounting officers and the respect of procurement procedures. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the creation of imprest accounts and imprest administrators in Union Delegations.

CHAPTER 4

Liability of financial actors

Section 1

General rules

Article 71

Withdrawal of delegation and suspension of duties given to financial actors

1. Authorising officers responsible may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them.

2. The accounting officer or imprest administrators, or both, may at any time be suspended temporarily or definitively from their duties by the authority which appointed them.

3. This Article shall be without prejudice to any disciplinary action taken in respect of the financial actors referred to in paragraphs 1 and 2.

Article 72

Liability of the authorising officer for illegal activity, fraud or corruption

1. This Chapter is without prejudice to any liability under criminal law which the financial actors referred to in Article 71 may incur as provided for in applicable national law and in the provisions in force concerning the protection of the Union's financial interests and the fight against corruption involving Union officials or officials of Member States.

2. Without prejudice to Articles 73, 74 and 75 of this Regulation, each authorising officer responsible, accounting officer or imprest administrator shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations. In the event of illegal activity, fraud or corruption which may harm the interests of the Union, the matter shall be submitted to the authorities and bodies designated by the applicable legislation, in particular to OLAF.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of the authorising officers, the accounting officers and the imprest administrators in the event of illegal activity, fraud or corruption.

Section 2

Rules applicable to authorising officers responsible

Article 73

Rules applicable to authorising officers

1. The authorising officer responsible shall be liable for payment of compensation as laid down in the Staff Regulations.

2. The obligation to pay compensation shall apply in particular if the authorising officer responsible, whether intentionally or through gross negligence on his or her part:

(a) determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation or the delegated acts adopted pursuant to this Regulation;

(b) omits to draw up a document establishing an amount receivable, neglects to issue a recovery order or is late in issuing it or is late in issuing a payment order, thereby rendering the institution liable to civil action by third parties.

3. An authorising officer by delegation or subdelegation who considers that a decision, which is his or her responsibility to take, is irregular or contrary to the principle of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the authorising officer by delegation or subdelegation to take that decision, that authorising officer shall not be held liable.

4. In the event of subdelegation within his or her service, the authorising officer by delegation shall continue to be responsible for the efficiency and effectiveness of the internal management and control systems put in place and for the choice of the authorising officer by subdelegation.

5. In the event of subdelegation to the Heads of Union Delegations, the authorising officer by delegation shall be responsible for the definition of the internal management and control systems put in place, as well as their efficiency and effectiveness. The Heads of Union Delegations shall be responsible for the adequate setting up and functioning of those systems, in accordance with the instructions of the authorising officer by delegation, and for the management of the funds and the operations they carry out within the Union Delegation under their responsibility. Before taking up their duties, they shall complete specific training courses on the tasks and responsibilities of authorising officers and the implementation of the budget.

Heads of Union Delegations shall report on their responsibilities pursuant to the first subparagraph of this paragraph in accordance with Article 67(3).

Each year, Heads of Union Delegations shall provide to the Commission's authorising officer by delegation assurance on the internal management and control systems put in place in their Delegation, as well as on the management of operations subdelegated to them, and the results thereof, in order to allow the authorising officer to make the statement of assurance provided for in Article 66(9).

6. Each institution shall set up a specialised financial irregularities panel or participate in a joint panel established by several institutions. The panels shall function independently and determine whether a financial irregularity has occurred and what the consequences, if any, should be.

On the basis of the opinion of this panel, the institution shall decide whether to initiate proceedings for disciplinary action or payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer and to the authorising officer by delegation, unless the latter is the person involved, as well as to the internal auditor.

7. Where Heads of Union Delegations act as authorising officers by subdelegation in accordance with Article 56(2), the specialised financial irregularities panel set up by the Commission pursuant to paragraph 6 of this Article shall be competent for cases referred to in Article 56(2).

If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer, the High Representative and the Commission's authorising officer by delegation, unless the latter is the person involved, as well as to the internal auditor.

On the basis of the opinion of the panel, the Commission may request the High Representative to initiate, in the High Representative's capacity as appointing authority, proceedings for disciplinary action or payment of compensation against authorising officers by subdelegation if irregularities concern the competences of the Commission subdelegated to them. In such a case, the High Representative shall take appropriate action in accordance with the Staff Regulations in order to enforce decisions on disciplinary action or the payment of compensation, as recommended by the Commission.

The Member States shall fully support the Union in the enforcement of any liability, under Article 22 of the Staff Regulations, of temporary staff to whom point (e) of Article 2 of the Conditions of Employment of Other Servants of the European Communities applies.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules applicable to authorising officers by delegation, including confirmation of instructions and the role of the Financial Irregularities Panel.

Section 3

Rules applicable to accounting officers and imprest administrators

Article 74

Rules applicable to accounting officers

1. An accounting officer shall be liable to disciplinary action and payment of compensation, as laid down in, and in accordance with, the procedures in the Staff Regulations. An accounting officer may, in particular, become liable as a result of any of the following forms of misconduct on his or her part:

(a) losing or damaging funds, assets or documents in his or her keeping;

(b) wrongly altering bank accounts or postal giro accounts;

(c) recovering or paying amounts which are not in conformity with the corresponding recovery or payment orders;

(d) failing to collect revenue due.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of accounting officers in the event of other forms of misconduct.

Article 75

Rules applicable to imprest administrators

1. An imprest administrator officer shall be liable to disciplinary action and payment of compensation, as laid down in, and in accordance with, the procedures in the Staff Regulations. An imprest administrator may in particular become liable as a result of any of the following forms of misconduct on his or her part:

(a) losing or damaging funds, assets or documents in his or her keeping;

(b) not providing proper supporting documents for the payments he or she has made;

(c) making payments to persons other than those entitled to such payments;

(d) failing to collect revenue due.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of imprest administrators in the event of other forms of misconduct.

CHAPTER 5

Revenue operations

Section 1

Making own resources available

Article 76

Own resources

1. An estimate of revenue constituted by own resources, as referred to in Decision 2007/436/EC, Euratom, shall be entered in the budget in euro. It shall be made available in accordance with Regulation (EC, Euratom) No 1150/2000.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules applicable to own resources.

Section 2

Estimate of amounts receivable

Article 77

Estimate of amounts receivable

1. When the authorising officer responsible has sufficient and reliable information in respect of any measure or situation which may give rise to an amount owing to the Union, the authorising officer responsible shall make an estimate of the amount receivable.

2. The estimate of the amount receivable shall be adjusted by the authorising officer responsible as soon as he or she is aware of an event modifying the measure or the situation which gave rise to the estimate being made.

When establishing the recovery order on a measure or situation that had previously given rise to an estimate of amounts receivable, that estimate shall be adjusted accordingly by the authorising officer responsible.

If the recovery order is drawn up for the same amount as the original estimate of amounts receivable, that estimate shall be reduced to zero.

3. By way of derogation from paragraph 1, no estimate of the amount receivable shall be made before Member States make available to the Commission the amounts of own resources defined in Decision 2007/436/EC, Euratom which are paid at fixed intervals by the Member States. The authorising officer responsible shall issue a recovery order in respect of those amounts.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the estimate of amounts receivable.

Section 3

Establishment of amounts receivable

Article 78

Establishment of amounts receivable

1. The establishment of an amount receivable is the act by which the authorising officer responsible:

(a) verifies that the debt exists;

(b) determines or verifies the reality and the amount of the debt;

(c) verifies the conditions according to which the debt is due.

2. The own resources made available to the Commission and any amount receivable that is identified as being certain, of a fixed amount and due shall be established by a recovery order to the accounting officer followed by a debit note sent to the debtor, both drawn up by the authorising officer responsible.

3. Amounts wrongly paid shall be recovered.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the establishment of amounts receivable, including procedures and supporting documents, and of default interest.

Section 4

Authorisation of recovery

Article 79

Authorisation of recovery

1. The authorisation of recovery is the act by which the authorising officer responsible instructs the accounting officer, by issuing a recovery order, to recover an amount receivable which that authorising officer responsible has established.

2. The institution may formally establish an amount as being receivable from persons other than Member States by means of a decision which shall be enforceable within the meaning of Article 299 TFEU.

If the efficient and timely protection of the Union's financial interests so requires, the Commission may also, in exceptional circumstances, adopt such an enforceable decision for the benefit of other institutions at their request with respect to claims arising in relation to staff to whom the Staff Regulations apply.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the establishment of the recovery order.

Section 5

Recovery

Article 80

Rules on recovery

1. The accounting officer shall act on recovery orders for amounts receivable duly established by the authorising officer responsible. The accounting officer shall exercise due diligence to ensure that the Union receives its revenue and shall ensure that the Union's rights are safeguarded.

The accounting officer shall recover amounts by offsetting them against equivalent claims that the Union has on any debtor who in turn has a claim on the Union. Such claims shall be certain, of a fixed amount and due.

2. Where the authorising officer by delegation plans to waive or partially waive recovery of an established amount receivable, he or she shall ensure that the waiver is in order and is in accordance with the principles of sound financial management and proportionality. The waiver decision shall be substantiated. The authorising officer may delegate the waiver decision.

The authorising officer by delegation may cancel an established amount receivable in full or in part. The partial cancellation of an established amount receivable does not imply a waiver of an established Union entitlement.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the manner of recovery, including recovery by offsetting, the recovery procedure failing voluntary payment, additional time for payment, recovery of fines and other penalties, waiver of recovery and cancellation of an established amount receivable.

3. The Member States shall in the first instance be responsible for carrying out controls and audits and for recovering amounts unduly spent, as provided for in the sector-specific rules. To the extent that Member States detect and correct irregularities on their own account, they shall be exempt from financial corrections by the Commission concerning those irregularities.

4. The Commission shall make financial corrections on Member States in order to exclude from Union financing expenditure incurred in breach of applicable law. The Commission shall base its financial corrections on the identification of amounts unduly spent, and the financial implications for the budget. Where such amounts cannot be identified precisely, the Commission may apply extrapolated or flat-rate corrections in accordance with the sector-specific rules.

The Commission shall, when deciding on the amount of a financial correction, take account of the nature and gravity of the breach of applicable law and the financial implications for the budget, including the case of deficiencies in management and control systems.

The criteria for establishing financial corrections and the procedure to be applied may be laid down in the sector-specific rules.

5. The methodology for applying extrapolated or flat-rate corrections shall be laid down in accordance with the sector-specific rules with a view to enabling the Commission to protect the financial interests of the Union.

Article 81

Limitation period

1. Without prejudice to the provisions of specific regulations and the application of Decision 2007/436/EC, Euratom, entitlements of the Union in respect of third parties and entitlements of third parties in respect of the Union shall be subject to a limitation period of five years.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the limitation period.

Article 82

National treatment for Union entitlements

In the event of insolvency proceedings, Union entitlements shall be given the same preferential treatment as entitlements of the same nature due to public bodies in the Member States where the recovery proceedings are being conducted.

Article 83

Fines, penalties and accrued interest imposed by the Commission

1. Amounts received by way of fines, penalties and sanctions, and any accrued interest or other income generated by them shall not be recorded as budgetary revenue as long as the decisions imposing them may be overruled by the Court of Justice of the European Union.

2. The amounts referred to in paragraph 1 shall be recorded as budgetary revenue as soon as possible and at the latest in the year following the exhaustion of all legal remedies. Amounts that are to be returned to the entity that paid them, following a judgment of the Court of Justice of the European Union, shall not be recorded as budgetary revenue.

3. Paragraph 1 shall not apply to decisions on clearance of accounts or financial corrections.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the amounts received by way of fines, penalties and accrued interest.

CHAPTER 6

Expenditure operations

Article 84

Financing decisions

1. Every item of expenditure shall be committed, validated, authorised and paid.

2. Except in the case of appropriations which can be implemented without a basic act in accordance with point (e) of the first subparagraph of Article 54(2), the commitment of expenditure shall be preceded by a financing decision adopted by the institution or the authorities to which powers have been delegated by the institution.

3. The financing decision referred to in paragraph 2 shall specify the objective pursued, the expected results, the method of implementation and its total amount. It shall also contain a description of the actions to be financed and an indication of the amount allocated to each action, and an indicative implementation timetable.

In the case of indirect management, the financing decision shall also specify the entity or person entrusted pursuant to point (c) of Article 58(1), the criteria used to select the entity or person and the tasks entrusted to that entity or person.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on financing decisions.

Section 1

Commitment of expenditure

Article 85

Types of commitments

1. A budgetary commitment is the operation by which the appropriation necessary to cover subsequent payments to honour legal commitments is reserved.

A legal commitment is the act whereby the authorising officer enters into or establishes an obligation which results in a charge.

Budgetary commitments and legal commitments shall be adopted by the same authorising officer, except in duly justified cases as provided for in the delegated acts adopted pursuant to this Regulation.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the types of commitment, adoption of global commitments, single signature, and administrative expenditure covered by provisional commitments.

3. Budgetary commitments shall fall into one of the following categories:

(a) individual: the budgetary commitment is individual when the beneficiary and the amount of the expenditure are known;

(b) global: the budgetary commitment is global when at least one of the elements necessary to identify the individual commitment is still not known;

(c) provisional: the budgetary commitment is provisional when it is intended to cover the expenditure referred to in Article 170 or routine administrative expenditure and either the amount or the final payees are not definitively known.

4. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments only where the basic act so provides or where they relate to administrative expenditure.

Article 86

Rules applicable to commitments

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible shall make a budgetary commitment before entering into a legal commitment with third parties or transferring funds to a trust fund on the basis of Article 187.

2. The obligation to make a budgetary commitment before entering into a legal commitment as provided for in paragraph 1, shall not be applicable to legal commitments concluded following a declaration of a crisis situation in the framework of a business continuity plan, in accordance with the procedures adopted by the Commission or by any other institution under its administrative autonomy.

3. In the case of humanitarian aid operations, civil protection operations and crisis management aid, the obligation set out in paragraph 1 shall not apply if efficient delivery of the Union's intervention requiresthat the Union enter into a legal commitment with third parties immediately and prior booking of the individual budgetary commitment is not possible. The booking of the budgetary commitment shall be done without delay after entering into a legal commitment with third parties.

4. Subject to the special provisions of Title IV of Part Two, global budgetary commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of year n + 1.

Subject to Articles 85(4) and 203(2), individual legal commitments relating to individual or provisional budgetary commitments shall be concluded by 31 December of year n.

At the end of the periods referred to in the first and second subparagraphs, the unused balance of such budgetary commitments shall be decommitted by the authorising officer responsible.

The amount of each individual legal commitment adopted following a global budgetary commitment shall, prior to signature, be registered by the authorising officer responsible in the budgetary accounts and booked to the global budgetary commitment.

5. The budgetary and legal commitments entered into for actions extending over more than one financial year shall, except in the case of staff expenditure, have a final date for implementation set, in accordance with the principle of sound financial management.

Any parts of such commitments which have not been executed six months after that date shall be decommitted in accordance with Article 15.

The amount of a budgetary commitment corresponding to a legal commitment for which no payment within the meaning of Article 90 has been made within two years of the signing of the legal commitment shall be decommitted, except where that amount relates to a case under litigation before judicial courts or arbitral bodies or where there are special provisions laid down in sector-specific rules.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on budgetary and legal commitments including registration of individual commitments.

Article 87

Checks applicable to commitments

1. When adopting a budgetary commitment, the authorising officer responsible shall ensure that:

(a) the expenditure has been charged to the correct item in the budget;

(b) the appropriations are available;

(c) the expenditure is in compliance with the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and all acts adopted pursuant to the Treaties and any other regulation;

(d) the principle of sound financial management is respected. The appropriateness of pre-financing payments, their amount and the overall payment schedule shall be commensurate with the planned duration, the progress in implementation and the financial risks that such prefinancing entails.

2. When registering a legal commitment by physical or electronic signature, the authorising officer shall ensure that:

(a) the commitment is covered by the corresponding budgetary commitment;

(b) the expenditure is regular and in compliance with the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and with all acts adopted pursuant to the Treaties and any other regulation;

(c) the principle of sound financial management is respected.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the checks applicable to commitments.

Section 2

Validation of expenditure

Article 88

Validation of expenditure

1. The validation of expenditure is the act whereby the authorising officer responsible:

(a) verifies the existence of the creditor's entitlement;

(b) determines or verifies the reality and the amount of the claim;

(c) verifies the conditions according to which payment is due.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the establishment of detailed rules on validation of expenditure, including passing for payment of staff expenditure and for interim and balance payments of procurement contracts and grants, certified correct for pre-financing payments, and "passed for payment" and "certified correct" forms.

Section 3

Authorisation of expenditure

Article 89

Authorisation of expenditure

1. The authorisation of expenditure is the act by which the authorising officer responsible, having verified that the appropriations are available, instructs the accounting officer, by issuing a payment order, to pay an amount of expenditure which the authorising officer responsible has validated.

Where periodic payments are made with regard to services rendered, including rental services, or goods delivered, and subject to the authorising officer's risk analysis, the authorising officer may order the application of a direct debit system.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the authorisation of expenditure, including the establishment of mandatory details for payment orders, and on checks by the authorising officer of payment orders.

Section 4

Payment of expenditure

Article 90

Types of payments

1. Payment shall be made on production of proof that the relevant action is in accordance with the provisions of the basic act or the contract and shall cover one or more of the following operations:

(a) payment of the entire amount due;

(b) payment of the amount due in any of the following ways:

(i) pre-financing, which may be divided into a number of payments after the signature of the delegation agreement, the contract or grant agreement or after notification of the grant decision;

(ii) one or more interim payments as a counterpart of a partial execution of the action;

(iii) payment of the balance of the amounts due where the action is completely executed.

2. A distinction shall be made in budgetary accounting between the different types of payment referred to in paragraph 1 at the time each payment is made.

3. The accounting rules referred to in Article 152 shall include the rules for clearing the pre-financing in the accounts and for the acknowledgment of the eligibility of costs.

4. Pre-financing payments shall be cleared regularly by the authorising officer responsible, according to the economic nature and the timing of the underlying project.

Where the authorising officer responsible deems it inefficient to request a financial statement from beneficiaries and contractors, he or she shall, for grants or contracts above EUR 5 000 000, obtain information from them on cumulative spending at least once a year.

For the purposes of the second subparagraph, appropriate provisions shall be included in the contracts, grant decisions and agreements as well as in the delegation agreements

This paragraph is without prejudice to the specific rules laid down in Title IV of Part Two.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the types of payments and supporting documents.

Article 91

Payment limited to funds available

Payment of expenditure shall be made by the accounting officer within the limits of the funds available.

Section 5

Time limits for expenditure operations

Article 92

Time limits

1. Payments shall be made within:

(a) 90 calendar days for delegation agreements, contracts, grant agreements and decisions involving technical services or actions which are particularly complex to evaluate and for which payment depends on the approval of a report or a certificate;

(b) 60 calendar days for all other delegation agreements, contracts, grant agreements and decisions for which payment depends on the approval of a report or a certificate;

(c) 30 calendar days for all other delegation agreements, contracts, grant agreements and decisions.

2. The authorising officer responsible may suspend the time limit for payment where:

(a) the amount of the payment request is not due; or

(b) the appropriate supporting documents have not been produced.

If information comes to the notice of the authorising officer responsible which puts in doubt the eligibility of expenditure in a payment request, he or she may suspend the time limit for payment for the purpose of verifying, including by means of on-the-spot checks, that the expenditure is indeed eligible.

3. The creditors concerned shall be informed in writing of the reasons for that suspension.

4. Where the suspension exceeds two months, the creditor may request a decision by the authorising officer responsible on whether the suspension is to be continued.

5. Except in the case of Member States, on expiry of the time limits laid down in paragraph 1, the creditor shall be entitled to interest.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on time limits for payment and on the specification of the circumstances in which creditors in receipt of a late payment are entitled to receive default interest charged to the line from which the principal was paid.

CHAPTER 7

IT systems and e-Government

Article 93

Electronic management of operations

1. Where revenue and expenditure operations are managed by means of computer systems, documents may be signed by a computerised or electronic procedure.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the electronic management of operations.

Article 94

Transmission of documents

Subject to the prior agreement of the institutions and Member States concerned, any transmission of documents between them may be done by electronic means.

Article 95

e-Government

1. Under shared management, all official exchanges of information between the Member States and the Commission shall be carried out by means indicated in the sector-specific rules. Those rules shall provide for interoperability of data gathered or received, and transmitted in the management of the budget.

2. The institutions and the executive agencies, as well as the bodies referred to in Article 208, shall establish and apply uniform standards for the electronic exchange of information with third parties participating in procurement and grant procedures. In particular, they shall, to the greatest possible extent, design and implement solutions for the submission, storage and processing of data submitted in grant and procurement procedures, and to this end, shall put in place a single "electronic data interchange area" for applicants, candidates and tenderers.

3. The Commission shall report regularly to the European Parliament and the Council on progress in the implementation of e-Government.

CHAPTER 8

Administrative principles

Article 96

Good administration

1. The authorising officer responsible shall make known without delay the need to supply evidence and/or documentation, their form and prerequisite content, as well as, where appropriate, the indicative timetable for completion of award procedures.

2. Where, due to an obvious clerical error on the part of the applicant or tenderer, the applicant or tenderer omits to submit evidence or to make statements, the evaluation committee or, where appropriate, the authorising officer responsible shall, except in duly justified cases, ask the applicant or tenderer to provide the missing information or clarify supporting documents. Such information or clarifications shall not substantially change the proposal or alter the terms of the tender.

Article 97

Indication of means of redress

Where a procedural act of an authorising officer adversely affects the rights of an applicant or tenderer, beneficiary or contractor, it shall contain an indication of the available means of administrative and/or judicial redress for challenging this act.

In particular, the nature of the redress, the body or bodies before which it can be brought, as well as time limits for their exercise shall be indicated.

CHAPTER 9

Internal auditor

Article 98

Appointment of the internal auditor

1. Each institution shall establish an internal auditing function which shall be performed in compliance with the relevant international standards. The internal auditor appointed by the institution shall be accountable to the latter for verifying the proper operation of budgetary implementation systems and procedures. The internal auditor may be neither authorising officer nor accounting officer.

2. For the purposes of the internal auditing of the EEAS, Heads of Union Delegations, acting as authorising officers by subdelegation in accordance with Article 56(2), shall be subject to the verifying powers of the internal auditor of the Commission for the financial management subdelegated to them.

The internal auditor of the Commission shall also act as the internal auditor of the EEAS in respect of the implementation of the EEAS section of the budget, subject to Article 213.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the appointment of the internal auditor.

Article 99

Powers and duties of the internal auditor

1. The internal auditor shall advise his or her institution on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

The internal auditor shall be responsible, in particular, for:

(a) assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing policies, programmes and actions by reference to the risks associated with them;

(b) assessing the efficiency and effectiveness of the internal control and audit systems applicable to each budgetary implementation operation.

2. The internal auditor shall perform his or her duties in relation to all the institution's activities and departments. He or she shall enjoy full and unlimited access to all information required to perform his or her duties, if necessary on the spot access, including in the Member States and in third countries.

The internal auditor shall take note of the annual report of the authorising officers and any other pieces of information identified.

3. The internal auditor shall report to the institution on his or her findings and recommendations. The institution shall ensure that action is taken with regard to recommendations resulting from audits. The internal auditor shall also submit to the institution an annual internal audit report indicating the number and type of internal audits carried out, the recommendations made and the action taken with regard to those recommendations.

4. The institution shall make available the contact details of the internal auditor to any natural or legal person involved in expenditure operations, for the purposes of confidentially contacting the internal auditor.

5. Each year the institution shall forward a report to the European Parliament and the Council containing a summary of the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.

6. The reports and findings of the internal auditor, as well as the report of the institution, shall be accessible to the public only after validation by the internal auditor of the action taken for their implementation.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the powers and duties of the internal auditor.

Article 100

Independence of the internal auditor

1. Special rules applicable to the internal auditor shall be laid down by the institution and shall be such as to guarantee that the internal auditor is totally independent in the performance of his or her duties, and to establish the internal auditor's responsibility.

If the internal auditor is a member of staff, he or she shall exercise exclusive audit functions in full independence and assume responsibility as laid down in the Staff Regulations and set out in the delegated acts adopted pursuant to this Regulation.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the independence and the liability of the internal auditor, including the right for the internal auditor to bring an action before the Court of Justice of the European Union.

TITLE V

PUBLIC PROCUREMENT

CHAPTER 1

General provisions

Section 1

Scope and award principles

Article 101

Definition of public contracts

1. Public contracts are contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities within the meaning of Articles 117 and 190, in order to obtain, against payment of a price paid in whole or in part from the budget, the supply of movable or immovable assets, the execution of works or the provision of services.

Such contracts comprise:

(a) building contracts;

(b) supply contracts;

(c) works contracts;

(d) service contracts.

2. Framework contracts are contracts concluded between one or more economic operators and one or more contracting authorities, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. They shall be governed by the provisions of this Title concerning the award procedure, including advertising.

3. Except for Articles 106 to 109, this Title shall not apply to grants, or to contracts for technical assistance concluded with the EIB or the European Investment Fund.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the definition and scope of procurement contracts, including framework contracts and specific contracts.

Article 102

Principles applicable to public contracts

1. All public contracts financed in whole or in part by the budget shall respect the principles of transparency, proportionality, equal treatment and non-discrimination.

2. All public procurement contracts shall be put out to tender on the broadest possible basis, except when use is made of the negotiated procedure referred to in point (d) of Article 104(1).

Contracting authorities shall not use framework contracts improperly or in such a way that their purpose or effect is to prevent, restrict or distort competition.

Section 2

Publication

Article 103

Publication of public contracts

1. All contracts exceeding the thresholds provided for in Article 118 or Article 190 shall be published in the *Official Journal of the European Union* by the contracting authorities.

Contract notices shall be published in advance except in the cases referred to in Article 104(2), and for the service contracts covered by Annex II B to Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ([1]).

Publication of certain information after the contract has been awarded may be dispensed with where it would hinder application of the law, would be contrary to the public interest, would harm the legitimate business interests of public or private undertakings or would distort fair competition between them.

2. Contracts with a value below the thresholds provided for in Article 118 or Article 190 and the service contracts referred to in Annex II B to Directive 2004/18/EC shall be advertised by appropriate means.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the requirements for the advertising of contracts and publication of notices.

Section 3

Procurement procedures

Article 104

Procurement procedures

1. Procurement procedures shall take one of the following forms:

(a) the open procedure;

(b) the restricted procedure;

([1]) OJ L 134, 30.4.2004, p. 114.

(c) contests;

(d) the negotiated procedure;

(e) the competitive dialogue.

Where a public contract or a framework contract is of interest to two or more institutions, executive agencies or bodies referred to in Article 208 and 209, and whenever there is a possibility for realising efficiency gains, the contracting authorities concerned shall seek to carry out the procurement procedure on an interinstitutional basis.

Where a public contract or framework contract is necessary for the implementation of a joint action between an institution and one or more contracting authorities from Member States, the procurement procedure may be carried out jointly by the institution and the contracting authorities, in certain situations, which are to be specified in the delegated acts adopted pursuant to this Regulation.

Joint procurement may be conducted with EFTA states, and Union candidate countries, if this possibility has been specifically provided for in a bilateral or multilateral treaty.

2. For contracts where the value exceeds the thresholds provided for in Articles 118 or 190, use of the negotiated procedure shall be authorised only in cases provided for in the delegated acts adopted pursuant to this Regulation.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the types of procurement procedure, joint procurement, low value contracts and payment against invoices.

Article 105

Content of tender documents

Tender documents shall give a full, clear and precise description of the subject of the contract and specify the exclusion, selection and award criteria applicable to the contract.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the content of tender documents, including the possibility of, and the conditions for, revision of the price and the technical specifications.

Article 106

Exclusion criteria applicable for participation in procurement procedures

1. Candidates or tenderers shall be excluded from participation in procurement procedures if:

(a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

(b) they or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;

(c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify including by decisions of the EIB and international organisations;

(d) they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;

(e) they or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests;

(f) they are subject to an administrative penalty referred to in Article 109(1).

Points (a) to (d) of the first subparagraph shall not apply in the case of the purchase of supplies on particularly advantageous terms from a supplier which is definitively winding up its business activities or from the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law.

Points (b) and (e) of the first subparagraph shall not apply where the candidates or tenderers can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over them, who are subject to a judgement as referred to in points (b) or (e) of the first subparagraph.

2. In the case of a negotiated procedure where, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular economic operator, the institution may decide not to exclude the economic operator concerned on the grounds referred to in points (a), (c) and (d) of the first subparagraph of paragraph 1, if it is indispensable to do so in order to ensure the continuity of service of the institution. In such cases, the institution shall duly justify its decision.

3. Candidates or tenderers shall certify that they are not in one of the situations listed in paragraph 1. However, the contracting authority may refrain from requiring such certification for very low value contracts.

For the purpose of the correct application of paragraph 1, the candidate or tenderer, whenever requested by the contracting authority, shall:

(a) where the candidate or tenderer is a legal person, provide information on the ownership or on the management, control and power of representation of the legal person and certify that they are not in one of the situations referred to in paragraph 1;

(b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on:

(a) the exclusion criteria applicable for participation in calls for tenders, including rules on illegal activities giving rise to exclusion;

(b) what evidence may be satisfactory to show that an exclusion situation does not exist;

(c) the duration of an exclusion. Such exclusion shall not exceed 10 years.

Article 107

Exclusion criteria applicable to awards

1. A contract shall not be awarded to candidates or tenderers who, during the procurement procedure for that contract:

(a) are subject to a conflict of interests;

(b) are guilty of misrepresentingthe information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply that information;

(c) find themselves in one of the situations of exclusion, referred to in Article 106(1), for the procurement procedure.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the exclusion criteria applicable during the procurement procedure, and the establishment of what evidence may be considered satisfactory to show that an exclusion situation does not exist. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the duration of an exclusion.

Article 108

Central exclusion database

1. The central exclusion database set up and operated by the Commission, shall contain details of candidates and tenderers which are in one of the situations referred to in Article 106, point (b) of the first subparagraph of Article 109(1) and point (a) of Article 109(2). That database shall be common to the institutions, executive agencies and the bodies referred to in Article 208. The European Parliament and the Council shall be annually informed of the number of new cases and of the total number of cases entered into the database.

2. The authorities of the Member States and third countries as well as the bodies, other than those referred to in paragraph 1, participating in the implementation of the budget in accordance with Articles 58 and 61, shall communicate to the authorising officer responsible information on candidates and tenderers that are in one of the situations referred to in point (e) of the first subparagraph of Article 106(1), where the conduct of the operator concerned was detrimental to the Union's financial interests. That authorising officer shall receive this information and request the accounting officer to enter it into the database.

The authorities and bodies referred to in the first subparagraph shall have access to the information contained in the database and may take it into account, as appropriate and on their own responsibility, when awarding contracts associated with the implementation of the budget.

3. The ECB, the EIB and the European Investment Fund shall have access to the information contained in the database for the purpose of protecting their own funds and may take it into account, as appropriate and on their own responsibility, when awarding contracts in accordance with their procurement rules.

They shall communicate to the Commission information on candidates and tenderers that are in one of the situations referred to in point (e) of the first subparagraph of Article 106(1), where the conduct of the operators concerned was detrimental to the Union's financial interests.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the central exclusion database, including the definition of standardised procedures and technical specifications for the operation of the database.

5. Access may be granted to authorities of third countries only when the rules laid down in Article 9 of Regulation (EC) No 45/2001 are fulfilled and after an evaluation on a case-by-case basis.

Article 109

Administrative and financial penalties

1. The contracting authority may impose administrative and/or financial penalties on the following:

(a) contractors, candidates or tenderers in the cases referred to in point (b) of Article 107(1);

(b) contractors who have been declared to be in serious breach of their obligations under contracts covered by the budget.

In all cases, however, the contracting authority shall first give the person concerned an opportunity to present his or her observations.

2. The penalties referred to in paragraph 1 shall be proportionate to the importance of the contract and the seriousness of the misconduct, and may consist of:

(a) the exclusion of the candidate or tenderer or contractor concerned from the contracts and grants financed by the budget, for a maximum period of ten years; and/or

(b) the payment of financial penalties by the candidate or tenderer or contractor up to the value of that contract.

3. In order to reinforce the protection of the Union's financial interests, institutions may decide, in compliance with the principle of proportionality, to publish their decisions imposing administrative or financial penalties referred to in paragraph 1 after the procedure set out in paragraph 1 has been fully complied with.

The decision to publish a decision imposing administrative or financial penalties referred to in the first subparagraph shall take into account, in particular, the seriousness of the misconduct, including its impact on the Union's financial interests and image, the time which has elapsed since the misconduct took place, the duration and recurrence of the misconduct, the intention or degree of negligence of the entity concerned and the measures taken by the entity concerned to remedy the situation.

The decision on the publication shall be included in the decision imposing administrative or financial penalties and shall expressly provide for publication of the decision imposing penalties, or of a summary thereof, on the internet site of the institution.

In order to ensure a deterrent effect, the summary published shall include the name of the person responsible for the misconduct, a short description of that misconduct, the programme concerned and the duration of the exclusion and/or the amount of the financial penalties.

The decision shall be published after the legal remedies against the decision have been exhausted or after the expiry of the deadlines for redress and the publication shall remain on the internet site until the end of the exclusion period or until 6 months after the payment of the financial penalties where these penalties constitute the sole measure decided.

Where natural persons are concerned, the decision to publish shall be taken with due consideration of the right to privacy and with due observance of the rights provided for in Regulation (EC) No 45/2001.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on different administrative and financial penalties for tenderers or candidates who have made false declarations, have made substantial errors, have committed irregularities or fraud or have been found in serious breach of their contractual obligations.

Article 110

Award criteria for contracts

1. Contracts shall be awarded on the basis of award criteria applicable to the content of the tender after the capability of economic operators not excluded under Articles 106, 107 and point (a) of Article 109(2) has been checked in accordance with the selection criteria contained in the documents relating to the call for tenders.

2. Contracts shall be awarded by the automatic award procedure or by the best-value-for-money procedure.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the specification of the selection criteria and the award criteria. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the documents that give proof of economic and financial capacity and the evidence of technical and professional capacity and detailed rules on electronic auctions and abnormally low tenders.

Article 111

Submission of tenders

1. The arrangements for submitting tenders shall be such as to ensure that there is genuine competition and that the contents of tenders remain confidential until they are all opened simultaneously.

2. The Commission shall ensure by appropriate means and in application of Article 95 that tenderers may enter the contents of the tenders and any supporting evidence in an electronic format ("e-procurement").

The Commission shall report to the European Parliament and the Council on the progress of the implementation of this provision by 28 October 2014 and regularly afterwards.

3. If deemed appropriate and proportionate, the contracting authority may require tenderers to lodge a security in advance as a guarantee that the bids made will not be withdrawn.

4. With the exception of low value contracts, referred to in Article 104(3), applications and tenders shall be opened by an opening board appointed for this purpose. Any tender or application declared by the board not to satisfy the conditions laid down shall be rejected.

5. All requests to participate or tenders declared by the opening board as satisfying the conditions laid down shall be evaluated, on the basis of the criteria provided in the documents relating to the call for tenders, in order to propose to the contracting authority the award of the contract or to proceed with an electronic auction.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the submission of tenders and the establishment of the time limits for receipt of tenders and requests to participate, the time allowed for access to invitation to tender documents and the time limits in urgent cases. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the different methods of communication and detailed rules on the possibility of a tender guarantee, the opening of tenders, the requests to participate and the Committee for the evaluation of tenders and requests to participate.

Article 112

Principles of equal treatment and transparency

1. While the procurement procedure is under way, all contacts between the contracting authority and candidates or tenderers shall satisfy conditions ensuring transparency and equal treatment. They shall not lead to amendment of the conditions of the contract or the terms of the original tender.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the principles of equal treatment and transparency. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the contact that is allowed between contracting authorities and tenderers during the contract award procedure, the minimum requirements of the written record of an evaluation and the minimum details of the decision taken by the contracting authority.

Article 113

The award decision

1. The authorising officer shall decide to whom the contract is to be awarded, in compliance with the selection and award criteria laid down in advance in the documents relating to the call for tenders and the procurement rules.

2. The contracting authority shall notify all candidates or tenderers whose applications or tenders are rejected of the grounds on which the decision was taken, as well as the duration of the standstill period referred to in Article 118(2). The contracting authority shall notify all tenderers who meet the exclusion and selection criteria, and who make a request in writing, of the characteristics and relative advantages of the successful tender and the name of the tenderer to whom the contract is awarded.

However, certain details need not be disclosed where disclosure would hinder application of the law, would be contrary to the public interest or would harm the legitimate business interests of public or private undertakings or could distort fair competition between those undertakings.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the award decision and the signature and implementation of the contract.

Article 114

Cancellation of the procurement procedure

The contracting authority may, before the contract is signed, either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation.

The decision shall be justified and be brought to the attention of the candidates or tenderers.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the cancellation of the procurement procedure.

Section 4

Guarantees and corrective action

Article 115

Guarantees

Other than in the case of low value contracts, the contracting authority may, if it deems it appropriate and proportionate on a case-by-case basis and subject to a risk-analysis, require contractors to lodge a guarantee in order to:

(a) ensure full performance of the contract, or

(b) limit the financial risks connected with payment of pre-financing.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules, including criteria for risk analysis, on the guarantees that are required from contractors.

Article 116

Errors, irregularities and fraud in the procedure

1. Where the award procedure proves to have been subject to substantial errors, irregularities or fraud, the contracting authority shall suspend the procedure and may take whatever measures are necessary, including the cancellation of the procedure.

Where, after the award of the contract, the award procedure or the performance of the contract prove to have been subject to substantial errors, irregularities or fraud, the contracting authority may, depending on the stage reached in the procedure, refrain from concluding the contract, suspend its performance or, where appropriate, terminate it.

Where those errors, irregularities or fraud are attributable to the contractor, the contracting authority may, in addition, refuse to make payments, recover amounts already paid or terminate all the contracts concluded with that contractor, in proportion to the seriousness of the errors, irregularities or fraud.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the suspension of a contract in the event of errors, irregularities and fraud.

CHAPTER 2

Provisions applicable to contracts awarded by the institutions on their own account

Article 117

The contracting authority

1. The institutions shall be deemed to be contracting authorities in the case of contracts awarded on their own account. They shall delegate, in accordance with Article 65, the necessary powers for the exercise of the function of contracting authority.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the delegation of the function of contracting authority, including the identification of the appropriate levels for the calculation of thresholds.

Article 118

Thresholds applicable

1. Subject to Title IV of Part Two, Directive 2004/18/EC lays down the thresholds which determine:

(a) the publication arrangements referred to in Article 103;

(b) the choice of procedures referred to in Article 104(1);

(c) the corresponding time limits.

2. Subject to exceptions and conditions to be specified in the delegated acts adopted pursuant to this Regulation, the contracting authority shall not, in the case of contracts covered by Directive 2004/18/EC, sign the contract or framework contract with the successful tenderer until a standstill period has elapsed.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the thresholds applicable, separate contracts and contracts with lots, estimating the value of certain contracts, and the standstill period before the signature of the contract.

Article 119

Rules on participation in tendering procedures

1. Participation in tendering procedures shall be open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement under the conditions laid down in that agreement.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the evidence to be provided in relation to access to contracts.

2. OLAF shall exercise the power conferred on the Commission by Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities [1] to carry out on-the-spot inspections and checks in the Member States and, in accordance with the cooperation and mutual assistance agreements in force, in third countries and on the premises of international organisations.

Article 120

Procurement rules of the World Trade Organisation

Where the Multilateral Agreement on Government Procurement concluded within the World Trade Organisation applies, the contracts shall also be open to nationals of the States which have ratified that agreement, under the conditions laid down therein.

[1] OJ L 292, 15.11.1996, p. 2.

TITLE VI

GRANTS

CHAPTER 1

Scope and form of grants

Article 121

Scope of grants

1. Grants are direct financial contributions, by way of donation, from the budget in order to finance any of the following:

(a) an action intended to help achieve a Union policy objective;

(b) the functioning of a body which pursues an aim of general Union interest or has an objective forming part of, and supporting, a Union policy ('operating grants').

Grants shall be covered either by a written agreement or by a Commission decision notified to the successful applicant of a grant.

The Commission may establish secure electronic systems for exchanges with the beneficiaries.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the detailed specification of the scope of grants, and concerning rules determining whether grant agreements or grant decisions are to be used. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning details of the electronic exchange system, including the conditions under which documents submitted by means of such systems, including grant agreements, are to be deemed originals and to have been signed, and the use of framework partnerships.

2. The following do not constitute grants within the meaning of this Title:

(a) expenditure on the members and staff of the institutions and contributions to the European schools;

(b) public contracts as referred to in Article 101, aid paid as macro-financial assistance, and budget support;

(c) financial instruments, as well as shareholdings or equity participation in international financial institutions such as the European Bank for Reconstruction and Development (EBRD) or specialised Union bodies such as the European Investment Fund;

(d) contributions paid by the Union as subscriptions to bodies of which it is a member;

(e) expenditure implemented under shared management and indirect management within the meaning of Articles 58, 59 and 60, unless specified otherwise in the financial rules applicable to the budget of the entities or persons entrusted pursuant to point (c) of Article 58(1) or in delegation agreements;

(f) contributions to executive agencies referred to in Article 62, made by virtue of each agency's constitutive act;

(g) expenditure relating to fisheries markets as referred to in point (f) of Article 3(2) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy [1];

(h) repayment of travel and subsistence expenses incurred by, or where appropriate any other indemnities paid to, persons invited or mandated by the institutions;

(i) prizes given as rewards for a contest, to which Title VII of Part One applies.

3. Interest rate rebates and guarantee fee subsidies shall be treated as grants, provided that they are not combined in a single measure with financial instruments as referred to in Title VIII of Part One.

Such rebates and subsidies shall be subject to the provisions of this Title, with the exception of the following:

(a) the co-financing principle as set out in Article 125(3);

(b) the no-profit principle as set out in Article 125(4);

(c) for actions where the objective is to reinforce the financial capacity of a beneficiary or to generate an income, the assessment of the financial capacity of the applicant as referred to in Article 132(1).

4. Each institution may award grants for communication activities where, for duly justified reasons, the use of public procurement procedures is not appropriate.

Article 122

Beneficiaries

1. Where several entities satisfy the criteria for being awarded a grant and together form one entity, that entity may be treated as the sole beneficiary, including where the entity is specifically established for the purpose of implementing the action to be financed by the grant.

[1] OJ L 209, 11.8.2005, p. 1.

2. For the purpose of this Title, the following entities shall be considered as entities affiliated to the beneficiary:

(a) entities forming the beneficiary in accordance with paragraph 1;

(b) entities that satisfy the eligibility criteria and that do not fall within one of the situations referred to in Article 131(4) and that have a link with the beneficiary, in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the minimum content of grant agreements or decisions, in particular, where a grant is awarded to several entities, the specific obligations of the coordinator, if any, and of the other beneficiaries, the applicable responsibility regime and the conditions for adding or removing a beneficiary.

Article 123

Forms of grants

1. Grants may take any of the following forms:

(a) reimbursement of a specified proportion of the eligible costs, referred to in Article 126, actually incurred;

(b) reimbursement on the basis of unit costs;

(c) lump sums;

(d) flat-rate financing;

(e) a combination of the forms referred to in points (a) to (d).

2. When determining the appropriate form of a grant, the potential beneficiaries' interests and accounting methods shall be taken into account to the greatest possible extent.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning rules for the different forms of grants, including low value grants.

Article 124

Lump sums, unit costs and flat-rate financing

1. Without prejudice to the provisions of the basic act, the use of lump sums, unit costs or flat-rate financing shall be authorised by way of a Commission decision ensuring respect for the principle of equal treatment of beneficiaries for the same category of actions or work programmes.

Where the maximum amount per grant does not exceed the amount of a low value grant, the authorisation may be given by the authorising officer responsible.

2. The authorisation shall at least be supported by the following:

(a) justification concerning the appropriateness of such forms of financing with regard to the nature of the supported actions or work programmes, as well as to the risks of irregularities and fraud and costs of control;

(b) identification of the costs or categories of costs covered by lump sums, unit costs or flat-rate financing, which shall exclude ineligible costs under the applicable Union rules;

(c) description of the methods for determining lump sums, unit costs or flat-rate financing, and of the conditions for reasonably ensuring that the no-profit and co-financing principles are complied with and that double financing of costs is avoided. Those methods shall be based on:

(i) statistical data or similar objective means; or

(ii) a beneficiary-by-beneficiary approach, by reference to certified or auditable historical data of the beneficiary or to its usual cost accounting practices.

3. Where recourse to the usual cost accounting practices of the beneficiary is authorised, the authorising officer responsible may assess compliance of those practices *ex ante* with the conditions set out in paragraph 2 or through an appropriate strategy for *ex post* controls.

If the compliance of the beneficiary's usual cost accounting practices with the conditions referred to in paragraph 2 has been established *ex ante*, the amounts of lump sums, unit costs or flat-rate financing determined by application of those practices shall not be challenged by *ex post* controls.

The authorising officer responsible may consider that the usual cost accounting practices of the beneficiary are compliant with the conditions referred to in paragraph 2 if they are accepted by national authorities under comparable funding schemes.

4. The grant decision or agreement may authorise or impose, in the form of flat-rates, funding of the beneficiary's indirect costs up to a maximum of 7 % of total eligible direct costs for the action, except where the beneficiary is in receipt of an operating grant financed from the budget. The 7 % ceiling may be exceeded on the basis of a reasoned decision of the Commission.

5. SME owners and other natural persons who do not receive a salary may declare eligible personnel costs for the work carried out under an action or work programme, on the basis of unit costs determined by way of a Commission decision.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules regarding lump sums, unit costs and flat-rate financing.

CHAPTER 2

Principles

Article 125

General principles applicable to grants

1. Grants shall be subject to the principles of transparency and equal treatment.

2. Without prejudice to Article 130, grants shall not be cumulative or awarded retrospectively.

3. Grants shall involve co-financing without prejudice to the specific rules laid down in Title IV of Part Two.

Unless otherwise specified in this Regulation, the regulations governing political parties at European level and the rules regarding their funding are laid down in Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding ([1]).

4. Grants shall not have the purpose or effect of producing a profit within the framework of the action or the work programme of the beneficiary ('no-profit principle').

The first subparagraph shall not apply to:

(a) actions the objective of which is the reinforcement of the financial capacity of a beneficiary, or actions which generate an income to ensure their continuity after the period of Union financing provided for in the grant decision or agreement;

(b) study, research or training scholarships paid to natural persons;

(c) other direct support paid to natural persons most in need, such as unemployed persons and refugees;

(d) grants based on flat rates and/or lump sums and/or unit costs where these comply with the conditions set out in Article 124(2);

(e) low value grants.

Where a profit is made, the Commission shall be entitled to recover the percentage of the profit corresponding to the Union contribution to the eligible costs actually incurred by the beneficiary to carry out the action or work programme.

5. For the purpose of this Title, profit shall be defined as a surplus of the receipts over the eligible costs incurred by the beneficiary, when the request is made for payment of the balance.

The receipts referred to in the first subparagraph shall be limited to income generated by the action or work programme, as well as financial contributions specifically assigned by donors to the financing of the eligible costs.

In the case of an operating grant, amounts dedicated to the building up of reserves shall not be taken into account for the purpose of verifying compliance with the no-profit principle.

6. If a political party at Union level realises a surplus of income over expenditure at the end of a financial year in which it received an operating grant, the part of that surplus corresponding to up to 25 % of the total income for that year may, by derogation from the no-profit principle laid down in paragraph 4, be carried over to the following year provided that it is used before the end of the first quarter of that following year.

For the purpose of verifying compliance with the no-profit principle, the own resources, in particular donations and membership fees, aggregated in the annual operations of a political party at Union level, which exceed 15 % of the eligible costs to be borne by the beneficiary, shall not be taken into account.

The second subparagraph shall not apply if the financial reserves of a political party at Union level exceed 100 % of its average annual income.

7. Grants may be awarded without a call for proposals to the EIB or the European Investment Fund for actions of technical assistance. In such cases Articles 131(2) to (5) and 132(1) shall not apply.

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 complementing the general principles applicable to grants, including the no-profit principle and the co-financing principle. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the definition of technical assistance.

Article 126

Eligible costs

1. Grants shall not exceed an overall ceiling expressed in terms of an absolute value which shall be established on the basis of estimated eligible costs.

([1]) OJ L 297, 15.11.2003, p. 1.

Grants shall not exceed the eligible costs.

2. Eligible costs are costs actually incurred by the beneficiary of a grant which meet all of the following criteria:

(a) they are incurred during the duration of the action or of the work programme, with the exception of costs relating to final reports and audit certificates;

(b) they are indicated in the estimated overall budget of the action or work programme;

(c) they are necessary for the implementation of the action or of the work programme which is the subject of the grant;

(d) they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost accounting practices of the beneficiary;

(e) they comply with the requirements of applicable tax and social legislation;

(f) they are reasonable, justified, and comply with the principle of sound financial management, in particular regarding economy and efficiency.

3. Calls for proposals shall specify the categories of costs considered as eligible for Union funding.

Without prejudice to the basic act and in addition to paragraph 2, the following categories of costs shall be eligible where the authorising officer responsible has declared them as such under the call for proposals:

(a) costs relating to a pre-financing guarantee lodged by the beneficiary of the grant, where that guarantee is required by the authorising officer responsible pursuant to Article 134(1);

(b) costs relating to external audits where such audits are required in support of the requests for payments by the authorising officer responsible;

(c) value added tax ("VAT") where it is not recoverable under the applicable national VAT legislation and is paid by a beneficiary other than a non-taxable person as defined in the first subparagraph of Article 13(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]);

(d) depreciation costs, provided they are actually incurred by the beneficiary;

(e) salary costs of the personnel of national administrations to the extent that they relate to the cost of activities which the relevant public authority would not carry out if the project concerned were not undertaken.

4. Costs incurred by entities affiliated to a beneficiary as described in Article 122 may be accepted as eligible by the authorising officer responsible under the call for proposals. In such a case, the following conditions shall apply cumulatively:

(a) the entities concerned are identified in the grant agreement or decision;

(b) the entities concerned abide by the rules applicable to the beneficiary under the grant agreement or decision with regard to eligibility of costs and rights of checks and audits by the Commission, OLAF and the Court of Auditors.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning further specifications on eligible costs.

Article 127

Co-financing in kind

1. For the purpose of calculating the profit generated by the grant, co-financing in the form of contributions in kind shall not be taken into account.

2. The authorising officer responsible may accept contributions in kind as co-financing, if considered necessary or appropriate. Where co-financing inkind is offered in support of low value grants and the authorising officer responsible has decided to refuse this, he or she shall justify why it is unnecessary or inappropriate.

Such contributions shall not exceed:

(a) either the costs actually incurred by third parties and duly supported by accounting documents;

(b) or, in the absence of such documents, the costs that correspond to those generally accepted on the market in question.

Contributions in kind shall be presented separately in the estimated budget to reflect the total resources allocated to the action. Their unit value shall be evaluated in the provisional budget and shall not be subject to subsequent changes.

Contributions in kind shall comply with national tax and social security rules.

([1]) OJ L 347, 11.12.2006, p. 1.

Article 128

Transparency

1. Grants shall be subject to a work programme, to be published prior to its implementation.

That work programme shall be implemented through the publication of calls for proposals, except in duly justified exceptional cases of urgency or where the characteristics of the beneficiary or of the action leave no other choice for a given action, or where the beneficiary is identified in a basic act.

The first subparagraph shall not apply to crisis management aid, civil protection operations or humanitarian aid operations.

2. Calls for proposals shall specify the planned date by which all applicants shall have been informed of the outcome of the evaluation of their application and the indicative date for the signature of grant agreements or notification of grant decisions.

Those dates shall be fixed on the basis of the following periods:

(a) for informing all applicants of the outcome of the evaluation of their application, a maximum of six months from the final date for submission of complete proposals;

(b) for signing grant agreements with applicants or notifying grant decisions to them, a maximum of three months from the date of informing applicants they have been successful.

Those periods may be adjusted in order to take into account any time needed to comply with specific procedures that may be required by the basic act in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council [1] and may be exceeded in exceptional, duly justified cases, in particular for complex actions, where there is a large number of proposals or delays attributable to the applicants.

The authorising officer by delegation shall report in his or her annual activity report on the average time taken to inform applicants, sign grant agreements or notify grant decisions. In the event of the periods referred to in the second subparagraph being exceeded, the authorising officer by delegation shall give reasons and, where not duly justified in accordance with the third subparagraph, shall propose remedial action.

3. All grants awarded in the course of a financial year shall be published annually in accordance with Article 35(2) and (3).

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the requirements regarding the work programme, the content of calls for proposals, the exceptions to calls for proposals, information for applicants and *ex post* publication.

Article 129

Principle of non-cumulative award

1. Each action may give rise to the award of only one grant from the budget to any one beneficiary, except where otherwise authorised in the relevant basic acts.

A beneficiary may be awarded only one operating grant from the budget per financial year.

The applicant shall immediately inform the authorising officers of any multiple applications and multiple grants relating to the same action or to the same work programme.

In no circumstances shall the same costs be financed twice by the budget.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the principle of the non-cumulative award of grants.

Article 130

Principle of non-retroactivity

1. A grant may be awarded for an action which has already begun provided that the applicant can demonstrate the need for starting the action priorto signature of the grant agreement or notification of the grant decision.

In such cases, costs eligible for financing shall not have been incurred prior to the date of submission of the grant application, except in duly justified exceptional cases as provided for in the basic act or in the event of extreme urgency for crisis management aid, civil protection operations and humanitarian aid operations, or in situations of imminent or immediate danger threatening to escalate into armed conflict or to destabilise a country, whereby an early engagement by the Union would be of major importance in promoting conflict prevention.

No grant may be awarded retroactively for actions already completed.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the principle of non-retroactivity.

2. In the case of operating grants, the grant agreement shall be signed or notification of the grant decision given within six months of the start of the beneficiary's financial year. Costs eligible for financing may neither have been incurred before the grant application was submitted nor before the start of the beneficiary's financial year.

[1] OJ L 55, 28.2.2011, p. 13.

CHAPTER 3

Award procedure

Article 131

Applications for grants

1. Grant applications shall be submitted in writing, including, where appropriate, in a secure electronic format.

The Commission shall provide, where it deems it feasible, the possibility of making online grant applications.

2. Grant applications shall be eligible if submitted by the following:

(a) legal persons; or

(b) natural persons, in so far as this is required by the nature or characteristics of the action or the objective pursued by the applicant.

For the purposes of point (a) of the first subparagraph, grant applications may be eligible if submitted by entities which do not have legal personality under the applicable national law, provided that their representatives have the capacity to undertake legal obligations on behalf of the entity and offer guarantees for the protection of the Union's financial interests equivalent to those offered by legal persons.

3. The application shall state the legal status of the applicant and demonstrate his or her financial and operational capacity to carry out the proposed action or work programme.

For that purpose the applicant shall submit a declaration on his or her honour and, unless the grant is a low value grant, any supporting documents requested, on the basis of a risk assessment, by the authorising officer responsible. The prerequisite documents shall be indicated in the call for proposals.

The verification of financial capacity shall not apply to natural persons in receipt of scholarships, to natural persons most in need and in receipt of direct support, to public bodies or international organisations. The authorising officer responsible may, depending on a risk assessment, waive the obligation to verify the operational capacity of public bodies or international organisations.

4. Article 106(1) and Articles 107, 108 and 109 shall also apply to grant applicants. Applicants shall certify that they are not in one of the situations referred to in those Articles. However, the authorising officer responsible shall not require such certification in the following cases:

(a) low value grants;

(b) when such certification has recently been provided in another award procedure.

5. Administrative and financial penalties which are effective, proportionate and dissuasive may be imposed on applicants by the authorising officer responsible, in accordance with Article 109.

Those penalties may also be imposed on beneficiaries who at the moment of the submission of the application or during the implementation of the grant, have made false declarations in supplying the information required by the authorising officer responsible or fail to supply that information.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the arrangements for grant applications, evidence of not falling within an exclusion situation, applicants without legal personality, legal persons forming one applicant, financial and administrative penalties, eligibility criteria and low value grants.

Article 132

Selection and award criteria

1. The selection criteria announced in advance in the call for proposals shall be such as to make it possible to assess the applicant's ability to complete the proposed action or work programme.

2. The award criteria announced in advance in the call for proposals shall be such as to make it possible to assess the quality of the proposals submitted in the light of the objectives and priorities set.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on selection and award criteria.

Article 133

Evaluation procedure

1. Proposals shall be evaluated, on the basis of pre-announced selection and award criteria, with a view to determining which proposals may be financed.

2. The authorising officer responsible shall, on the basis of the evaluation provided for in paragraph 1, draw up the list of beneficiaries and the amounts approved.

3. The authorising officer responsible shall inform applicants in writing of the decision on their application. If the grant requested is not awarded, the institution concerned shall give the reasons for the rejection of the application, with reference in particular to the selection and award criteria.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the evaluation and award of grants and information to applicants.

CHAPTER 4

Payment and control

Article 134

Pre-financing guarantee

1. The authorising officer responsible may, if he or she deems it appropriate and proportionate, on a case-by-case basis and subject to risk analysis, require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.

2. Notwithstanding paragraph 1, guarantees shall not be required in the case of low value grants.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the pre-financing guarantee.

Article 135

Payment of grants and controls

1. The amount of the grant shall not become final until after the authorising officer responsible has approved the final reports and accounts, without prejudice to subsequent checks by the institution concerned, which shall be carried out in a timely manner.

2. Where the award procedure proves to have been subject to substantial errors, irregularities or fraud, the authorising officer responsible shall suspend the procedure and may take whatever measures are necessary, including the cancellation of the procedure. The authorising officer responsible shall inform OLAF immediately of suspected cases of fraud.

3. Where, after the award of the grant, the award procedure or the implementation of the grant proves to have been subject to substantial errors, irregularities, fraud, or breach of obligations, the authorising officer responsiblemay, depending on the stage reached in the procedure and, provided that the applicant or beneficiary has been given the opportunity to make observations:

(a) refuse to sign the grant agreement or to give notification of the grant decision;

(b) suspend implementation of the grant; or

(c) where appropriate, terminate the grant agreement or decision.

4. Where such errors, irregularities or fraud are attributable to the beneficiary, or should the beneficiary breach his or her obligations under a grant agreement or decision, the authorising officer responsible may, in addition, reduce the grant or recover amounts unduly paid under the grant agreement or decision, in proportion to the seriousness of the errors, irregularities or fraud or of the breach of obligations, provided that the beneficiary has been given the opportunity to make observations.

5. Where controls or audits demonstrate systemic or recurrent errors, irregularities, fraud or breach of obligations attributable to the beneficiary and having a material impact on a number of grants awarded to that beneficiary under similar conditions, the authorising officer responsible may suspend implementation of all the grants concerned or, where appropriate, terminate the concerned grant agreements or decisions with that beneficiary, in proportion to the seriousness of the errors, irregularities, fraud or of the breach of obligations, provided that the beneficiary has been given the opportunity to make observations.

The authorising officer responsible may, in addition, following an adversarial procedure, reduce the grants or recover amounts unduly paid in respect of all the grants affected by the systemic or recurrent errors, irregularities, fraud or breach of obligations referred to in the first subparagraph that may be audited in accordance with the grant agreements or decisions.

6. The authorising officer responsible shall determine the amounts to be reduced or recovered, wherever possible and practicable, on the basis of costs unduly declared as eligible for each grant concerned, following acceptance of the revised financial statements submitted by the beneficiary.

7. Where it is not possible or practicable to quantify precisely the amount of ineligible costs for each grant concerned, the amounts to be reduced or recovered may be determined by extrapolating the reduction or recovery rate applied to the grants for which the systemic or recurrent errors or irregularities have been demonstrated, or, where ineligible costs cannot serve as a basis for determining the amounts to be reduced or recovered, by applying a flat rate, having regard to the principle of proportionality. The beneficiary shall be given the opportunity to make observations on the extrapolation method or flat rate to be applied and to propose a duly substantiated alternative method or rate before the reduction or recovery is made.

8. The Commission shall ensure equal treatment of beneficiaries of a programme, in particular where it is implemented by several authorising officers responsible.

Beneficiaries shall be informed of the means for challenging decisions taken under paragraphs 3, 4, 5, 6 and 7 of this Article, in accordance with Article 97.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules for the payment of grants and controls, including rules concerning supporting documents and the suspension and reduction of grants.

Article 136

Periods for record-keeping

1. Beneficiaries shall keep records, supporting documents, statistical records and other records pertaining to a grant for five years following the payment of the balance, and for three years in the case of low value grants.

2. Records pertaining to audits, appeals, litigation, or the pursuit of claims arising out of the performance of the project shall be retained until such audits, appeals, litigation or claims have been disposed of.

CHAPTER 5

Implementation

Article 137

Implementation contracts and financial support to third parties

1. Where implementation of an action or a work programme requires financial support to be given to third parties, the beneficiary may give such financial support provided that the following conditions are met:

(a) before awarding the grant, the authorising officer responsible has verified that the beneficiary offers adequate guarantees as regards the recovery of amounts due to the Commission;

(b) the conditions for the giving of such support are strictly defined in the grant decision or agreement between the beneficiary and the Commission, in order to avoid the exercise of discretion by the beneficiary;

(c) the amounts concerned are small, except where the financial support is the primary aim of the action.

2. Each grant decision or agreement shall provide expressly for the Commission and the Court of Auditors to exercise their powers of control, concerning documents premises and information, including that stored on electronic media, over all third parties who have received Union funds.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on implementation contracts and financial support to third parties.

TITLE VII

PRIZES

Article 138

General rules

1. Prizes shall respect the principles of transparency and equal treatment and shall promote the achievement of policy objectives of the Union.

2. For this purpose, prizes shall be subject to a work programme to be published prior to its implementation. The work programme shall be implemented through the publication of contests.

Contests for prizes with a unit value of EUR 1 000 000 or more may only be published if they are provided for in the statements or any other relevant document referred to in point (e) of Article 38(3).

The rules of the contest shall at least lay down the conditions for participation including the exclusion criteria provided for in Article 106(1) and Articles 107, 108 and 109, the award criteria, the amount of the prize and the payment arrangements.

Prizes may not be awarded directly without a contest and shall be published annually in accordance with Article 35(2) and (3).

3. Entries in a contest shall be evaluated by a panel of experts on the basis of the published rules of the contest.

Prizes shall then be awarded by the authorising officer responsible, on the basis of the evaluation provided by the panel of experts who shall be free to decide whether to recommend the award of prizes, depending on their appraisal of the quality of the entries.

4. The amount of the prize shall not be linked to costs incurred by the winner.

5. Where implementation of an action or work programme requires prizes to be given to third parties by a beneficiary of a Union grant, that beneficiary may give such prizes provided that the minimum content of the rules of the contest, as laid down in paragraph 2, is strictly defined in the grant decision or agreement between the beneficiary and the Commission, with no margin for discretion.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on prizes, including programming, rules of contest, *ex post* publication, evaluation, information and notification of winners.

TITLE VIII

FINANCIAL INSTRUMENTS

Article 139

Scope

1. Financial instruments shall be authorised by means of a basic act.

Notwithstanding the first subparagraph, financial instruments may be established, in duly justified cases, without being authorised by means of a basic act, provided that such instruments are included in the budget in accordance with point (e) of Article 49(1).

2. Where Union support is provided by means of financial instruments and combined in a single measure with elements directly related to financial instruments targeting the same final recipients, including technical assistance, interest rate rebates and guarantee fee subsidies, this Title shall apply to all elements of that measure.

3. Where financial instruments are combined with grants funded from the budget under Title VI of Part One for elements not directly related to financial instruments, separate records shall be maintained for each source of financing.

4. The Commission may implement financial instruments under direct management, or under indirect management, as set out in the basic act, by entrusting tasks to entities pursuant to points (ii), (iii), (v) and (vi) of Article 58(1)(c).

The entities entrusted pursuant to points (ii), (iii), (v) and (vi) of Article 58(1)(c), when implementing financial instruments, may further entrust, under their responsibility, part of that implementation to financial intermediaries provided that those entities ensure that the financial intermediaries satisfy the criteria laid down in Article 140(1), (3) and (5). Financial intermediaries shall be selected on the basis of open, transparent, proportionate and non-discriminatory procedures, avoiding conflicts of interests.

The Commission shall remain responsible for ensuring that the implementation framework for financial instruments complies with the principle of sound financial management and supports the attainment of defined and timed policy objectives, measurable in terms of outputs and results. The Commission shall be accountable for the implementation of financial instruments without prejudice to the entrusted entities' legal and contractual responsibility in accordance with the applicable law.

5. Where financial instruments are implemented under shared management with Member States, the provisions applying to those instruments, including rules for contributions to financial instruments managed directly or indirectly in accordance with this Title, shall be laid down in the Regulations referred to in Article 175.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on financial instruments, including the selection of entities entrusted with the implementation of financial instruments, the content of delegation agreements, management costs and fees, the specific rules for fiduciary accounts, the direct implementation of the financial instruments and the selection of managers, of financial intermediaries and of final recipients.

Article 140

Principles and conditions applicable to financial instruments

1. Financial instruments shall be used in accordance with the principles of sound financial management, transparency, proportionality, non-discrimination, equal treatment and subsidiarity, and in accordance with their objectives and, where applicable, the duration established in the basic act for those financial instruments.

2. Financial instruments shall comply with the following:

(a) addressing market failures or sub-optimal investment situations, which have proven to be financially viable but do not give rise to sufficient funding from market sources;

(b) additionality: financial instruments shall not be aimed at replacing those of a Member State, private funding or another Union financial intervention;

(c) non-distortion of competition in the internal market and consistency with State aid rules;

(d) leverage effect: the Union contribution to a financial instrument shall aim at mobilising a global investment exceeding the size of the Union contribution according to the indicators defined in advance;

(e) alignment of interest: when implementing financial instruments, the Commission shall ensure that there is a common interest in achieving the policy objectives defined for a financial instrument, possibly fostered by provisions such as co-investment, risk-sharing requirements or financial incentives, while preventing a conflict of interests with other activities of the entrusted entity;

(f) financial instruments shall be established on the basis of on an *ex ante* evaluation, including an evaluation of the possible re-use of additional resources referred to in point (f) of paragraph 8.

3. The budgetary expenditure linked to a financial instrument and the financial liability of the Union shall in no case exceed the amount of the relevant budgetary commitment made for it, thus excluding contingent liabilities for the budget.

4. The entities entrusted pursuant to points (ii), (iii), (v) and (vi) of Article 58(1)(c) and all financial intermediaries selected to participate in the execution of financial operations under a financial instrument shall comply with relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and tax fraud. For the implementation of financial instruments in accordance with this Title, the entities entrusted pursuant to points (ii), (iii), (v) and (vi) of Article 58(1)(c) shall not be established, and shall not maintain business relations with entities incorporated, in territories whose jurisdictions do not co-operate with the Union in relation to the application of the internationally agreed tax standard and shall transpose such requirements in their contracts with the selected financial intermediaries.

5. Entities entrusted pursuant to points (ii), (iii), (v) and (vi) of Article 58(1)(c), financial intermediaries as referred to in paragraph 4 of this Article involved in managing Union financial instruments, and final recipients of Union support under this Title shall afford the Court of Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its task, pursuant to Article 161.

Regulation (Euratom, EC) No 2185/96 and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) [1] shall apply to Union support under this Title.

6. Amounts corresponding at least to the Union contribution, or, where applicable, multiples thereof shall be used for the attainment of the specific policy objectives pursued through the financial instrument and shall not generate undue advantages, in particular in the form of undue dividends or profits for third parties.

Without prejudice to sector-specific rules for shared management, revenues, including dividends, capital gains, guarantee fees and interest on loans and on amounts on fiduciary accounts paid back to the Commission or fiduciary accounts opened for financial instruments and attributable to the support from the budget under a financial instrument, shall be entered in the budget after deduction of management costs and fees.

Annual repayments, including capital repayments, guarantees released, and repayments of the principal of loans, paid back to the Commission or fiduciary accounts opened for financial instruments and attributable to the support from the budget under a financial instrument, shall constitute internal assigned revenue in accordance with Article 21 and shall be used for the same financial instrument, without prejudice to paragraph 9 of this Article, for a period not exceeding the period for the commitment of appropriations plus two years, unless specified otherwise in a basic act.

7. Payments to fiduciary accounts shall be made by the Commission on the basis of payment requests that are duly substantiated with disbursement forecasts, taking into account the balances available on the fiduciary accounts and the need to avoid excessive balances on such amounts. In the event of the amounts on the fiduciary accounts being sufficient to cover the contractually stipulated minimum reserve on the fiduciary accounts, as increased by the disbursement forecasts for the current financial year, and to cover the amounts needed to exclude contingent liabilities in relation to payment obligations in currencies other than euro, no further payment to the fiduciary accounts shall be made. Disbursement forecasts are to be provided on an annual or, where appropriate, on a semi-annual basis.

8. The Commission shall report annually to the European Parliament and the Council on the activities relating to financial instruments. The report shall include, for each financial instrument supported:

(a) an identification of the financial instrument and the basic act;

(b) a description of the financial instrument, implementation arrangements and the added value of the Union contribution;

(c) the financial institutions involved in implementation, including any issues relating to the application of paragraph 5;

(d) the aggregate budgetary commitments and payments from the budget for each financial instrument;

(e) the performance of the financial instrument, including the investments realised;

(f) an evaluation of the use of any amounts returned to the instrument as internal assigned revenue under paragraph 6;

(g) the balance on the fiduciary account;

(h) revenues and repayments under paragraph 6;

(i) the value of equity investments, with respect to previous years;

(j) the accumulated figures for impairments of assets of equity or risk-sharing instruments, and for called guarantees for guarantee instruments;

(k) the target leverage effect, and the achieved leverage effect;

(l) itscontribution to the achievement of the objectives of the programme concerned as measured by the established indicators, including, where applicable, the geographical diversification.

[1] OJ L 136, 31.5.1999, p. 1.

9. Where the European Parliament or the Council consider that a financial instrument has not achieved its objectives effectively, they may request that the Commission submit a proposal for a revised basic act with a view to the winding down of the instrument. In the event of the winding down of the financial instrument, any new repayments of that instrument pursuant to the third subparagraph of paragraph 6 shall be considered as general revenue.

10. The purpose of the financial instruments and, where applicable, their specific legal form and legal place of registration shall be published on the Commission website.

11. For financial instruments the authorising officer responsible shall ensure that financial statements, covering the period 1 January to 31 December and in compliance with the accounting rules referred to in Article 143 and the International Public Sector Accounting Standards (IPSAS), as well as any information necessary to produce financial statements in accordance with Article 68(3), will be provided by the entities entrusted pursuant to points (ii), (iii), (v) and (vi) of Article 58(1)(c) by 15 February of the following year. The authorising officer responsible shall also ensure that audited financial statements for financial instruments are provided by those entities by 15 May of the following year.

12. The Commission shall ensure a harmonised management of financial instruments in particular in the area of accounting, reporting, monitoring and financial risk management.

13. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the implementation of financial instruments, including the conditions for their use, the leverage effect, the ex-ante evaluation, the monitoring and the treatment of contributions from the Funds referred to in Article 175.

TITLE IX

PRESENTATION OF THE ACCOUNTS AND ACCOUNTING

CHAPTER 1

Presentation of the accounts

Article 141

Structure of the accounts

The accounts shall comprise:

(a) the consolidated financial statements, which present the consolidation of the financial information contained in the financial statements of the institutions financed by the budget, those of the bodies referred to in Article 208 and of other bodies whose accounts are required to be consolidated in accordance with the accounting rules referred to in Article 143;

(b) the aggregated budgetary accounts which present the information contained in the budgetary accounts of the institutions.

Article 142

Report on budgetary and financial management

1. Each institution and body referred to in Article 141 shall prepare a report on budgetary and financial management for the financial year.

They shall send the report to the European Parliament, the Council and the Court of Auditors, by 31 March of the following financial year.

2. The report referred to in paragraph 1 shall give an account, both in absolute terms and expressed as a percentage, at least, of the rate of implementation of appropriations together with summary information on the transfers of appropriations among the various budget items.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the report on budgetary and financial management.

Article 143

Rules governing the accounts

1. The accounting officer of the Commission shall adopt rules based on internationally accepted accounting standards for the public sector. The accounting officer may diverge from those standards if he or she considers this necessary in order to give a true and fair view of the assets and liabilities, charges, income and cash flow. Where an accounting rule diverges materially from those standards, the notes to the financial statements shall disclose this fact and the reasons for it.

2. The budgetary accounts referred to in Article 141 shall respect the budgetary principles laid down in this Regulation. They shall present a true and fair view of the budgetary revenue and expenditure operations.

Article 144

Accounting principles

1. The financial statements referred to in Article 141 shall present information, including information on accounting policies, in a manner that ensures it is relevant, reliable, comparable and understandable. The financial statements shall be drawn up in accordance with generally accepted accounting principles as outlined in the accounting rules referred to in Article 143.

2. The Commission shall be empowered to adopt delegated acts concerning the establishment of the framework for the implementation by the accounting officer of his or her tasks under this Article and Articles 145, 146, 148, 151, 154, 156 and 157.

Article 145

Financial statements

1. The financial statements shall be presented in millions of euro and shall comprise:

(a) the balance sheet and the statement of financial performance, which represent all assets and liabilities, the financial situation and the economic result at 31 December of the preceding year; they shall be presented in accordance with the accounting rules referred to in Article 143;

(b) the cash-flow statement showing amounts collected and disbursed during the year and the final treasury position;

(c) the statement of changes in net assets presenting an overview of the movements during the year in reserves and accumulated results.

2. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by internationally accepted accounting practice where such information is relevant to the activities of the Union.

Article 146

Budgetary implementation reports

1. The budgetary implementation reports shall be presented in millions of euro. They shall consist of:

(a) reports which aggregate all budgetary operations for the year in terms of revenue and expenditure;

(b) explanatory notes, which shall supplement and comment on the information given in the reports.

2. The structure of the budgetary implementation reports shall be the same as that of the budget itself.

Article 147

Provisional accounts

1. The accounting officers of the other institutions and bodies referred to in Article 141 shall send their provisional accounts to the accounting officer of the Commission and to the Court of Auditors by 1 March of the following year.

2. The accounting officers of the other institutions and bodies referred to in Article 141 shall also send by 1 March of the following year a reporting package to the accounting officer of the Commission, in a standardised format as laid down by the accounting officer of the Commission for consolidation purposes.

3. The accounting officer of the Commission shall consolidate those provisional accounts with the Commission's provisional accounts and shall send to the Court of Auditors, by 31 March of the following year, the provisional accounts of the Commission and the consolidated provisional accounts of the Union.

Article 148

Approval of the final consolidated accounts

1. The Court of Auditors shall, by 1 June, make its observations on the provisional accounts of the institutions other than the Commission and each body referred to in Article 141, and by 15 June, make its observations on the provisional accounts of the Commission and the consolidated provisional accounts of the Union.

2. The institutions other than the Commission, and each of the bodies referred to in Article 141, shall draw up their final accounts and send them to the accounting officer of the Commission, the Court of Auditors, the European Parliament and the Council by 1 July with a view to drawing up the final consolidated accounts.

The accounting officers of the other institutions and bodies referred to in Article 141 shall also send by 1 July, a reporting package to the accounting officer of the Commission, in a standardised format as laid down by the accounting officer of the Commission for consolidation purposes.

3. The accounting officer of each institution and body referred to in Article 141 shall also send to the Court of Auditors, with a copy to the accounting officer of the Commission, at the same date as the transmission of his or her final accounts, a representation letter covering those final accounts.

The final accounts shall be accompanied by a note drawn up by the accounting officer, in which the latter declares that the final acccounts were prepared in accordance with this Title and with the applicable accounting principles, rules and methods.

4. The accounting officer of the Commission shall draw up the final consolidated accounts on the basis of the information presented pursuant to paragraph 2 of this Article by the institutions other than the Commission and by bodies referred to in Article 141. The final consolidated accounts shall be accompanied by a note drawn up by the accounting officer of the Commission, in which the latter declares that the final consolidated accounts were prepared in accordance with this Title and with the accounting principles, rules and methods set out in the notes to the financial statements.

5. After approving the final consolidated accounts and its own final accounts, the Commission shall send them both to the European Parliament, the Council and the Court of Auditors by 31 July.

By the same date, the accounting officer of the Commission shall transmit a representation letter covering the final consolidated accounts to the Court of Auditors.

6. The final consolidated accounts shall be published in the *Official Journal of the European Union* together with the statement of assurance given by the Court of Auditors in accordance with Article 287 TFEU and Article 106a of the Euratom Treaty by 15 November.

CHAPTER 2

Information on the implementation of the budget

Article 149

Report on budgetary guarantees and risks

In addition to the statements and reports provided for in Articles 145 and 146, the Commission shall report to the European Parliament and to the Council once a year on the budgetary guarantees referred to in point (d) of Article 49(1) and the corresponding risks.

That information shall be sent to the Court of Auditors at the same time.

Article 150

Information on budget implementation

1. In addition to the statements and reports provided for in Articles 145 and 146, the Commission's accounting officer shall send once a month to the European Parliament and to the Council figures, aggregated at chapter level at least, on the implementation of the budget, both for revenue and for expenditure against all appropriations.

Those figures shall also provide details of the utilisation of appropriations carried over.

The figures shall be sent within 10 working days of the end of each month.

2. Three times a year, within 30 working days of 31 May, 31 August and 31 December, the Commission's accounting officer shall send to the European Parliament and to the Council a report on the implementation of the budget, covering both revenue and expenditure broken down by chapter, article and item.

Those reports shall also provide details of the utilisation of appropriations carried over from preceding financial years.

3. The figures and the report on implementation of the budget shall at the same time be sent to the Court of Auditors and published on the Commission's website.

4. By 15 September of each year, the accounting officer shall send to the European Parliament and to the Council a report containing information on current risks noted, general trends observed, new accounting issues encountered, progress on accounting matters, including those raised by the Court of Auditors, and information on recoveries.

CHAPTER 3

Accounting

Section 1

Common provisions

Article 151

The accounting system

1. An institution's accounting system shall serve to organise the budgetary and financial information in such a way that figures can be entered, filed and registered.

2. The accounting system shall consist of general accounts and budgetary accounts. The accounts shall be kept in euro and on the basis of the calendar year.

3. The authorising officer by delegation may also keep analytical accounts.

Article 152

Common requirements for the institutions' accounting system

The accounting officer of the Commission shall, in accordance with Article 143, after consulting the accounting officers of the other institutions and of the bodies referred to in Article 141, adopt the accounting rules and the harmonised chart of accounts to be applied by all the institutions, the offices referred to in Title V of Part Two and all the bodies referred to in Article 141.

Section 2

General accounts

Article 153

The general accounts

The general accounts shall record, in chronological order using the double-entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of the institutions and of the bodies referred to in Article 141.

Article 154

Entries in the general accounts

1. Balances and movements in the general accounts shall be entered in the accounting ledgers.

2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which the entries shall refer.

3. The accounting system shall be such as to leave a clear audit trail for all accounting entries.

Article 155

Accounting adjustments

The accounting officer shall, after the close of the financial year and up to the date of presentation of the general accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of those accounts. Such adjustments shall comply with the accounting rules referred to in Article 143.

Section 3

Budgetary accounts

Article 156

Budgetary accounting

1. The budgetary accounts shall provide a detailed record of the implementation of the budget.

2. For the purposes of paragraph 1, the budgetary accounts shall record all budgetary revenue and expenditure operations provided for in Title IV of Part One.

CHAPTER 4

Property inventories

Article 157

The inventory

1. Each institution and body referred to in Article 141 shall keep inventories showing the quantity and value of all the Union's tangible, intangible and financial assets in accordance with a model drawn up by the accounting officer of the Commission.

Each institution and body referred to in Article 141 shall check that entries in the inventory correspond to the actual situation.

2. The sale of the Union's tangible assets shall be suitably advertised.

TITLE X

EXTERNAL AUDIT AND DISCHARGE

CHAPTER 1

External audit

Article 158

External audit by the Court of Auditors

The European Parliament, the Council and the Commission shall inform the Court of Auditors, as soon as possible, of all decisions and rules adopted pursuant to Articles 13, 16, 21, 25, 26, 29 and 40.

Article 159

Rules and procedure on the audit

1. The examination by the Court of Auditors of whether all revenue has been received and all expenditure incurred in a lawful and proper manner shall have regard to the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and all other acts adopted pursuant to the Treaties.

2. In the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in Article 161, all documents and information relating to the financial management of departments or bodies with regard to operations financed or co-financed by the Union. It shall have the power to hear any official responsible for a revenue or expenditure operation and to use any of the auditing procedures appropriate to the aforementioned departments or bodies. The audit in the Member States shall be carried out in liaison with the national audit institutions or, where they do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit institutions of the Member States shall cooperate in a spirit of trust while maintaining their independence.

In order to obtain all the necessary information for the performance of the task entrusted to it by the Treaties or the acts adopted pursuant to them, the Court of Auditors may be present, at its request, during the audit operations carried out within the framework of the implementation of the budget by, or on behalf of, any institution.

At the request of the Court of Auditors, each institution shall authorise financial institutions holding Union deposits to enable the Court of Auditors to ensure that external data tally with the accounts.

3. In order to perform its task, the Court of Auditors shall notify the institutions and authorities to which this Regulation applies of the names of the members of its staff who are empowered to audit them.

Article 160

Checks on securities and cash

The Court of Auditors shall ensure that all securities and cash on deposit or in hand are checked against vouchers signed by the depositories or against official memoranda of cash and securities held. It may carry out such checks itself.

Article 161

Court of Auditors' right of access

1. The Commission, the other institutions, the bodies administering revenue or expenditure on the Union's behalf and recipients shall afford the Court of Auditors all the facilities and give it all the information which the Court of Auditors considers necessary for the performance of its task. They shall place at the disposal of the Court of Auditors all documents concerning the award and performance of contracts financed by the budget and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents relating thereto, all documents relating to revenue and expenditure, all inventories, all organisation charts of departments, which the Court of Auditors considers necessary for auditing the budgetary and financial outturn report on the basis of records or on the spot auditing and, for the same purposes, all documents and data created or stored electronically.

The internal audit bodies and other services of the national administrations concerned shall afford the Court of Auditors all the facilities which it considers necessary for the performance of its task.

2. The officials whose operations are checked by the Court of Auditors shall:

(a) show their records of cash in hand, any other cash, securities and materials of all kinds, and also the supporting documents in respect of their stewardship of the funds with which they are entrusted, and also any books, registers and other documents relating thereto;

(b) present the correspondence and any other documents required for the full implementation of the audit referred to in Article 159(1).

The information supplied under point (b) of the first subparagraph may be requested only by the Court of Auditors.

3. The Court of Auditors shall be empowered to audit the documents in respect of the revenue and expenditure of the Union which are held by the departments of the institutions and, in particular, by the departments responsible for decisions in respect of such revenue and expenditure, the bodies administering revenue or expenditure on the Union's behalf and the natural or legal persons receiving payments from the budget.

4. The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner and that the financial management has been sound shall extend to the utilisation, by bodies outside the institutions, of Union funds received by way of contributions.

5. Union financing paid to recipients outside the institutions shall be subject to the agreement in writing by those recipients or, failing agreement on their part, by contractors or subcontractors, to an audit by the Court of Auditors into the use made of the financing granted.

6. The Commission shall provide the Court of Auditors, at its request, with any information on borrowing-and-lending operations.

7. Use of integrated computer systems shall not have the effect of reducing access by the Court of Auditors to the supporting documents.

Article 162

Annual report of the Court of Auditors

1. The Court of Auditors shall transmit to the Commission and the institutions concerned by 30 June, any observations which are, in its opinion, such that they should appear in the annual report. Those observations shall remain confidential and shall be subject to an adversarial procedure. Each institution shall address its reply to the Court of Auditors by 15 October. The replies of institutions other than the Commission shall be sent to the Commission at the same time.

2. The annual report shall contain an assessment of the soundness of financial management.

3. The annual report shall contain a section for each institution. The Court of Auditors may add any summary report or general observations which it sees fit to make.

The Court of Auditors shall take all necessary steps to ensure that the replies of each institution to its observations are published next to or after each observation to which they relate.

4. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 15 November, its annual report accompanied by the replies of the institutions and shall ensure publication thereof in the *Official Journal of the European Union*.

5. As soon as the Court of Auditors has transmitted the annual report, the Commission shall immediately inform the Member States concerned of the details of that report which relate to management of the funds for which they are responsible under the applicable rules.

Following receipt of such information, the Member States shall reply to the Commission within 60 days. The Commission shall transmit a summary of that information to the Court of Auditors, the European Parliament and the Council by 28 February.

Article 163

Special reports of the Court of Auditors

1. The Court of Auditors shall transmit to the institution or the body concerned any observations which are, in its opinion, such that they should appear in a special report. Those observations shall remain confidential and shall be subject to an adversarial procedure.

The institution or the body concerned shall inform the Court of Auditors, within two and a half months of transmission of those observations, of any replies it wishes to make in relation to those observations.

The Court of Auditors shall adopt the definitive version of the special report the month following receipt of the replies made by the institution or body concerned.

The special reports, together with the replies of the institutions or bodies concerned, shall be transmitted without delay to the European Parliament and the Council, each of which shall decide, where appropriate in conjunction with the Commission, what action is to be taken in response.

The Court of Auditors shall take all necessary steps to ensure that the replies to its observations from each institution or body concerned are published together with the special report.

2. The opinions referred to in the second subparagraph of Article 287(4), TFEU which do not relate to proposals or drafts covered by the legislative consultation procedure may be published by the Court of Auditors in the *Official Journal of the European Union*. The Court of Auditors shall take its decision on publication after consulting the institution which requested the opinion or which is concerned by it. Opinions published shall be accompanied by any remarks by the institutions concerned.

CHAPTER 2

Discharge

Article 164

Timetable of the discharge procedure

1. The European Parliament, upon a recommendation from the Council acting by qualified majority, shall, before 15 May of year n + 2 give a discharge to the Commission in respect of the implementation of the budget for year n.

2. If the date provided for in paragraph 1 cannot be met, the European Parliament or the Council shall inform the Commission of the reasons for the postponement.

3. If the European Parliament postpones the decision giving a discharge, the Commission shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

Article 165

The discharge procedure

1. The discharge decision shall cover the accounts of all the Union's revenue and expenditure, the resulting balance and the assets and liabilities of the Union shown in the balance sheet.

2. With a view to granting the discharge, the European Parliament shall, after the Council has done so, examine the accounts, financial statements and the evaluation report referred to in Article 318 TFEU. It shall also examine the annual report made by the Court of Auditors together with the replies of the institutions under audit, and any relevant special reports by the Court of Auditors in respect of the financial year concerned and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

3. The Commission shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year concerned, in accordance with Article 319 TFEU.

Article 166

Follow-up measures

1. In accordance with Article 319 TFEU and Article 106a of the Euratom Treaty, the Commission and the other institutions shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.

2. At the request of the European Parliament or the Council, the institutions shall report on the measures taken in the light of those observations and comments, and, in particular, on the instructions they have given to any of their departments which are responsible for the implementation of the budget. The Member States shall cooperate with the Commission by informing it of the measures they have taken to act on those observations so that the Commission may take them into account when drawing up its own report. The reports from the institutions shall also be transmitted to the Court of Auditors.

Article 167

Specific provisions regarding the EEAS

The EEAS shall be subject to the procedures provided for in Article 319 TFEU and in Articles 164, 165 and 166 of this Regulation. The EEAS shall fully cooperate with the institutions involved in the discharge procedure and provide, as appropriate, any additional necessary information, including through attendance at meetings of the relevant bodies.

PART TWO

SPECIAL PROVISIONS

TITLE I

EUROPEAN AGRICULTURAL GUARANTEE FUND

Article 168

Special provisions on the European Agricultural Guarantee Fund

1. Parts One and Three shall, except as otherwise provided in this Title, apply to expenditure effected by the authorities and bodies referred to in the rules relating to the European Agricultural Guarantee Fund (EAGF), and to revenue,.

2. Operations managed directly by the Commission shall be implemented in accordance with the rules laid down in Parts One and Three.

Article 169

Commitments of EAGF appropriations

1. For each financial year, the EAGF appropriations shall include non-differentiated appropriations, with the exception of the expenditure related to the measures referred to in Article 3(2) of Regulation (EC) No 1290/2005, which shall be covered by differentiated appropriations.

2. Payment appropriations which have been carried over but which have not been used by the end of the financial year shall be cancelled.

3. Non-committed appropriations relating to the actions referred to in Article 3(1) of Regulation (EC) No 1290/2005 may be carried over to the following financial year only.

Such carryover shall not exceed, within a limit of 2 % of the initial appropriations, the amount of the adjustment of direct payments as referred to in Article 11 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers ([1]), and which was applied during the preceding financial year.

Appropriations which are carried over shall be returned exclusively to the budgetary lines which cover the actions referred to in point (c) of Article 3(1) of Regulation (EC) No 1290/2005.

Such carryover may lead to an additional payment only to the final recipients who were subject, in the preceding financial year, to the adjustment of direct payments as referred to in Article 11 of Regulation (EC) No 73/2009.

The carryover decision shall be taken, by 15 February of the year to which the carryover is being made, by the Commission, which shall inform the European Parliament and the Council thereof.

Article 170

Global provisional commitments of EAGF appropriations

1. The Commission shall reimburse the EAGF expenditure incurred by the Member States.

2. The Commission decisions fixing the amount of reimbursement of such expenditure shall constitute global provisional commitments, which may not exceed the total appropriations entered for the EAGF.

3. As of 15 November of the financial year, routine management expenditure for the EAGF may be committed in advance against the appropriations provided for the following financial year. Such commitments shall not, however, exceed three quarters of the total corresponding appropriations for the financial year. They shall apply only to expenditure for which the principle is laid down in an existing basic act.

Article 171

Schedule and timing of EAGF budgetary commitments

1. Expenditure effected by the authorities and bodies referred to in the rules relating to the EAGF shall, within two months of receipt of the statements sent in by Member States, be the subject of a commitment by chapter, article and item. Such commitments may be made after the lapse of that two-month period where a procedure for a transfer of appropriations concerning the relevant budget lines is necessary. Except where payment has not yet been made by the Member States or where eligibility is in doubt, the amounts shall be charged as payments within the same two-month period.

The commitments referred to in the first subparagraph shall be deducted from the global provisional commitment referred to in Article 170.

2. Global provisional commitments which have been made for a financial year and which have not given rise to a commitment on specific lines in the budget nomenclature by 1 February of the following financial year shall be cancelled in respect of the financial year concerned.

3. Paragraphs 1 and 2 shall apply subject to the examination and acceptance of accounts.

([1]) OJ L 30, 31.1.2009, p. 16.

Article 172

Accounting of EAGF expenditure

In budgetary accounting, expenditure shall be booked to the accounts for a financial year on the basis of the repayments made by the Commission to the Member States by 31 December of that financial year, provided that the payment order has reached the accounting officer by 31 January of the following financial year.

Article 173

Transfer of EAGF appropriations

1. Where the Commission transfers appropriations pursuant to Article 26(1), it shall take its decision by 31 January of the following financial year and shall inform the European Parliament and the Council as provided for in Article 26(1).

2. In cases other than those referred to in paragraph 1, the Commission shall submit transfer proposals to the European Parliament and the Council by 10 January of the following financial year.

The European Parliament and the Council shall take decisions on such transfers in accordance with the procedure provided for in Article 27, but for the purposes of this Article, the time limit applicable shall be three weeks.

Article 174

Assigned EAGF revenue

1. Assigned revenue under this Title shall be assigned according to the origin of the revenue in accordance with Article 21(3).

2 The result of decisions referred to in Article 30 of Regulation (EC) No 1290/2005, shall be entered in a single article.

TITLE II

STRUCTURAL FUNDS, COHESION FUND, EUROPEAN FISHERIES FUND, EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT, AND FUNDS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE MANAGED IN SHARED MANAGEMENT

Article 175

Special provisions

1. Parts One and Three shall apply to expenditure effected by the authorities and bodies referred to in Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) [1], Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund [2], Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund [3], 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 [4], Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund [5], Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund [6], and funds in the area of Freedom, Security and Justice including the Funds under the "Solidarity and Management of Migration Flows" Programme, managed in shared management pursuant to Article 59 (the "Funds"), and to their revenue, except as otherwise provided in this Title.

2. Operations managed directly by the Commission shall also be implemented in accordance with the rules laid down in Parts One and Three.

Article 176

Respect of the allocations of commitment appropriations

The European Parliament and the Council shall respect the allocations of commitment appropriations provided for in the relevant basic acts for structural operations, rural development and the European Fisheries Fund.

Article 177

Payments of contributions, interim payments and repayments

1. Payment by the Commission of financial contributions from the Funds shall be made in accordance with the Regulations referred to in Article 175.

2. The time limit for interim payments by the Commission shall be laid down in accordance with the Regulations referred to in Article 175.

3. In accordance with the Regulations referred to in Article 175, the repayment in full, or in part, of pre-financing payments in respect of a given operation shall not have the effect of reducing the contribution from the Funds to the operation concerned.

Amounts repaid shall constitute internal assigned revenue in accordance with point (c) of Article 21(3).

The treatment of repayments by the Member States and the implications of that treatment for the amount of contributions from the Funds shall be governed by the Regulations referred to in Article 175.

[1] OJ L 277, 21.10.2005, p. 1.
[2] OJ L 210, 31.7.2006, p. 1.
[3] OJ L 210, 31.7.2006, p. 12.
[4] OJ L 210, 31.7.2006, p. 25.
[5] OJ L 210, 31.7.2006, p. 79.
[6] OJ L 223, 15.8.2006, p. 1.

4. By way of derogation from Article 14, commitment appropriations available on 31 December arising from repayments of pre-financing payments may be carried over until the closure of the programme and used when necessary provided that other commitment appropriations are no longer available.

5. In budgetary accounting, expenditure shall be booked to the accounts for a financial year on the basis of reimbursements made by the Commission to the Member States by 31 December of that financial year, including the expenditure charged by 31 January of the following financial year, against the payment appropriations made available in the month following the transfers referred to in Article 179.

Article 178

Decommitment of appropriations

1. The Commission shall automatically decommit appropriations that have been committed as provided for in the Regulations referred to in Article 175.

2. The decommitted appropriations may be made available again in the event of a manifest error attributable solely to the Commission.

To this end, the Commission shall examine decommitments made during the preceding financial year and decide, by 15 February of the current financial year, on the basis of requirements, whether it is necessary to make the corresponding appropriations available again.

Article 179

Transfer of appropriations

1. With regard to the operational expenditure referred to in this Title, the Commission may, except in the case of the European Agricultural Fund for Rural Development, make transfers from one title to another, provided that the appropriations concerned are for the same objective within the meaning of the Regulations referred to in Article 175, or are Technical Assistance expenditure. The Commission shall take its decisions by 31 January of the following financial year.

2. In cases other than those referred to in paragraph 1, the Commission may submit proposals for transfers to the Funds of payment appropriations to the European Parliament and the Council by 10 January of the following financial year. The transfer of the payment appropriations may be made from any item of the budget. The European Parliament and the Council shall take decisions on such transfers in accordance with the procedure provided for in Article 27, but for the purposes of this Article the time limit applicable shall be three weeks.

3. If the transfer is not approved or only partially approved by the European Parliament and the Council, the corresponding part of the expenditure referred to in Article 177(5) shall be charged to the payment appropriations of the following financial year.

Article 180

Management, selection and audit

The management and selection of projects, and their audit, shall be governed by the Regulations referred to in Article 175.

TITLE III

RESEARCH

Article 181

Research funds

1. Parts One and Three shall apply to research and technological development appropriations, except as otherwise provided in this Title.

Such appropriations shall be entered either in one of the titles of the budget relating to the policy areas linked to "Indirect research" and "Direct research" or in a chapter relating to research activities in another title.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on types of operations under research.

2. The appropriations relating to the revenue generated by the Research Fund for Coal and Steel established by Protocol No 37 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel annexed to the TEU and the TFEU shall be treated as assigned revenue within the meaning of Article 21. The commitment appropriations generated by such revenue shall be made available as soon as the amount receivable has been estimated and the payment appropriations as soon as the revenue has been received.

3. With regard to the operational expenditure referred to in this Title, the Commission may make transfers from one title to another, provided that the appropriations are used for the same purpose.

4. Experts paid from research and technological development appropriations shall be recruited in accordance with the procedures laid down by the European Parliament and the Council when they adopt each research framework programme or in accordance with the corresponding rules for the participation of undertakings, research centres and universities.

Article 182

Commitments of Research Fund

1. The commitment appropriations corresponding to the amount of the commitment decommitted as a result of total or partial non-implementation of the projects relating to research for which they were earmarked may, exceptionally and in duly justified cases, be made available again where it is essential to carry out the programme originally planned, unless the budget for the financial year concerned (year n) contains funds for this purpose.

2. For the purposes of paragraph 1, the Commission shall, at the beginning of each financial year, examine decommitments made during the preceding financial year (year n – 1) and assess, in the light of the requirements, the need to make the appropriations available again.

On the basis of this assessment, the Commission may submit appropriate proposals to the European Parliament and the Council, by 15 February of each financial year, stating for each budget item the reasons for making those appropriations available again.

3. The European Parliament and the Council shall decide on the Commission's proposals within six weeks. Where no decision is taken within this time limit, the proposals shall be deemed to be approved.

The amount of commitment appropriations to be made available again in year n shall in no case exceed 25 % of the total amount decommitted on the same budget line in year n – 1.

4. Commitment appropriations made available again shall not be carried over.

Legal commitments relating to the commitment appropriations which have been made available again shall be concluded by 31 December of year n.

At the end of year n, the unused balance of the commitment appropriations made available again shall be definitively decommitted by the authorising officer responsible.

Article 183

Joint Research Centre

1. The Joint Research Centre (JRC) may receive funding charged to appropriations entered outside the titles and the chapters referred to in Article 181(1) in respect of its participation in procurement and grant procedures following Titles V and VI of Part One, and financed in whole or in part from the budget.

For the purposes of the participation in the procurement and grant procedures, the JRC shall be considered as a legal person established in a Member State.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the JRC.

2. Appropriations relating to the following shall be treated as assigned revenue within the meaning of Article 21(2):

(a) grant and procurement procedures in which the JRC participates;

(b) activities of the JRC on behalf of third parties; or

(c) activities undertaken under an administrative agreement with other institutions or other Commission departments for the provision of technical-scientific services.

The commitment appropriations generated by revenue referred to in points (a) and (c) of the first subparagraph shall be made available as soon as the amount receivable has been estimated.

For activities referred to in point (c) of the first subparagraph, appropriations not used within five years shall be cancelled.

3. The use of appropriations shall be shown in a set of analytical accounts in the budgetary outturn account for each category of action to which it relates; it shall be separate from revenue originating from financing by third parties (public or private) and from revenue from other services carried out by the Commission for third parties.

4. When participating in grant or procurement procedures in accordance with paragraph 1 of this Article, the JRC shall not be subject to the conditions laid down in Article 106, points (b) and (c) of Article 107(1), Articles 108 and 109, Articles 131(4) and 131(5) regarding provisions on exclusion and penalties in relation to procurement and grants.

The JRC shall also be presumed to meet the requirements relating to economic and financial capacity.

The JRC shall be exempted from lodging guarantees as referred to in Articles 115 and 134.

5. The rules on procurement in Title V of Part One shall not apply to the activities of the JRC on behalf of third parties.

6. By way of derogation from Article 26, the Commission may, within the title of the budget relating to the "Direct research" policy area, make transfers between chapters of up to 15 % of the appropriation in the line from which the transfer is made.

TITLE IV

EXTERNAL ACTIONS

CHAPTER 1

General provisions

Article 184

External actions

1. Parts One and Three shall apply to external actions financed from the budget, except as otherwise provided in this Title.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the actions which may be financed under external actions.

2. The appropriations for the actions referred to in paragraph 1 shall be used by the Commission:

(a) either within the framework of aid granted on an autonomous basis; or

(b) in partnership with a third country as referred to in point (i) of Article 58(1)(c), through the signature of a financing agreement.

3. Where external actions are co-financed both from appropriations entered in the budget and from external assigned revenue referred to in point (b) of Article 21(2), the funds which are not committed after the end of the contracting period referred to in Article 189(2) for the relevant action shall be reimbursed on a pro rata basis after the deduction of a lump sum corresponding to audit, evaluation and contingencies which can be committed at a later time.

4. The second subparagraph of Article 90(4) shall not apply to the actions referred to in this Title.

For grants under direct management of more than EUR 5 000 000 financing external actions, no more than two pre-financing payments shall remain uncleared throughout the duration of the action.

CHAPTER 2

Implementation of actions

Section 1

General provisions

Article 185

Implementation of external actions

The actions referred to in this Title may be implemented directly by the Commission pursuant to point (a) of Article 58(1), under shared management pursuant to point (b) of Article 58(1) or indirectly by any entity or person entrusted pursuant to point (c) of Article 58(1), in accordance with the relevant provisions of Articles 58 to 63. Appropriations for external actions may be combined with funds from other sources to achieve a joint objective.

Section 2

Budget support and multi-donor trust funds

Article 186

Use of budget support

1. Where provided for in the relevant basic acts, the Commission may provide budget support to a beneficiary third country if that country's management of public finances is sufficiently transparent, reliable and effective.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the use of budget support and on the obligations of recipients.

2. The financing decision referred to in Article 84 shall detail the objectives and the expected results of the provision of budget support to a beneficiary third country. The payment of the Union contribution shall be based on the fulfilment of conditions referred to in paragraph 1, including the improvement of the management of public finances, and on clear and objective performance indicators forming the basis for the measurement of progress over time in the respective sector.

3. The Commission shall include in the corresponding financing agreement concluded in accordance with point (b) of Article 184(2), the appropriate provisions pursuant to which the beneficiary third country is to commit to immediately reimburse all or part of the relevant operation funding, in the event that it is established that the payment of the relevant Union funds has been vitiated by serious irregularities attributable to the that country.

In order to process the reimbursement referred to in the first subparagraph, the second subparaph of Article 80(1) may be applied.

4. The Commission shall support in beneficiary third countries the development of parliamentary control and audit capacities and increase transparency and public access to information.

Article 187

Union trust funds for external actions

1. For emergency, post-emergency or thematic actions, the Commission may create trust funds under an agreement concluded with other donors. The constitutive act of each trust fund shall define the objectives of the trust fund.

2. Union trust funds shall be implemented in accordance with the principles of sound financial management, transparency, proportionality, non-discrimination and equal treatment, and in accordance with the specific objectives defined in each constitutive act.

Union trust funds shall be implemented directly by the Commission pursuant to point (a) of Article 58(1), with the exception of Union trust funds for emergency or post-emergency action, which may also be implemented indirectly by entrusting budget implementation tasks to entities pursuant to points (i), (ii), (v), and (vi) of Article 58(1)(c).

3. Union trust funds shall comply with the following conditions:

(a) there is added value to the Union intervention: trust funds shall only be created and implemented at Union level where their objectives, in particular by reason of their scale or potential effects, can be better achieved at Union level than at national level;

(b) Union trust funds shall bring clear Union political visibility and managerial advantages as well as better Union control of risks and disbursements of the Union and other donors' contributions. They should not be created if they merely duplicate other existing funding channels or similar instruments without providing any additionality.

4. A board chaired by the Commission shall be established for each Union trust fund to ensure the representation of the donors, and of the non-contributing Member States as observers, and to decide upon the use of the funds.

5. Union trust funds shall be created for a limited duration determined in their constitutive act. This duration may be extended by a decision of the Commission upon request of the board of the trust fund concerned.

The European Parliament and/or the Council may request the Commission to discontinue appropriations for that trust fund or to revise the constitutive act with a view to the liquidation of the trust fund, where appropriate. In such an event, any remaining funds shall be returned on a pro rata basis to the budget as general revenue and to the contributing Member States and other donors.

6. The contributions of the Union and of the donors shall be lodged in a specific bank account. The contributions of the Union shall be transferred to this account on the basis of payment requests that are duly substantiated with disbursement forecasts, taking into account the balance available on the account and the resulting need for additional payments. Disbursement forecasts are to be provided on an annual, or where appropriate on a semi-annual, basis.

Contributions shall not be integrated in the budget and shall be managed by the Commission under the responsibility of the authorising officer by delegation.

The accounting officer of a Union trust fund shall be the accounting officer of the Commission. He or she shall be responsible for laying down accounting procedures and chart of accounts common to all Union trust funds.

The Commission's internal auditor and the Court of Auditors shall exercise the same powers over the trust fund as they do in respect of other actions carried out by the Commission.

The specific bank account of the trust fund shall be opened and closed by the accounting officer.

The Commission shall ensure a strict separation of duties between accounting and authorising officers.

Funds shall be committed and paid by financial actors of the Commission, as defined in Chapter 3 of Title IV of Part One.

7. The Commission shall be authorised to withdraw a maximum of 5 % of the amounts pooled into the trust fund to cover its management costs from the years in which the contributions referred to in paragraph 6 have started to be used. For the duration of the trust fund, such management fees shall be assimilated to assigned revenue within the meaning of point (b) of Article 21(2).

The accounting officer shall act on the recovery orders relating to actions funded by the trust fund. Revenue arising from the repayment of these recovery orders shall be returned to the specific bank account of the trust fund. Cancellation and waiving of recovery orders shall be made under the rules referred to in Article 80.

8. The Commission shall submit its draft decisions concerning the creation, the extension and the liquidation of a Union trust fund to the competent committee provided for in the basic act under which the Union contribution to the Union trust fund is provided.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the management, reporting and governance of trust funds for external actions.

10. The Commission shall submit annually a comprehensive and detailed report to the European Parliament and the Council on the activities supported by Union trust funds, on their implementation and performance, as well as on their accounts. The Commission shall attach its report to the summary of the annual reports referred to in the third subparagraph of Article 66(9).

Section 3

Other management modes

Article 188

Implementation of external actions through indirect management

1. The implementation of actions implemented indirectly pursuant to point (c) of Article 58(1) shall be subject to scrutiny by the Commission and by Union Delegations in accordance with Article 56(2). Such scrutiny shall be exercised either by prior approval, by *ex post* checks or by a combined procedure.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the implementation of external actions through indirect management.

Article 189

Financing agreements on the implementation of external actions

1. External actions carried out shall give rise to one or more of the following instruments:

(a) a financing agreement between the Commission and an entity or person referred to in Article 185;

(b) a contract or a grant agreement between the Commission and natural or legal persons responsible for carrying out the actions.

The terms on which the external aid is given shall be laid down in the instrument by which the financing agreements or the contracts or the grant agreements provided for in points (a) and (b) of the first subparagraph shall be managed.

2. Financing agreements with the entities referred to in point (a) of the first subparagraph of paragraph 1shall be concluded by 31 December of year n + 1, year n being the one in which the budgetary commitment was made.

The financing agreements shall lay down the period within which the entities referred to in point (a) of the first subparagraph of paragraph 1 shall conclude all individual contracts and grant agreements which implement the action. Such period shall be no longer than three years following the date of conclusion of the financing agreement, except:

(a) for multi-donor actions;

(b) for individual contracts relating to audit and evaluation;

(c) in the following exceptional circumstances:

(i) riders are added to contracts which have already been concluded;

(ii) individual contracts are to be concluded after early termination of an existing contract;

(iii) changes of the entity charged with the entrusted tasks.

3. Paragraph 2 shall not apply to the multiannual programmes that are implemented through split commitments in the following cases:

(a) the Instrument for Pre-Accession Assistance;

(b) the European Neighbourhood and Partnership Instrument.

In those cases, the appropriations shall be automatically decommited by the Commission in accordance with the sector-specific rules.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on financing agreements concerning the implementation of external actions.

CHAPTER 3

Procurement

Article 190

External action procurement

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on external action procurement.

2. The provisions of Chapter 1 of Title V of Part One relating to the general provisions on procurement shall be applicable to contracts covered by this Title subject to the special provisions relating to thresholds and the arrangements for awarding external contracts to be laid down in the delegated acts adopted pursuant to this Regulation. The contracting authorities for the purposes of this Chapter shall be:

(a) the Commission on behalf of, and for the account of, one or more third countries;

(b) entities and persons referred to in Article 185 and entrusted with the corresponding budget implementation tasks.

3. The procurement procedures shall be laid down in the financing agreements provided for in Article 189.

4. The provisions of this Chapter shall not apply to actions under sector-specific basic acts relating to crisis management aid, to civil protection operations and to humanitarian aid operations.

Article 191

Rules on participation in tendering procedures

1. Participation in tendering procedures shall be open on equal terms to all persons coming within the scope of the Treaties and to any other natural or legal person in accordance with the specific provisions in the basic instruments governing the cooperation sector concerned.

2. In the cases referred to in Article 54(2), it may be decided, under exceptional circumstances duly justified by the authorising officer responsible, to allow third-country nationals other than those referred to in paragraph 1 to tender for contracts.

3. Where an agreement on widening the market for procurement of goods or services to which the Union is party applies, the contracts for procurement financed by the budget shall also be open to third-country nationals other than those referred to in paragraphs 1 and 2, under the conditions laid down in that agreement.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the participation in tendering procedures.

CHAPTER 4

Grants

Article 192

Full financing of an external action

An action may be financed in full by the budget only where this is essential for it to be carried out.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the full financing of an external action.

Article 193

Applicable rules for external action grants

Grant procedures to be applied in indirect management by the entities referred to in Article 185 shall be laid down in the agreements concluded between the Commission and those entities.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on grant procedures applicable under indirect management.

CHAPTER 5

Auditing of accounts

Article 194

Union audit in external action

Each agreement between the Commission and an entity referred to in Article 185, or grant agreement or grant decision shall expressly provide for the Commission and the Court of Auditors to have the power of audit, on the basis of documents and on the spot, over all contractors and subcontractors who have received Union funds.

TITLE V

EUROPEAN OFFICES

Article 195

The European Offices

1. "European offices", for the purposes of this Title, are the administrative structures set up by one or more institutions to perform specific cross-cutting tasks.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the scope of the European offices and the delegations by the institutions to the European offices.

2. This Title shall apply to the operation of OLAF, with the exception of Articles 198, 199 and 200.

3. Parts One and Three shall apply to the operation of the European offices, except as otherwise provided in this Title.

Article 196

Appropriations regarding the European offices

1. The appropriations for each European office, the total amount of which shall be entered in a specific budget line within the section of the budget relating to the Commission, shall be set out in detail in an Annex to that section.

The Annex shall take the form of a statement of revenue and expenditure, subdivided in the same way as the sections of the budget.

The appropriations entered in that Annex shall cover all the financial requirements of each European office in the performance of its duties on behalf of the institutions.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the appropriations for the European offices, including the delegation of certain tasks by the accounting officer, treasury and bank accounts.

2. Each European office's establishment plan shall be annexed to that of the Commission.

3. The Director of each European office shall take decisions on transfers within the Annex provided for in paragraph 1. The Commission shall inform the European Parliament and the Council of such transfers.

4. Each European office's accounts shall form an integral part of the Union's accounts referred to in Article 141.

Article 197

Authorising Officer of European offices

The Commission shall, in respect of the appropriations entered in the Annex for each European office, delegate the powers of authorising officer to the Director of the European office concerned, in accordance with Article 65.

Article 198

The accounts of the interinstitutional European offices

1. Each interinstitutional European office shall draw up analytical accounts of its expenditure, enabling the proportion of its services supplied to each of the institutions to be determined. The Director of the European office concerned shall adopt, after approval by its Management Committee, the criteria on which the accounting system shall be based.

2. The remarks concerning the specific budget line in which the total appropriation for each interinstitutional European office is entered shall show an estimate of the cost of services supplied by that office to each of the institutions. This shall be based on the analytical accounts provided for in paragraph 1.

3. Each interinstitutional European office shall notify the institutions concerned of the results of the analytical accounts.

Article 199

Delegation of authorising officer powers for interinstitutional European offices

1. Each institution may delegate authorising officer powers to the director of an interinstitutional European office for the management of appropriations entered in its section and shall set the limits and conditions for this delegation of powers.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the delegation of authorising officer powers to the director of an interinstitutional European office.

2. The internal auditor of the Commission shall exercise all responsibilities laid down in Chapter 9 of Title IV of Part One.

Article 200

Services to third parties

Should the remit of a European office involve supplies to third parties for pecuniary interest, its Director shall, after approval of the Management Committee, lay down the specific provisions governing how these supplies are to be made and the keeping of the corresponding accounts.

TITLE VI

ADMINISTRATIVE APPROPRIATIONS

Article 201

General provisions

1. Parts One and Three shall apply to administrative appropriations, except as otherwise provided in this Title.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the scope of administrative appropriations and rent guarantees.

Article 202

Commitments

1. As from 15 October of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments shall not, however, exceed one quarter of the appropriations decided by the European Parliament and the Council on the corresponding budget line for the current financial year. They shall not apply to new expenditure of a kind not yet approved in principle in the last budget duly adopted.

2. Expenditure which shall be paid in advance pursuant to legal or contractual provisions, for example rents, may give rise to payments from 1 December onwards to be charged to the appropriations for the following financial year. In this case, the limit referred to in paragraph 1 shall not apply.

Article 203

Specific provisions regarding administrative appropriations

1. Administrative appropriations shall be non-differentiated appropriations.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on specific administrative appropriations, including buildings and advances to staff members of the institutions.

2. Administrative expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the budget of the financial year in which it is effected.

3. Each institution shall provide the European Parliament and the Council, by 1 June each year, with a working document on its building policy, which shall incorporate the following information:

(a) for each building, the expenditure and surface area covered by the appropriations of the corresponding budget lines;

(b) the expected evolution of the global programming of surface area and locations for the coming years with a description of the building projects in planning phase which are already identified;

(c) the final terms and costs, as well as relevant information regarding project implementation of new building projects previously submitted to the European Parliament and the Council under the procedure established in paragraphs (4) and (5) and not included in the preceding year's working documents.

4. For any building project likely to have significant financial implications for the budget, the institution shall inform the European Parliament and the Council as early as possible about the building surface area required and provisional planning before any prospecting of the local market takes place, in the case of building contracts, or before invitations to tender are issued, in the case of building works.

5. For any building project likely to have significant financial implications for the budget, the institution shall present the building project, including its detailed estimated costs and its financing, as well as a list of draft contracts intended to be used, and shall request the approval of the European Parliament and the Council before contracts are concluded. At the request of the institution, documents submitted relating to the building project shall be treated confidentially.

Except in cases of *force majeure*, the European Parliament and the Council shall deliberate upon the building project within four weeks of its receipt by both institutions.

The building project shall be deemed approved at the expiry of this four-week period, unless the European Parliament or the Council take a decision contrary to the proposal within that period of time.

If the European Parliament and/or the Council raise duly justified concerns within that four-week period, that period shall be extended once by two weeks.

If the European Parliament or the Council take a decision contrary to the building project, the institution concerned shall withdraw its proposal and may submit a new one.

6. In cases of *force majeure*, the information provided for in paragraph 4 may be submitted jointly with the building project. The European Parliament and the Council shall deliberate upon the building project within 2 weeks of its receipt by both institutions. The building project shall be deemed to be approved at the expiry of this two-week period, unless the European Parliament and/or the Council take a decision contrary to the proposal within this period of time.

7. The following shall be considered as building projects likely to have significant financial implications for the budget:

(i) any acquisition of land;

(ii) the acquisition, sale, structural renovation, construction of buildings or any project combining these elements to be implemented in the same timeframe, exceeding EUR 3 000 000;

(iii) any new building contract (including usufructs, long-term leases and renewals of existing building contracts under less favourable conditions) not covered by point (ii) with an annual charge of at least EUR 750 000;

(iv) the extension or renewal of existing building contracts (including usufruct and long-term leases) under the same or more favourable conditions, with an annual charge of at least EUR 3 000 000.

This paragraph shall also apply to building projects which have an interinstitutional nature, as well as to Union delegations.

8. Without prejudice to Article 17, a building acquisition project may be financed through a loan, subject to prior approval by the European Parliament and the Council.

Loans shall be contracted and repaid in accordance with the principle of sound financial management and with due regard to the best financial interest of the Union.

When the institution proposes to finance the acquisition through a loan, the financing plan to be submitted, together with the request for prior approval by the institution concerned, shall specify in particular, the maximum level of financing, the financing period, the type of financing, the financing conditions and savings compared to other types of contractual arrangements.

The European Parliament and the Council shall deliberate upon the request for prior approval within four weeks, extendable once by two weeks, of its receipt by both institutions. The acquisition through a loan shall be deemed to be rejected if the European Parliament and the Council do not expressly approve it within the deadline.

TITLE VII

EXPERTS

Article 204

Remunerated external experts

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on remunerated external experts, including a specific procedure for the selection of natural persons as remunerated external experts, for assisting the institutions in the evaluation of grant applications, projects and tenders, and for providing opinions and advice in specific cases.

Such experts shall be remunerated on the basis of a fixed amount announced in advance and shall be chosen on the basis of their professional capacity. The selection shall be done on the basis of selection criteria respecting the principles of non-discrimination, equal treatment and absence of conflict of interests.

PART THREE

FINAL AND TRANSITIONAL PROVISIONS

Article 205

Transitional provisions

1. With regard to the Funds referred to in Article 175(1) for which the basic acts are repealed before 1 January 2013, appropriations which were decommitted in application of Article 178 may be made available again in the case of a manifest error attributable solely to the Commission or in the case of *force majeure* which has serious repercussions for the implementation of operations supported by those Funds.

2. For transfers of appropriations concerning operational expenditure referred to in Regulations (EC) No 1260/1999, (EC) No 1290/2005, (EC) No 1080/2006, (EC) No 1081/2006, (EC) No 1083/2006, Regulation (EC) No 1084/2006, and (EC) No 1198/2006, for which Union payments still have to be made for the financial settlement of outstanding Union commitments until the closure of the assistance, the Commission may make transfers from one title to another, provided that the appropriations concerned are for the same objective or relate to Union initiatives or to technical assistance and innovative measures and are transferred to measures of the same nature.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on transitional provisions.

Article 206

Information requests by the European Parliament and the Council

The European Parliament and the Council shall be entitled to obtain any information or explanations regarding budgetary matters within their fields of competence.

Article 207

Thresholds and amounts

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning all the thresholds and amounts laid down in this Regulation, without prejudice to Article 118.

Article 208

Framework financial regulation for bodies set up under the TFEU and the Euratom Treaty

1. The Commission shall be empowered to adopt a framework financial Regulation by means of a delegated act in accordance with Article 210 for bodies which are set up under the TFEU and the Euratom Treaty and which have legal personality and receive contributions charged to the budget.

The framework financial regulation shall be based on the principles and rules set out in this Regulation.

The financial rules of those bodies shall not depart from the framework financial regulation except where their specific needs so require and with the Commission's prior consent.

2. Discharge for the implementation of the budgets of the bodies referred to in paragraph 1, shall be given by the European Parliament on the recommendation of the Council. The bodies referred to in paragraph 1 shall fully cooperate with the institutions involved in the discharge procedure and provide, as appropriate, any additional necessary information, including through attendance at meetings of the relevant bodies.

3. The Commission's internal auditor shall exercise the same powers over the bodies referred to in paragraph 1 as those exercised in respect of the Commission.

4. An independent external auditor shall verify that the annual accounts of each of the bodies referred to in paragraph 1 properly present the income, expenditure and financial position of the relevant body prior to the consolidation in the Commission's final accounts. Unless otherwise provided in the basic act referred to in paragraph 1, the Court of Auditors shall prepare a Specific Annual Report on each body in line with the requirements of Article 287(1) TFEU. In preparing this report, the Court shall consider the audit work performed by the independent external auditor and the action taken in response to the auditor's findings.

Article 209

Model Financial Regulation for public-private partnership bodies

The bodies having legal personality set up by a basic act and entrusted with the implementation of a public-private partnership shall adopt their financial rules.

Those rules shall include a set of principles necessary to ensure sound financial management of Union funds.

The Commission shall be empowered to adopt a model financial regulation by means of a delegated act in accordance with Article 210 which shall lay down the principles necessary to ensure sound financial management of Union funds and which shall be based on Article 60.

The financial rules of those bodies shall not depart from the model financial regulation except where their specific needs so require and with the Commission's prior consent.

Article 210

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Articles 8, 11, 13, 19, 21, 22, 23, 25, 26, 29, 30, 31, 34, 35, 38, 41, 44, 49, 53, 54, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 92, 93, 98, 99, 100, 101, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 142, 144, 181, 183, 184, 186, 187, 188, 189, 190, 191, 192, 193, 195, 196, 199, 201, 203, 204, 205, 207, 208 and 209 shall be conferred on the Commission up to the end of the first post-2013 multiannual financial framework referred to in Article 312 TFEU. The Commission shall draw up a report in respect of the delegation of power not later than two years before the end of the first post-2013 multiannual financial framework. The delegation of power shall be tacitly extended for periods corresponding to subsequent multiannual financial frameworks, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period of validity of the corresponding multiannual financial framework.

3. The delegation of power referred to in Articles 8, 11, 13, 19, 21, 22, 23, 25, 26, 29, 30, 31, 34, 35, 38, 41, 44, 49, 53, 54, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 92, 93, 98, 99, 100, 101, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 142, 144, 181, 183, 184, 186, 187, 188, 189, 190, 191, 192, 193, 195, 196, 199, 201, 203, 204, 205, 207, 208 and 209 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 8, 11, 13, 19, 21, 22, 23, 25, 26, 29, 30, 31, 34, 35, 38, 41, 44, 49, 53, 54, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 92, 93, 98, 99, 100, 101, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 121, 122, 123, 124, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 139, 140, 142, 144, 181, 183, 184, 186, 187, 188, 189, 190, 191, 192, 193, 195, 196, 199, 201, 203, 204, 205, 207, 208 and 209 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 211

Review

This Regulation shall be reviewed whenever it proves necessary to do so and in any case at the latest two years before the end of the first post-2013 multiannual financial framework.

Such review shall cover, inter alia, the implementation of the provisions in Title VIII of Part One.

Article 212

Repeal

Regulation (EC,Euratom) No 1605/2002 is repealed with effect from 1 January 2013, with the exception of:

(a) Articles 53 to 57, which shall continue to apply to all commitments made up to 31 December 2013;

(b) point (a) of Article 166(3), which shall continue to apply to all commitments made up to 31 December 2012; and

(c) point (b) of Article 166(3), which shall continue to apply to the commitments made between 1 January 2013 and 31 December 2013.

Title VI of Part One of Regulation (EC, Euratom) No 1605/2002 may continue to apply for grant agreements signed and grant decisions notified up to 31 December 2013 in the framework of global commitments under the budget for 2012 or earlier years, should the authorising officer responsible so decide, with due regard for the principles of equal treatment and transparency.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.

Article 213

Review concerning the EEAS

The third subparagraph of Article 68(1) and the second subparagraph of Article 98(2) will be reviewed in 2013 taking due account of the specificity of the EEAS and, in particular, that of the Union Delegations, and, where appropriate, an adequate financial management capacity of the EEAS.

Article 214

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2013, with the exception of:

(a) Articles 58 to 63, which shall apply only to commitments made as of 1 January 2014,

(b) Point (c) of the second subparagraph of Article 50(1) and Articles 82, 139 and 140, which shall apply from 1 January 2014,

(c) Articles 177, 179 and 210, which shall apply from 27 October 2012.

This Regulation shall be binding in its entirety and directly applicable in the Member States.

Done at Strasbourg, 25 October 2012.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
A. D. MAVROYIANNIS

ANNEX

CORRELATION TABLE

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
PART ONE	PART ONE	COMMON PROVISIONS
TITLE I	TITLE I	SUBJECT MATTER, SCOPE AND DEFINITIONS
Article 1	Article 1	Subject matter
—	Article 2	Definitions
Article 2	Article 3	Compliance of secondary legislation with this Regulation
—	Article 5	Protection of personal data
TITLE II	TITLE II	BUDGETARY PRINCIPLES
Article 3	Article 6	Respect for budgetary principles
CHAPTER 1	CHAPTER 1	Principles of unity and of budgetary accuracy
Article 4	Article 7	Scope of the budget
Article 5	Article 8	Specific rules on the principles of unity and budgetary accuracy
Article 5a	Article 4	Periods, dates and time limits
CHAPTER 2	CHAPTER 2	Principle of annuality
Article 6	Article 9	Definition
Article 7	Article 10	Type of appropriations
Article 8	Article 11	Accounting for revenue and appropriations
Article 9	Article 13	Cancellation and carry-over of appropriations
Article 10	Article 14	Carry-over rules for assigned revenue
Article 11	Article 15	Decommitment of appropriations
Article 12	Article 12	Commitment of appropriations
Article 13	Article 16	Rules applicable in the event of late adoption of the budget
CHAPTER 3	CHAPTER 3	Principle of equilibrium
Article 14	Article 17	Definition and scope
Article 15	Article 18	Balance from financial year
CHAPTER 4	CHAPTER 4	Principle of unit of account
Article 16	Article 19	Use of euro
CHAPTER 5	CHAPTER 5	Principle of universality
Article 17	Article 20	Definition and scope
Article 18	Article 21	Assigned revenue
Article 19	Article 22	Donations
Article 20	Article 23	Rules on deductions and exchange rate adjustments
CHAPTER 6	CHAPTER 6	Principle of specification
Article 21	Article 24	General provisions

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
Article 22	Article 25	Transfers by institutions other than the Commission
Article 23	Article 26	Transfers by the Commission
Article 24	Article 27	Transfer proposals submitted to the European Parliament and the Council by the institutions
Article 25	Article 28	Specific rules on transfers
Article 26	Article 29	Transfers subject to special provisions
CHAPTER 7	CHAPTER 7	Principle of sound financial management
Article 27	Article 30	Principles of economy, efficiency and effectiveness
Article 28	Article 31	Compulsory financial statement
—	Article 32	Internal control of budget implementation
—	Article 33	Cost-effective control systems
CHAPTER 8	CHAPTER 8	Principle of transparency
Article 29	Article 34	Publication of accounts, budgets and reports
Article 30	Article 35	Publication of information on recipients and other information
TITLE III	TITLE III	ESTABLISHMENT AND STRUCTURE OF THE BUDGET
CHAPTER 1	CHAPTER I	Establishment of the budget
Article 31	Article 36	Estimates of revenue and expenditure
Article 32	Article 37	Estimated budget of the bodies referred to in Article 208
Article 33	Article 38	Draft budget
Article 34	Article 39	Letter of amendment to the draft budget
Article 35	—	—
Article 36	Article 40	Obligations of the Member States stemming from the adoption of the budget
Article 37	Article 41	Draft amending budgets
Article 38	—	—
Article 39	Article 42	Early transmission of estimates and draft budgets
CHAPTER 2	CHAPTER 2	Structure and presentation of the budget
Article 40	Article 43	Structure of the budget
Article 41	Article 44	Budget nomenclature
Article 42	Article 45	Prohibition of negative revenue
Article 43	Article 46	Provisions
Article 44	Article 47	Negative reserve
Article 45	Article 48	Emergency Aid Reserve
Article 46	Article 49	Presentation of the budget
Article 47	Article 50	Rules on the establishment plans for staff
—	CHAPTER 3	Budgetary discipline
—	Article 51	Compliance with the multiannual financial framework

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
—	Article 52	Compliance of Union acts with the budget
TITLE IV	TITLE IV	IMPLEMENTATION OF THE BUDGET
CHAPTER 1	CHAPTER 1	General provisions
Article 48	Article 53	Budget implementation in accordance with the principle of sound financial management
Article 49	Article 54	Basic act and exceptions
Article 50	Article 55	Implementation of the budget by institutions other than the Commission
Article 51	Article 56	Delegation of budget implementation powers
Article 52	Article 57	Conflict of interests
CHAPTER 2	CHAPTER 2	Methods of implementation
Article 53	Article 58	Methods of implementation of the budget
Article 53a	—	—
Article 53b	Article 59	Shared management with Member States
Article 53c	Article 60	Indirect management
Article 53d	—	—
Article 54	Article 61	*Ex ante* assessments and delegation agreements
Article 55	Article 62	Executive agencies
Article 56	—	—
Article 57	Article 63	Limits to delegation of powers
CHAPTER 3	CHAPTER 3	Financial actors
Section 1	Section 1	Principle of segregation of duties
Article 58	Article 64	Segregation of duties
Section 2	Section 2	Authorising officer
Article 59	Article 65	The authorising officer
Article 60	Article 66	Powers and duties of the authorising officer
Article 60a	Article 67	Powers and duties of Heads of Union Delegations
Section 3	Section 3	Accounting officer
Article 61	Article 68	Powers and duties of the accounting officer
Article 62	Article 69	Powers which may be delegated by the accounting officer
Section 4	Section 4	Imprest administrator
Article 63	Article 70	Imprest accounts
CHAPTER 4	CHAPTER 4	Liability of financial actors
Section 1	Section 1	General rules
Article 64	Article 71	Withdrawal of delegation and suspension of duties given to financial actors
Article 65	Article 72	Liability of the authorising officer for illegal activity, fraud or corruption

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
Section 2	Section 2	Rules applicable to authorising officers responsible
Article 66	Article 73	Rules applicable to authorising officers
Section 3	Section 3	Rules applicable to accounting officers and imprest administrators
Article 67	Article 74	Rules applicable to accounting officers
Article 68	Article 75	Rules applicable to imprest administrators
CHAPTER 5	CHAPTER 5	Revenue operations
Section 1	Section 1	Making own resources available
Article 69	Article 76	Own resources
Section 2	Section 2	Estimate of amounts receivable
Article 70	Article 77	Estimate of amounts receivable
Section 3	Section 3	Establishment of amounts receivable
Article 71	Article 78	Establishment of amounts receivable
Section 4	Section 4	Authorisation of recovery
Article 72	Article 79	Authorisation of recovery
Section 5	Section 5	Recovery
Article 73	Article 80	Rules on recovery
Article 73a	Article 81	Limitation period
—	Article 82	National treatment for Union entitlements
Article 74	Article 83	Fines, penalties and accrued interest imposed by the Commission
CHAPTER 6	CHAPTER 6	Expenditure operations
Article 75	Article 84	Financing decisions
Section 1	Section 1	Commitment of expenditure
Article 76	Article 85	Types of commitments
Article 77	Article 86	Rules applicable to commitments
Article 78	Article 87	Checks applicable to commitments
Section 2	Section 2	Validation of expenditure
Article 79	Article 88	Validation of expenditure
Section 3	Section 3	Authorisation of expenditure
Article 80	Article 89	Authorisation of expenditure
Section 4	Section 4	Payment of expenditure
Article 81	Article 90	Types of payments
Article 82	Article 91	Payment limited to funds available
Section 5	Section 5	Time limits for expenditure operations
Article 83	Article 92	Time limits
CHAPTER 7	CHAPTER 7	IT systems and e-Government
Article 84	Article 93	Electronic management of operations

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
—	Article 94	Transmission of documents
—	Article 95	e-Government
—	CHAPTER 8	Administrative principles
—	Article 96	Good administration
—	Article 97	Indication of means of redress
CHAPTER 8	CHAPTER 9	Internal auditor
Article 85	Article 98	Appointment of the internal auditor
Article 86	Article 99	Powers and duties of the internal auditor
Article 87	Article 100	Independence of the internal auditor
TITLE V	TITLE V	PUBLIC PROCUREMENT
CHAPTER 1	CHAPTER 1	General provisions
Section 1	Section 1	Scope and award principles
Article 88	Article 101	Definition of public contracts
Article 89	Article 102	Principles applicable to public contracts
Section 2	Section 2	Publication
Article 90	Article 103	Publication of public contracts
Section 3	Section 3	Procurement procedures
Article 91	Article 104	Procurement procedures
Article 92	Article 105	Content of tender documents
Article 93	Article 106	Exclusion criteria applicable for participation in procurement procedures
Article 94	Article 107	Exclusion criteria applicable to awards
Article 95	Article 108	Central exclusion database
Article 96	Article 109	Administrative and financial penalties
Article 97	Article 110	Award criteria for contracts
Article 98	Article 111	Submission of tenders
Article 99	Article 112	Principles of equal treatment and transparency
Article 100	Article 113	The award decision
Article 101	Article 114	Cancellation of the procurement procedure
Section 4	Section 4	Guarantees and corrective action
Article 102	Article 115	Guarantees
Article 103	Article 116	Errors, irregularities and fraud in the procedure
CHAPTER 2	CHAPTER 2	Provisions applicable to contracts awarded by the institutions on their own account
Article 104	Article 117	The contracting authority
Article 105	Article 118	Thresholds applicable
Article 106	Article 119	Rules on participation in tendering procedures

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
Article 107	Article 120	Procurement rules of the World Trade Organisation
TITLE VI	TITLE VI	GRANTS
CHAPTER 1	CHAPTER 1	Scope and form of grants
Article 108	Article 121	Scope of grants
—	Article 122	Beneficiaries
Article 108a	Article 123	Forms of grants
—	Article 124	Lump sums, unit costs and flat-rate financing
CHAPTER 2	CHAPTER 2	Principles
Article 109	Article 125	General principles applicable to grants
—	Article 126	Eligible costs
—	Article 127	Co-financing in kind
Article 110	Article 128	Transparency
Article 111	Article 129	Principle of non-cumulative award
Article 112	Article 130	Principle of non-retroactivity
Article 113	—	—
CHAPTER 3	CHAPTER 3	Award procedure
Article 114	Article 131	Applications for grants
Article 115	Article 132	Selection and award criteria
Article 116	Article 133	Evaluation procedure
Article 117	—	—
CHAPTER 4	CHAPTER 4	Payment and control
Article 118	Article 134	Pre-financing guarantee
Article 119	Article 135	Payment of grants and controls
—	Article 136	Periods for record-keeping
CHAPTER 5	CHAPTER 5	Implementation
Article 120	Article 137	Implementation contracts and financial support to third parties
—	TITLE VII	PRIZES
—	—	—
—	Article 138	General rules
—	TITLE VIII	FINANCIAL INSTRUMENTS
—	Article 139	Scope
—	Article 140	Principles and conditions applicable to financial instruments
TITLE VII	TITLE IX	PRESENTATION OF THE ACCOUNTS AND ACCOUNTING
CHAPTER 1	CHAPTER 1	Presentation of the accounts
Article 121	Article 141	Structure of the accounts
Article 122	Article 142	Report on budgetary and financial management

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
Article 123	Article 143	Rules governing the accounts
Article 124	Article 144	Accounting principles
Article 125	—	—
Article 126	Article 145	Financial statements
Article 127	Article 146	Budgetary implementation reports
Article 128	Article 147	Provisional accounts
Article 129	Article 148	Approval of the final consolidated accounts
CHAPTER 2	CHAPTER 2	Information on the implementation of the budget
Article 130	Article 149	Report on budgetary guarantees and risks
Article 131	Article 150	Information on budget implementation
CHAPTER 3	CHAPTER 3	Accounting
Section 1	Section 1	Common provisions
Article 132	Article 151	The accounting system
Article 133	Article 152	Common requirements for the institutions' accounting system
Section 2	Section 2	General accounts
Article 134	Article 153	The general accounts
Article 135	Article 154	Entries in the general accounts
Article 136	Article 155	Accounting adjustments
Section 3	Section 3	Budgetary accounts
Article 137	Article 156	Budgetary accounting
CHAPTER 4	CHAPTER 4	Property inventories
Article 138	Article 157	The inventory
TITLE VIII	TITLE X	EXTERNAL AUDIT AND DISCHARGE
CHAPTER 1	CHAPTER 1	External audit
Article 139	Article 158	External audit by the Court of Auditors
Article 140	Article 159	Rules and procedure on the audit
Article 141	Article 160	Checks on securities and cash
Article 142	Article 161	Court of Auditors' right of access
Article 143	Article 162	Annual report of the Court of Auditors
Article 144	Article 163	Special reports of the Court of Auditors
CHAPTER 2	CHAPTER 2	Discharge
Article 145	Article 164	Timetable of the discharge procedure
Article 146	Article 165	The discharge procedure
Article 147	Article 166	Follow-up measures
Article 147a	Article 167	Specific provisions regarding the EEAS

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
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Article 148	Article 168	Special provisions on the European Agricultural Guarantee Fund
Article 149	Article 169	Commitments of EAGF appropriations
Article 150	Article 170	Global provisional commitments of EAGF appropriations
Article 151	Article 171	Schedule and timing of EAGF budgetary commitments
Article 152	Article 172	Accounting of EAGF expenditure
Article 153	Article 173	Transfer of EAGF appropriations
Article 154	Article 174	Assigned EAGF revenue
TITLE II	TITLE II	STRUCTURAL FUNDS, COHESION FUND, EUROPEAN FISHERIES FUND, EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT, AND FUNDS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE MANAGED IN SHARED MANAGEMENT
Article 155	Article 175	Special provisions
—	Article 176	Respect of the allocations of commitment appropriations
Article 156	Article 177	Payments of contributions, interim payments and repayments
Article 157	Article 178	Decommitment of appropriations
Article 158	Article 179	Transfer of appropriations
Article 159	Article 180	Management, selection and audit
TITLE III	TITLE III	RESEARCH
Article 160	Article 181	Research funds
Article 160a	Article 182	Commitments of Research Fund
Article 161	Article 183	Joint Research Centre
TITLE IV	TITLE IV	EXTERNAL ACTIONS
CHAPTER I	CHAPTER 1	General provisions
Article 162	Article 184	External actions
CHAPTER 2	CHAPTER 2	Implementation of actions
—	Section 1	General provisions
Article 163	Article 185	Implementation of external actions
—	Section 2	Budget support and multi-donor trust funds
—	Article 186	Use of budget support
Article 164 (repealed)	Article 187	Union trust funds for external actions
—	Section 3	Other management modes
Article 165	Article 188	Implementation of external actions through indirect management
Article 166	Article 189	Financing agreements on the implementation of external actions
CHAPTER 3	CHAPTER 3	Procurement
Article 167	Article 190	External action procurement

Council Regulation (EC, Euratom) No 1605/2002	New Regulation	Titles
Article 168	Article 191	Rules on participation in tendering procedures
CHAPTER 4	CHAPTER 4	Grants
Article 169	Article 192	Full financing of an external action
Article 169a	Article 193	Applicable rules for external action grants
CHAPTER 5	CHAPTER 5	Auditing of accounts
Article 170	Article 194	Union audit in external action
TITLE V	TITLE V	EUROPEAN OFFICES
Article 171	Article 195	The European offices
Article 172	Article 196	Appropriations regarding the European offices
Article 173	Article 197	Authorising officer of European offices
Article 174	Article 198	The accounts of the interinstitutional European offices
Article 174a	Article 199	Delegation of authorising officer powers for interinstitutional European offices
Article 175	Article 200	Services to third parties
Article 176 (repealed)	—	—
TITLE VI	TITLE VI	ADMINISTRATIVE APPROPRIATIONS
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Article 178	Article 202	Commitments
Article 179	Article 203	Specific provisions regarding administrative appropriations
TITLE VII	TITLE VII	EXPERTS
Article 179a	Article 204	Remunerated external experts
PART THREE	PART THREE	FINAL AND TRANSITIONAL PROVISIONS
TITLE I	—	—
Article 180 (repealed)	—	—
Article 181	Article 205	Transitional provisions
TITLE II	—	—
Article 182	Article 206	Information requests by the European Parliament and the Council
—	Article 207	Thresholds and amounts
Article 183	Article 210	Exercise of the delegation
Article 185	Article 208	Framework financial regulation for bodies set up under the TFEU and the Euratom Treaty
—	Article 209	Model Financial Regulation for public-private partnership bodies
Article 184	Article 211	Review
Article 186	Article 212	Repeal
Article 186a	Article 213	Review concerning the EEAS
Article 187	Article 214	Entry into force

JOINT STATEMENT ON MFF-RELATED ISSUES

"The European Parliament, the Council and the Commission agree that the Financial Regulation would be revised in order to include amendments made necessary by the outcome of the negotiations on the multiannual financial framework for the years 2014-2020, including on the following issues:

— the carry-over rules for the Emergency Aid Reserve and for projects financed under the Connecting Europe Facility;

— the carry-over of unused appropriations and of the budgetary balance, as well as the related proposal to enter these in a reserve for payments and commitments;

— the possible inclusion of the European Development Fund in the Union budget;

— the treatment of funds resulting from the agreements on the fight against the illegal traffic in tobacco products."

JOINT STATEMENT ON EXPENDITURE RELATED TO BUILDINGS WITH REFERENCE TO ARTICLE 203

"The European Parliament, the Council and the Commission agree that:

1. the early warning procedure foreseen in Article 203(4) and the prior approval procedure foreseen in Article 203(5) do not apply to the acquisition of land free of charge or for a symbolic amount;

2. any reference to "buildings" in Article 203 shall only apply to non residential buildings. The European Parliament and the Council may request any information related to residential buildings;

3. in exceptional or urgent political circumstances the information concerning building projects relating to EU delegations or offices in third countries foreseen in Article 203(4) may be submitted jointly with the building project under Article 203(5); In such cases the European Parliament, the Council and the Commission commit themselves to deal with the building project at the earliest possible opportunity;

4. the prior approval procedure foreseen in Article 203(5) and (6) does not apply to preparatory contracts or studies necessary to evaluate the detailed cost and financing of the building project;

5. the thresholds of EUR 750 000 or EUR 3 000 000 referred to in points (ii) to (iv) of Article 203(7) include the fitting out of the building; for rent contracts, these thresholds apply to the rent without charges but include costs related to the fitting out of the building;

6. the expenditure mentioned under Article 203(3)(a) does not include charges;

7. one year after the date of entry into application of the Financial Regulation, the Commission shall report on the application of the procedures foreseen in Article 203.".

JOINT STATEMENT BY THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION ON ARTICLE 203(3)

"The European Parliament, the Council and the Commission agree that equivalent provisions will be included in the Framework Financial Regulation for bodies set up under the TFEU and the Euratom Treaty."