

Financial rules applicable to the general budget of the Union. Financial Regulation

2010/0395(COD) - 22/12/2010 - Legislative proposal

PURPOSE: revision of the financial rules applicable to the annual budget of the Union.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the present proposal takes into account recent legislative and political developments regarding the Financial Regulation (FR).

For the sake of legal clarity and in order to facilitate the negotiations of the European Parliament and the Council, it **merges and replaces two earlier Commission proposals on the revision of the FR** in a single text and under a standard legislative format (no recast). These two earlier proposals concerned on the one hand, the triennial [revision of the Financial Regulation](#) and, on the other hand, the revision of the FR to [align it with the Lisbon Treaty](#), including the obligations of Member States concerning internal control and audit and their resulting responsibilities in shared management. Therefore, these two earlier proposals are withdrawn.

Additionally, the proposal also incorporates the changes to the FR due to the adoption of the Regulation No 1081/2010 regarding the creation of the [European External Action Service](#) ('EEAS').

LEGAL BASE AND PROCEDURE: since the entry into force of the Lisbon Treaty, the FR is to be revised in accordance with the ordinary legislative procedure in Article 322 TFEU. In order to allow the legislative authority to have a global view of the proposed modifications, the Implementing Rules of the

Financial Regulation (IR) are presented, in a Commission Staff working document, together with the FR in a single package. The IR, which contains more detailed provisions complementing the FR, will be adopted under the delegated powers of the Commission according to Article 290 TFEU.

The present proposal does not contain any change of substance compared to the two earlier proposals, which are: (i) proposal for a Regulation of the European Parliament and of the Council on the Financial Regulation applicable to the general budget of the European Union; (ii) proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities. As a consequence, the working document of the Commission services concerning the Implementing Rules to the FR, which has been put forward by the Commission together with the triennial revision, remains entirely valid.

CONTENT: in 2011 more than **EUR 126 billion** is planned for allocation to EU policies benefiting the Union and its citizens. In the current economic context it is even more important that the delivery mechanisms of the budget operate in the most efficient way and facilitate the implementation of EU policies, while securing sound treatment of European taxpayers' money. In particular, it is important that these mechanisms are: (i) **simple and transparent** (especially to final recipients of EU funds); (ii) provide the possibility for leverage of **non-EU budget resources** and at the same time (iii) strengthen the **Commission's accountability** for implementation of the budget.

(1) Need for a reform: reform is necessary with a view to adapting the financial rules to the new requirements of budget implementation (co-financing with other donors, specific financial instruments,

PPPs) or where the basic principles create disproportionate workload (interests on pre-financing) or may unduly impede efficiency (prohibition of budget implementation through private sector bodies). The award of small grants and contracts also needs to be facilitated.

Furthermore, the new procedure applicable to the IR, as set out in the Lisbon Treaty, should lead to a new articulation between the FR and the IR, imposing a complete review of the whole set of financial rules.

In this context, the Commission has based its proposal on the following objectives:

- to introduce more flexibility in the application of budgetary principles, which should better suit operational needs and alleviate unnecessary administrative burden for recipients of Union funds;
- to streamline relations with implementing partners to which the Commission entrusts the management of programmes or part of programming actions (projects), in particular taking account of the nature of the implementing partner (Member States, agencies, EIB, public and private operators, etc.) and the financial risks entailed (proportionality);
- to shift the regime of grants from a real-cost based management (inputs) towards a performance-based scheme (outputs), in order to better target policy objectives and achieve significant simplification of procedural and documentary requirements for the benefit of beneficiaries, and facilitate the use of lump sums;
- to ensure sound financial management while leaving significant room for manoeuvre for Authorising Officers so that they can adapt the means to their operational constraints and the financial risks they are faced with;
- to modernise the system of risk management and control measures so as to make them more proportional to the probability of errors and to the cost involved.

(2) Alignment with the Lisbon Treaty: the Treaty on the Functioning of the European Union – (TFEU), which entered into force on December 1, 2009, makes important changes concerning budgetary and financial issues. These changes should be translated in the Financial Regulation and concern in particular:

- the introduction of the multiannual financial framework in the Treaty, and its link to annual budgetary procedure: in this regard, as a consequence of the introduction of the multiannual financial framework in the TFEU, some provisions of the Interinstitutional Agreement (IIA) on budgetary discipline and sound financial management should be introduced in the Financial Regulation;
- the new annual budgetary procedure and the abolition of the distinction between compulsory and non-compulsory expenditure, which have an impact on the provisions relating to transfers and the provisional twelfths;
- the new provisions introduced in Article 317 TFEU concerning the control and audit obligations of the Member States in the implementation of the budget, together with Point 44 of the Interinstitutional Agreement (IIA) on budgetary discipline and sound financial management.

The proposal also allows for the streamlining of the Financial Regulation in line with the Lisbon Treaty, through both technical adaptations and the deletion of obsolete provisions.

TIMETABLE: the present revision of the FR occurs while preparation for the post-2013 programmes is also under way. It is important that all the actors concerned in the legislative process maintain an

ambitious timetable for the present revision. They should aim at an agreement on the package (Financial Regulation and Implementing Rules) so that it could **enter into application on 1 January 2012**.