

# Amendments to the Financial Regulation. Recast

2022/0162(COD) - 16/05/2022 - Legislative proposal

**PURPOSE:** to revise the Financial Regulation to align it with the MFF package (recast).

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

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** the Financial Regulation lays down the principles and general financial rules for establishing and implementing the EU budget and controlling EU finances. The 2018 Financial Regulation is the result of a major revision, incorporating the previous Rules of Application into a single rulebook. The revision increased flexibility, simplified financial rules considerably and paved the way for the proposals under the 2021-2027 multiannual financial framework (MFF).

These simpler rules need time to harness their full potential for the implementation of the 2021-2027 programmes and instruments, for example on the single audit approach, cross-reliance on audits and assessments, simplified cost options, reduced administrative burden, and the focus on results. Changing financial rules too often creates uncertainty for recipients of EU funds.

**CONTENT:** with this proposal, the Commission is proposing a **targeted amendment**, aiming to strike the right balance by focusing on changes that are really necessary. The main reason for this revision is the need to align the Financial Regulation with the MFF package, to maintain a

single rulebook governing the expenditure of the Union, meaning that all general financial rules are included in the Financial Regulation. This will provide greater legal certainty for Union institutions and recipients of Union funds. The proposal also reflects declarations made by the EU institutions in the context of the MFF.

The specific provisions of the proposal concern the following areas:

## ***Alignment with the MFF***

To ensure smooth implementation of the MFF Regulation, certain derogations from the budgetary principles set out in the sectoral basic acts are proposed to be reflected in the Financial Regulation in line with the single rulebook approach.

## ***Borrowing and lending***

The proposed amendment streamlines the reporting obligations for borrowing and lending operations. It codifies the current practice by including in the document annexed to the section of the budget relating to the Commission a comprehensive overview of the Commission's borrowing and lending operations.

## ***Assigned revenue***

The proposal aims to increase the transparency and visibility of external assigned revenue in the documents accompanying the budget. It also aims to facilitate the management of additional contributions (including voluntary ones) from Member States, thus avoiding the need to request payments from Member States before actual payment needs arise.

### *Financial instruments and budgetary guarantees*

The proposal aims to enhance legal clarity by: (i) addressing inconsistencies and redundancies in the current Financial Regulation; (ii) better reflecting the functioning of provisioning and of budgetary guarantees; and (iii) updating relevant rules.

### *Non-financial donations by EU institutions*

The proposal will provide a framework for the EU institutions to donate goods, services, supplies or works. It will also provide a stable legal basis in particular for future emergency situations, more transparency, accountability and legal certainty for recipients.

Similar to the introduction of non-financial donations, the EU institutions should also be able to award prizes which are not financial, such as vouchers, tickets and trips.

### *Procurement and experts*

The proposal adapts the procurement rules that apply in crisis management situations to enable EU institutions or bodies to procure on behalf of Member States or to act as a central purchasing body. This **central purchasing body** would be able to donate or resell supplies and services to Member States, and launch joint procurement procedures, although the EU institutions would not be acquiring services and supplies for themselves. The proposal also updates the definition of crisis to include public and animal health, food safety emergency situations and global health threats such as pandemics.

Other simplification measures and technical corrections and updates enable multisourcing contracts, correct inconsistencies and omissions, and clarify digitisation of procurement procedures.

### *Grants*

The proposal includes technical updates, simplification, clarifications and corrections. It clarifies rules on simplified forms of grants and lays down that the 50% limit for volunteers' costs applies to the total financing of an action. To increase transparency, a definition of NGOs is added, while grant applicants would need to declare their legal status and confirm whether they are NGOs.

### *Digitalisation*

The proposal supports the Commission's commitment to be digital by default. It increases the efficiency and quality of controls and audits with the help of digitalisation and emerging technologies such as data-mining, machine learning, robotic process automation and artificial intelligence.

### *Green transition*

Importantly, this proposal also aims to adjust the Financial Regulation to ensure that budget implementation effectively helps achieve the **European Green Deal**. Furthermore, to facilitate the greening of EU buildings, the possibility to use loans to finance building renovation is inserted in the proposed Regulation. When relevant, calls for tenders in public procurement procedures should include green award or selection criteria to incentivise economic operators to offer more sustainable options.

### *Early-detection and exclusion system*

The proposal seeks to strengthen the system by better targeting its application to funds under both shared management and direct management where funds are disbursed as financial contributions to Member States, for instance under the Recovery and Resilience Facility. The aim is to prevent Member State

authorities from selecting **fraudulent economic operators** to carry out projects, and to **better protect the Union budget against serious misconduct** without waiting for the final outcome of national procedures.

### *Single integrated IT system for data-mining and risk-scoring*

The proposal aims to improve the quality and interoperability of data on recipients of Union funding and on those ultimately benefitting, directly or indirectly, from Union funding. To effectively prevent, detect, investigate and correct frauds or remedy irregularities, it is necessary to be able to identify the natural persons who are the beneficial owners of the recipients and who ultimately profit from the misuse of Union funding. This is achieved by standardising the electronic recording and storage of data on the recipients of Union funding and their beneficial owners for control and audit purposes. Moreover, there would be an obligation to use a single integrated IT system for data-mining and risk-scoring (provided by the Commission) to access and analyse those data on the recipients of Union funding. This system would considerably facilitate the identification of risks of fraud, corruption, double funding, conflict of interest and other irregularities.

### *Transparency*

The proposal aims to improve the information provided to the public on the use of the Union budget and on recipients of Union funding. This is achieved by requiring Member States implementing the Union budget under shared management, entities implementing the Union budget under indirect management, and other Union institutions and bodies to send information to the Commission on their recipients of Union funding at least once a year. The Commission would add to the above information the data it has on direct management and would be responsible for consolidating, centralising and publishing the information in a database on a **single website**, covering all methods of Union budget implementation, including by other Union institutions and bodies.