

Procedure file

| Basic information | |
|---|---------------------------------------|
| CNS - Consultation procedure Regulation | 2005/0904(CNS) Procedure completed |
| Financial Regulation applicable to the general budget: rules for the implementation of Regulation (EC, Euratom) No 1605/2002 Amending Regulation (EC, Euratom) No 2342/2002 2002/0901(CNS) | |
| Subject 8.70 Budget of the Union 8.70.02 Financial regulations | |

| Key players | | | |
|-------------------------------|---|---|------------|
| European Parliament | Committee responsible | Rapporteur | Appointed |
| | CONT Budgetary Control | | 22/11/2005 |
| | | PPE-DE GRÄSSLE Ingeborg | 22/11/2005 |
| | | PSE PAHOR Borut | |
| | Committee for opinion | Rapporteur for opinion | Appointed |
| | BUDG Budgets | The committee decided not to give an opinion. | |
| Council of the European Union | Council configuration | Meeting | Date |
| | Economic and Financial Affairs ECOFIN | 2707 | 14/02/2006 |
| European Commission | Commission DG | Commissioner | |
| | Budget | GRYBAUSKAITĖ Dalia | |

| Key events | | | |
|------------|---|---|---------|
| 12/10/2005 | Legislative proposal published | SEC(2005)1240 | Summary |
| 01/12/2005 | Committee referral announced in Parliament | | |
| 19/04/2006 | Vote in committee | | Summary |
| 25/04/2006 | Committee report tabled for plenary, 1st reading/single reading | A6-0135/2006 | |
| 01/06/2006 | Results of vote in Parliament |  | |
| 01/06/2006 | Decision by Parliament | T6-0235/2006 | Summary |
| 07/08/2006 | End of procedure in Parliament | | |
| 19/08/2006 | Final act published in Official Journal | | |

| Technical information | |
|----------------------------|---|
| Procedure reference | 2005/0904(CNS) |
| Procedure type | CNS - Consultation procedure |
| Procedure subtype | Legislation |
| Legislative instrument | Regulation |
| | Amending Regulation (EC, Euratom) No 2342/2002 2002/0901(CNS) |
| Stage reached in procedure | Procedure completed |
| Committee dossier | CONT/6/31576 |

| Documentation gateway | | | | | |
|---|--|---|------------|------|---------|
| Legislative proposal | | SEC(2005)1240 | 12/10/2005 | EC | Summary |
| Document attached to the procedure | | SEC(2005)1244 | 12/10/2005 | EC | |
| Court of Auditors: opinion, report | | RCC0011/2005 OJ C 013 18.01.2006, p. 0009-0011 | 15/12/2005 | CofA | Summary |
| Committee draft report | | PE370.226 | 09/03/2006 | EP | |
| Amendments tabled in committee | | PE371.901 | 29/03/2006 | EP | |
| Amendments tabled in committee | | PE372.106 | 10/04/2006 | EP | |
| Committee report tabled for plenary, 1st reading/single reading | | A6-0135/2006 | 25/04/2006 | EP | |
| Text adopted by Parliament, 1st reading/single reading | | T6-0235/2006 | 01/06/2006 | EP | Summary |
| Commission response to text adopted in plenary | | SP(2006)2902 | 22/06/2006 | EC | |

| Additional information | |
|------------------------|-------------------------|
| European Commission | EUR-Lex |

| Final act |
|---|
| Regulation 2006/1248 OJ L 227 19.08.2006, p. 0003-0021 |

Financial Regulation applicable to the general budget: rules for the implementation of Regulation (EC, Euratom) No 1605/2002

PURPOSE: to revise the rules for the implementation of the Financial Regulation applicable to the general budget of the European Communities.

PROPOSED ACT: Commission Regulation (EC, Euratom)

CONTENT: This draft Regulation on the revision of the implementing rules for the Financial Regulation deals with technical amendments which can be introduced under the current Financial Regulation, as requested by the Commission in the minutes of its meeting of 3 May on the occasion of the adoption of the proposal on the revision of the Financial Regulation. They aim mainly at further simplifying the administrative procedures for the institutions, economic operators and beneficiaries of grants, in particular in external actions, while maintaining a high level of protection of the Communities' financial interests in the light of the risks involved.

The main amendments considered necessary concern:

1. Budgetary principles (unity, annuality, the unit of account and of good financial management).

2. Responsibility of the accounting officer for treasury management.

3. Rules regarding imprest accounts (maximum amount which can be paid by the imprest administrator, methods of payment that can be used by imprest administrators);

4. Rules regarding liability of the financial actors: adaptation of the provisions regarding the confirmation of instructions received by by an authorising officer by delegation or sub-delegation.

5. Recovery of debts: The rules on recovery of debts should be clarified and strengthened in the light of recent case law and in order to safeguard better the financial interests of the Union: recovery by offsetting has to be streamlined; bank guarantees concerning fines, periodic penalty payments and other penalties, in case of appeal by the debtor, adapted; a single system of guarantees securing a Community claim pending appeal against a fine; the content of the financing decision, which has to be adopted before any budgetary and legal commitment for expenditure implementing a basic act, needs to be further specified; payment time limits for contracts and grant agreements which depend on the approval of a report or certificate in order to ascertain that payments are made on the basis of an approved report or certificate need to be revised.

6. Public procurement and contracts

a) the management of procurement and contracts with a value below the thresholds referred to in Directive 2004/18/EC should be further facilitated. It should also be specified that all contracts with a value less than or equal to EUR 60 000 may be awarded after a negotiated procedure;

b) the implementing rules should define more precisely the procedure to be followed for certain research and development service contracts and certain service contracts intended for broadcasting which are excluded from the scope of the Directive 2004/18/EC;

c) the documentary burden should be further alleviated for economic operators and the administrative departments of the institutions, thus reducing administrative costs. To this end, for all contracts below the thresholds of Directive 2004/18/EC and in the external field, depending on the risk assessment carried out by the contracting authority, economic operators should be able to participate in a procedure on the basis of a declaration on their honour stating that they are not in one of the situations giving grounds for exclusion from that procurement procedure. However, in order to better protect the financial interests of the Communities, for high-value contracts in the external field, the economic operator to whom the contract is to be awarded should nevertheless have to provide evidence confirming the initial declaration. For the sake of clarity, all candidates and tenderers should always have to provide evidence that they are not in one of the situations giving grounds for exclusion from contracts awarded by the institutions on their own account with a value above the thresholds set out in Directive 2004/18/EC. Lastly, whenever a candidate or tenderer is required to provide evidence, the contracting authority may consider evidence provided by that candidate or tenderer in another procurement procedure launched by the same contracting authority and provided that the issuing date of the documents does not exceed six months. Regarding the technical and economic capacity, the option of not requiring proof of these capacities should be allowed up to the thresholds appropriate for each type of contracts in the field of external actions.

d) in order to simplify the management of the procurement procedure for contracts awarded by the institutions on their own account with a value below EUR 60 000 and, in the external aid, for contracts awarded after a competitive negotiated procedure or on the basis of a single bid, the contracting authority should have the possibility to simplify the content of the tender documents. In order to lighten the administrative burden, implementation of the contracts should be made easier, for example by providing scope to adapt the amount of the performance guarantee and waive the requirement for a guarantee in the event of pre-financing to a public body, without, however, diminishing the level of protection of the Communities' financial interests.

7. Grants: Simplification of the procedures for grants and for grants of small amount (less than or equal to EUR 25 000); in order to reduce the administrative burden, it should be accepted that the de jure or de facto monopoly of the beneficiary can be substantiated in the award decision; access to EC financing should be facilitated by enhancing co-financing in kind; the notion of bodies which pursue an aim of European general interest and may receive operating grants with no decrease in the event of renewal should include European bodies involved in promoting citizenship and innovation; educational bodies ? and not only secondary and higher education bodies ? should no longer be subject to verification of their financial capacity and applicants should be informed as soon as possible of the rejection of their application; grant applications and agreements should be made easier for grants of a small amount; the requirement for an external audit to be attached to the application should apply only to grants with a value of more than EUR 750 000 for actions and EUR 100 000 for operating grants; rules on guarantees for pre-financing should be reinforced in order to protect the Communities' financial interests while ensuring better proportionality with the risk involved; in order to take account of the rights of the other contributors, the implementation of the non-profit rule, in the case of operating grants to bodies which pursue an aim of general European interest should be limited to the percentage of co-financing corresponding to the Community contribution to the operating budget concerned if these bodies are also funded by public authorities which are themselves required to recover the percentage of the annual profit corresponding to their contribution.

Financial Regulation applicable to the general budget: rules for the implementation of Regulation (EC, Euratom) No 1605/2002

The Court of Auditors adopted an Opinion (11/2005) on the draft Commission Regulation amending Regulation 2342/2002/EC.

The Court based its examination of the Commission's proposal on the following principles:

- that the proposed revision complies with the principles of sound financial management;
- that the proposed revision constitutes simplification without compromising effectiveness or protection of financial interests;
- that the proposed changes are kept to the minimum necessary, and
- that the proposed revision provides no exception to the principles and norms contained in the Financial Regulation, except where the Financial Regulation itself provides for such exceptions.

The Court considers that in most cases the proposed amendments meet these conditions. However, for some issues this is not the case:

Imprest accounts: the maximum individual amount that can be paid by an imprest administrator is to be doubled from 30 000 euro to 60 000

euro - considerably in excess of the cumulative effect of inflation since the approval of the current implementing rules - whereas the Financial Regulation limits the payment by imprest accounts to 'small sums'.

Grants: The Court makes the following points:

- the Commission's proposal removes the need for cofinancing in kind to be restricted to 'duly substantiated exceptional cases'. The practice of cofinancing in kind constitutes a high risk of irregularity in view of the difficulties of defining an appropriate valuation and verifying its delivery. The proposed change may encourage its increased use and is therefore contrary to the protection of the Communities' financial interests;

- the authorising officer, depending on his risk assessment, may dispense with the requirement for beneficiaries to provide evidence of co-financing in the case of grants of EUR 25 000 euro or less. Given the risk at this level, and the ease with which such evidence can normally be provided, the Court considers the change to be contrary to the protection of the Communities' financial interests;

- the limits below which an external audit report is not required have been raised from EUR 300 000 to EUR 750 000 euro in the case of actions, and from 75 000 euro to 100 000 euro in the case of operating grants. There is therefore a large disparity in the rate of the increase between the two, with the first being considerably in excess of the cumulative effect of inflation since the approval of the current implementing rules, and contrary to the protection of the Communities financial interests;

- the Court feels that the issue of 'educational establishments' needs to be re-examined, with regard to the presentation of an external audit report certifying their accounts, and verification of financial capacity.

Finally, the Court observed that in a number of cases the wording of the changes require clarification.

Financial Regulation applicable to the general budget: rules for the implementation of Regulation (EC, Euratom) No 1605/2002

The committee adopted the report by Borut PAHOR (PES, SI) and Ingeborg GRÄSSLE (EPP-ED, DE) amending - under the consultation procedure - the proposed regulation on detailed rules for the implementation of the Financial Regulation applicable to the general budget of the European Communities. MEPs introduced a number of technical amendments designed inter alia to increase the speediness and administrative flexibility of procedures, ensure legal certainty for the parties to contractual agreements and ensure that the provision of securities is restricted to duly substantiated cases when it comes to minor grants.

Financial Regulation applicable to the general budget: rules for the implementation of Regulation (EC, Euratom) No 1605/2002

The European Parliament adopted a resolution drafted by Borut PAHOR (PES, SI) and Ingeborg GRÄSSLE (EPP-ED, DE) and made some amendments to the Commission's proposal. (Please see the summary of 19/04/2006.) In particular, Parliament raised the contract values in cases of negotiated procedure with consultation. For example, a negotiated procedure with consultation of at least five candidates may be used for contracts with a value less than or equal to EUR 80 000 (rather than EUR 60000, as proposed by the Commission.) It added that contracts may not be divided into individual lots if this results in circumvention of the thresholds.

Parliament also added clauses to ensure that the time limits for the receipt of tenders and requests to participate, laid down in calendar days by the contracting authorities, shall be long enough to allow interested parties a reasonable period to prepare and submit their tenders, taking particular account of the complexity of the contract or the need to visit the site or consult on the spot the documents annexed to the specifications. It has inserted time limits for both open and restricted procedures for contracts.

With regard to cases where the pre-financing represents over 80% of the total amount of the grant and exceeds EUR 60 000, Parliament stated that a guarantee will be required if no other means to secure the debt which is equally effective can be established. For NGOs operating in the field of external action, that guarantee shall be demanded in respect of pre-financing exceeding EUR 1 000 000 or representing over 90 % of the total amount of the grant if no other means to secure the debt which is equally effective can be established. The guarantee shall be valid for a period sufficiently long to allow it to be activated.

Finally, Parliament made provision for amendment of grant agreements in certain cases.