

- (245) Some modifications regarding financial instruments, budgetary guarantees and financial assistance should only apply from the date of application of the post-2020 multiannual financial framework in order to allow sufficient time to adapt the applicable legal bases and programmes to the new rules.
- (246) The information on the annual average of full-time equivalents and on the estimated amount of assigned revenue carried over from preceding years should be provided for the first time together with the draft budget to be presented in 2021 in order to allow sufficient time for the Commission to adapt to the new obligation,

HAVE ADOPTED THIS REGULATION:

## PART ONE

### FINANCIAL REGULATION

#### TITLE I

#### SUBJECT MATTER, DEFINITIONS AND GENERAL PRINCIPLES

##### *Article 1*

##### **Subject matter**

This Regulation lays down the rules for the establishment and the implementation of the general budget of the European Union and of the European Atomic Energy Community ('the budget') and the presentation and auditing of their accounts.

##### *Article 2*

##### **Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) 'applicant' means a natural person or an entity with or without legal personality who has submitted an application in a grant award procedure or in a contest for prizes;
- (2) 'application document' means a tender, a request to participate, a grant application or an application in a contest for prizes;
- (3) 'award procedure' means a procurement procedure, a grant award procedure, a contest for prizes, or a procedure for the selection of experts or persons or entities implementing the budget pursuant to point (c) of the first subparagraph of Article 62(1);
- (4) 'basic act' means a legal act, other than a recommendation or an opinion, which provides a legal basis for an action and for the implementation of the corresponding expenditure entered in the budget or of the budgetary guarantee or financial assistance backed by the budget, and which may take any of the following forms:
  - (a) 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
  - (b) in implementation of Title V of the Treaty on European Union (TEU), one of the forms specified in Articles 28(1) and 31(2), Article 33, and Articles 42(4) and 43(2) TEU;
- (5) 'beneficiary' means a natural person or an entity with or without legal personality with whom a grant agreement has been signed;
- (6) 'blending facility or platform' means a cooperation framework established between the Commission and development or other public finance institutions with a view to combining non-repayable forms of support and/or financial instruments and/or budgetary guarantees from the budget and repayable forms of support from development or other public finance institutions, as well as from private-sector finance institutions and private-sector investors;
- (7) 'budget implementation' means the carrying out of activities relating to the management, monitoring, control and auditing of budget appropriations in accordance with the methods provided for in Article 62;
- (8) 'budgetary commitment' means the operation by which the authorising officer responsible reserves the budget appropriations necessary to cover subsequent payments to honour legal commitments;

- (9) 'budgetary guarantee' means a legal commitment of the Union to support a programme of actions by taking on the budget a financial obligation that can be called upon should a specified event materialise during the implementation of the programme, and that remains valid for the duration of the maturity of the commitments made under the supported programme;
- (10) 'building contract' means a contract covering the purchase, exchange, long lease, usufruct, leasing, rental or hire purchase, with or without option to buy, of land, buildings or other immovable property. It covers both existing buildings and buildings before completion provided that the candidate has obtained a valid building permit for it. It does not cover buildings designed in accordance with the specifications of the contracting authority that are covered by works contracts;
- (11) 'candidate' means an economic operator that has sought an invitation or has been invited to take part in a restricted procedure, a competitive procedure with negotiation, a competitive dialogue, an innovation partnership, a design contest or a negotiated procedure;
- (12) 'central purchasing body' means a contracting authority providing centralised purchasing activities and, where applicable, ancillary purchasing activities;
- (13) 'check' means the verification of a specific aspect of a revenue or expenditure operation;
- (14) 'concession contract' means a contract for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities within the meaning of Articles 174 and 178, in order to entrust the execution of works or the provision and management of services to an economic operator (the 'concession'), and where:
- (a) the remuneration consists either solely in the right to exploit the works or services or in that right together with payment;
  - (b) the award of the concession contract involves the transfer to the concessionaire of an operating risk in exploiting those works or services encompassing demand risk or supply risk, or both. The concessionaire shall be deemed to assume an operating risk where, under normal operating conditions, there is no guarantee of recouping the investments made or the costs incurred in operating the works or the services concerned;
- (15) 'contingent liability' means a potential financial obligation that could be incurred depending on the outcome of a future event;
- (16) 'contract' means a public contract or a concession contract;
- (17) 'contractor' means an economic operator with whom a public contract has been signed;
- (18) 'contribution agreement' means an agreement concluded with persons or entities implementing Union funds pursuant to points (c)(ii) to (viii) of the first subparagraph of Article 62(1);
- (19) '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 referred to in the first sentence;
- (20) 'counterpart' means the party that is granted a budgetary guarantee;
- (21) 'crisis' means:
- (a) a situation of immediate or imminent danger threatening to escalate into an armed conflict or to destabilise a country or its neighbourhood;
  - (b) a situation caused by natural disasters, man-made crisis such as wars and other conflicts or extraordinary circumstances having comparable effects related, inter alia, to climate change, environmental degradation, privation of access to energy and natural resources or extreme poverty;
- (22) 'decommitment' means an operation whereby the authorising officer responsible cancels wholly or partly the reservation of appropriations previously made by means of a budgetary commitment;
- (23) 'dynamic purchasing system' means a completely electronic process for making commonly used purchases of items generally available on the market;
- (24) 'economic operator' means any natural or legal person, including a public entity, or a group of such persons, who offers to supply products, execute works or provide services or supply immovable property;

- (25) 'equity investment' means the provision of capital to a company, invested directly or indirectly in return for total or partial ownership of that company and where the equity investor may assume some management control of the company and may share the company's profits;
- (26) 'European office' means an administrative structure set up by the Commission, or by the Commission with one or more other Union institutions, to perform specific cross-cutting tasks;
- (27) 'final administrative decision' means a decision of an administrative authority having final and binding effect in accordance with the applicable law;
- (28) 'financial asset' means any asset in the form of cash, an equity instrument of a publicly or privately held entity or a contractual right to receive cash or another financial asset from such entity;
- (29) 'financial instrument' means a Union measure of financial support provided from the budget to address one or more specific policy objectives of the Union which may take the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments, and which may, where appropriate, be combined with other forms of financial support or with funds under shared management or funds of the European Development Fund (EDF);
- (30) 'financial liability' means a contractual obligation to deliver cash or another financial asset to another entity;
- (31) 'framework contract' means a public contract concluded between one or more economic operators and one or more contracting authorities, the purpose of which is to establish the terms governing specific contracts under it to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged;
- (32) 'global provisioning' means the total amount of resources deemed necessary over the entire lifetime of a budgetary guarantee as a result of applying the provisioning rate referred to in Article 211(1) to the amount of the budgetary guarantee authorised by the basic act referred to in point (b) of Article 210(1);
- (33) 'grant' means a financial contribution by way of donation. Where such a contribution is provided under direct management, it shall be governed by Title VIII;
- (34) '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;
- (35) 'guarantee on demand' means a guarantee that must be honoured by the guarantor upon the counterpart's demand, notwithstanding any deficiencies in the enforceability of the underlying obligation;
- (36) 'in-kind contribution' means non-financial resources made available free of charge by third parties to a beneficiary;
- (37) 'legal commitment' means an act whereby the authorising officer responsible enters into or establishes an obligation which results in subsequent payment or payments and the recognition of expenditure charged to the budget, and which includes specific agreements and contracts concluded under financial framework partnership agreements and framework contracts;
- (38) 'leverage effect' means the amount of reimbursable financing provided to eligible final recipients divided by the amount of the Union contribution;
- (39) 'liquidity risk' means the risk that a financial asset held in the common provisioning fund might not be sold during a certain period of time without incurring a significant loss;
- (40) 'loan' means an agreement which obliges the lender to make available to the borrower an agreed amount of money for an agreed period and under which the borrower is obliged to repay that amount within the agreed period;
- (41) 'low value grant' means a grant lower than or equal to EUR 60 000;
- (42) 'Member State organisation' means an entity established in a Member State as a public law body, or as a body governed by private law entrusted with a public service mission and provided with adequate financial guarantees from the Member State;
- (43) 'method of implementation' means any of the methods of budget implementation referred to in Article 62, that is direct management, indirect management and shared management;

- (44) 'multi-donor action' means any action where Union funds are pooled with at least one other donor;
- (45) 'multiplier effect' means the investment by eligible final recipients divided by the amount of the Union contribution;
- (46) 'output' means the deliverables generated by the action determined in accordance with sector-specific rules;
- (47) 'participant' means a candidate or tenderer in a procurement procedure, an applicant in a grant award procedure, an expert in a procedure for selection of experts, an applicant in a contest for prizes or a person or entity participating in a procedure for implementing Union funds pursuant to point (c) of the first subparagraph of Article 62(1);
- (48) 'prize' means a financial contribution given as a reward following a contest. Where such a contribution is provided under direct management, it shall be governed by Title IX;
- (49) 'procurement' means the acquisition by means of a contract of works, supplies or services and the acquisition or rental of land, buildings or other immovable property, by one or more contracting authorities from economic operators chosen by those contracting authorities;
- (50) 'procurement document' means any document produced or referred to by the contracting authority to describe or determine elements of the procurement procedure, including:
  - (a) the publicity measures set out in Article 163;
  - (b) the invitation to tender;
  - (c) the tender specifications, including the technical specifications and the relevant criteria, or the descriptive documents in the case of a competitive dialogue;
  - (d) the draft contract;
- (51) 'public contract' means a contract for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities within the meaning of Articles 174 and 178, 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, comprising:
  - (a) building contracts;
  - (b) supply contracts;
  - (c) works contracts;
  - (d) service contracts;
- (52) '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 and which can be structured as debt, typically unsecured and subordinated and in some cases convertible into equity, or into preferred equity;
- (53) 'recipient' means a beneficiary, a contractor, a remunerated external expert or a person or entity receiving prizes or funds under a financial instrument or implementing Union funds pursuant to point (c) of the first subparagraph of Article 62(1);
- (54) 'repurchase agreement' means the sale of securities for cash with an agreement to repurchase them on a specified future date, or on demand;
- (55) 'research and technological development appropriation' means an appropriation entered either in one of the titles of the budget relating to the policy areas linked to 'Indirect research' or 'Direct research' or in a chapter relating to research activities in another title;
- (56) 'result' means the effects of the implementation of an action determined in accordance with sector-specific rules;
- (57) '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;
- (58) 'service contract' means a contract covering all intellectual and non-intellectual services other than those covered by supply contracts, works contracts and building contracts;
- (59) 'sound financial management' means implementation of the budget in accordance with the principles of economy, efficiency and effectiveness;

- (60) '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 Regulation (EEC, Euratom, ECSC) No 259/68;
- (61) 'subcontractor' means an economic operator that is proposed by a candidate or tenderer or contractor to perform part of a contract or by a beneficiary to perform part of the tasks co-financed by a grant;
- (62) 'subscription' means sums paid to bodies of which the Union is member, in accordance with the budgetary decisions and the conditions of payment established by the body concerned;
- (63) 'supply contract' means a contract covering the purchase, leasing, rental or hire purchase, with or without option to buy, of products, and which may include, as an incidental matter, siting and installation operations;
- (64) 'technical assistance' means, without prejudice to sector-specific rules, support and capacity-building activities necessary for the implementation of a programme or an action, in particular preparatory, management, monitoring, evaluation, audit and control activities;
- (65) 'tenderer' means an economic operator that has submitted a tender;
- (66) 'Union' means the European Union, the European Atomic Energy Community, or both, as the context may require;
- (67) 'Union institution' means the European Parliament, the European Council, the Council, the 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 or the European External Action Service (the 'EEAS'); the European Central Bank shall not be considered to be a Union institution;
- (68) 'vendor' means an economic operator registered in a list of vendors to be invited to submit requests to participate in or submit tenders;
- (69) 'volunteer' means a person working on a non-compulsory basis for an organisation without being paid;
- (70) 'work' means the outcome of building or civil engineering works taken as a whole that is sufficient in itself to fulfil an economic or technical function;
- (71) 'works contract' means a contract covering either:
- (a) the execution or both the execution and design of a work;
  - (b) the execution or both the execution and design of a work related to one of the activities referred to in Annex II to Directive 2014/24/EU; or
  - (c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work.

### *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 comply with the budgetary principles set out in Title II.
2. Without prejudice to paragraph 1, any proposal or amendment to a proposal submitted to the legislative authority containing derogations from the provisions of this Regulation other than those set out in Title II, 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 or amendments.

### *Article 4*

#### **Periods, dates and time limits**

Unless otherwise provided in this Regulation, Council Regulation (EEC, Euratom) No 1182/71 <sup>(1)</sup> shall apply to the deadlines set out in this Regulation.

<sup>(1)</sup> Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

*Article 5***Protection of personal data**

This Regulation is without prejudice to Regulations (EC) No 45/2001 and (EU) No 2016/679.

## TITLE II

**BUDGET AND 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 and transparency as set out in this Regulation.

## CHAPTER 1

***Principles of unity and of budgetary accuracy****Article 7***Scope of the budget**

1. For each financial year, the budget shall forecast and authorise all revenue and expenditure considered necessary for the Union. It shall comprise:

- (a) the revenue and expenditure of the Union, including administrative expenditure resulting from the implementation of the provisions of the TEU relating to the common foreign and security policy (CFSP), and operational expenditure occasioned by implementation of those provisions where it is charged to the budget;
- (b) the revenue and expenditure of the European Atomic Energy Community.

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

The appropriations authorised for the financial year shall consist of:

- (a) appropriations provided in the budget, including by amending budgets;
  - (b) appropriations carried over from preceding financial years;
  - (c) appropriations made available again in accordance with Article 15;
  - (d) appropriations arising from pre-financing payments which have been repaid in accordance with point (b) of Article 12(4);
  - (e) appropriations provided following the receipt of revenue assigned during the financial year or carried over from preceding financial years.
3. Commitment appropriations shall cover the total cost of the legal commitments entered into during the financial year, subject to Article 114(2).
4. Payment appropriations shall cover payments made to honour the legal commitments entered into in the financial year or preceding financial years.
5. Paragraphs 2 and 3 of this Article shall not prevent appropriations being committed globally or budgetary commitments being made in annual instalments as respectively provided for in point (b) of the first subparagraph of Article 112(1) and in Article 112(2).

*Article 8***Specific rules on the principles of unity and budgetary accuracy**

- 1. All revenue and expenditure shall be booked to a budget line.
- 2. Without prejudice to authorised expenditure arising from contingent liabilities as provided for in Article 210(2), no expenditure may be committed or authorised in excess of the authorised appropriations.

3. An appropriation shall be entered in the budget only if it is for an item of expenditure considered necessary.
4. Interest generated by pre-financing payments made from the budget shall not be due to the Union except as otherwise provided in the contribution agreements or the financing agreements concerned.

## 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*

#### **Budgetary accounting for revenue and appropriations**

1. The revenue of a financial year shall be entered in the accounts for that year on the basis of the amounts collected during it. However, the own resources for the month of January of the following financial year may be made available in advance pursuant to Regulation (EU, Euratom) No 609/2014.
2. The entries in respect of the Value Added Tax (VAT) and Gross National Income-based own resources may be adjusted in accordance with Regulation (EU, Euratom) No 609/2014.
3. Commitments shall be entered in the accounts for a financial year on the basis of the legal commitments entered into up to 31 December of that year. However, the global budgetary commitments referred to in Article 112(4) shall be entered in the accounts for a financial year on the basis of the budgetary commitments up to 31 December of that year.
4. Payments shall be entered in the accounts for a financial year on the basis of the payments made by the accounting officer by 31 December of that year.
5. By way of derogation from paragraphs 3 and 4:
  - (a) the expenditure of the European Agricultural Guarantee Fund (EAGF) shall be entered in the accounts for a financial year on the basis of the repayments made by the Commission to Member States by 31 December of that year, provided that the payment order has reached the accounting officer by 31 January of the following financial year;
  - (b) expenditure implemented under shared management with the exception of the EAGF shall be entered in the accounts for a financial year on the basis of the reimbursements made by the Commission to Member States by 31 December of that year, including the expenditure charged by 31 January of the following financial year as laid down in Articles 30 and 31.

#### *Article 11*

#### **Commitment of appropriations**

1. The appropriations entered in the budget may be committed with effect from 1 January, once the budget has been definitively adopted.
2. As of 15 October of the financial year, the following expenditure may be committed in advance against the appropriations provided for the following financial year:
  - (a) routine administrative expenditure, provided that such expenditure has been approved in the last budget duly adopted, and only up to a maximum of one quarter of the total corresponding appropriations decided upon by the European Parliament and by the Council for the current financial year;
  - (b) routine management expenditure for the EAGF, provided that the basis for such expenditure is laid down in an existing basic act, and only up to a maximum of three quarters of the total corresponding appropriations decided upon by the European Parliament and by the Council for the current financial year.