





**COUNCIL REGULATION (EC, Euratom) No 1605/2002**

**of 25 June 2002**

**on the Financial Regulation applicable to the general budget of the  
European Communities**

**CONTENTS**

<b>PART 1</b>	<b>COMMON PROVISIONS</b>
TITLE I	SCOPE
TITLE II	BUDGETARY PRINCIPLES
<b>Chapter 1</b>	<b>Principles of unity and of budget accuracy</b>
<b>Chapter 2</b>	<b>Principle of annuality</b>
<b>Chapter 3</b>	<b>Principle of equilibrium</b>
<b>Chapter 4</b>	<b>Principle of unit of account</b>
<b>Chapter 5</b>	<b>Principle of universality</b>
<b>Chapter 6</b>	<b>Principle of specification</b>
<b>Chapter 7</b>	<b>Principle of sound financial management</b>
<b>Chapter 8</b>	<b>Principle of transparency</b>
TITLE III	ESTABLISHMENT AND STRUCTURE OF THE BUDGET
<b>Chapter 1</b>	<b>Establishment of the budget</b>
<b>Chapter 2</b>	<b>Structure and presentation of the budget</b>
TITLE IV	IMPLEMENTATION OF THE BUDGET
<b>Chapter 1</b>	<b>General provisions</b>
<b>Chapter 2</b>	<b>Methods of implementation</b>
<b>Chapter 3</b>	<b>Financial actors</b>
Section 1	Principle of separation of duties
Section 2	Authorising officer
Section 3	Accounting officer
Section 4	Imprest administrator
<b>Chapter 4</b>	<b>Liability of the financial actors</b>
Section 1	General rules
Section 2	Rules applicable to authorising officers by delegation and subdelegation
Section 3	Rules applicable to accounting officers and imprest administrators
<b>Chapter 5</b>	<b>Revenue operations</b>
Section 1	Making available of own resources
Section 2	Estimate of amounts receivable
Section 3	Establishment of amounts receivable
Section 4	Authorisation of recovery
Section 5	Recovery
<b>Chapter 6</b>	<b>Expenditure operations</b>
Section 1	Commitment of expenditure
Section 2	Validation of expenditure
Section 3	Authorisation of expenditure
Section 4	Payment of expenditure
Section 5	Time limits for expenditure operations

**▼B**

<b>Chapter 7</b>	<b>IT systems</b>
<b>Chapter 8</b>	<b>Internal auditor</b>
TITLE V	PROCUREMENT
<b>Chapter 1</b>	<b>General provisions</b>
Section 1	Scope and award principles
Section 2	Publication
Section 3	Procurement procedures
Section 4	Guarantees and control
<b>Chapter 2</b>	<b>Provisions applicable to contracts awarded by the Community institutions on their own account</b>
TITLE VI	GRANTS
<b>Chapter 1</b>	<b>Scope and form of grants</b>
<b>Chapter 2</b>	<b>Principles</b>
<b>Chapter 3</b>	<b>Award procedure</b>
<b>Chapter 4</b>	<b>Payment and control</b>
<b>Chapter 5</b>	<b>Implementation</b>
TITLE VII	PRESENTATION OF THE ACCOUNTS AND ACCOUNTING
<b>Chapter 1</b>	<b>Presentation of the accounts</b>
<b>Chapter 2</b>	<b>Information on the implementation of the budget</b>
<b>Chapter 3</b>	<b>Accounting</b>
Section 1	Common provisions
Section 2	General accounts
Section 3	Budgetary accounts
<b>Chapter 4</b>	<b>Property inventories</b>
TITLE VIII	EXTERNAL AUDIT AND DISCHARGE
<b>Chapter 1</b>	<b>External audit</b>
<b>Chapter 2</b>	<b>Discharge</b>
<b>PART TWO</b>	<b>SPECIAL PROVISIONS</b>
TITLE I	EUROPEAN AGRICULTURAL GUARANTEE FUND
TITLE II	STRUCTURAL FUNDS, COHESION FUND, EUROPEAN FISHERIES FUND, AND EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT
TITLE III	RESEARCH
TITLE IV	EXTERNAL ACTIONS
<b>Chapter 1</b>	<b>General provisions</b>
<b>Chapter 2</b>	<b>Implementation of actions</b>
<b>Chapter 3</b>	<b>Procurement</b>
<b>Chapter 4</b>	<b>Grants</b>
<b>Chapter 5</b>	<b>Auditing of accounts</b>
TITLE V	EUROPEAN OFFICES



TITLE VI ADMINISTRATIVE APPROPRIATIONS

TITLE VII EXPERTS

**PART THREE TRANSITIONAL AND FINAL PROVISIONS**

TITLE I TRANSITIONAL PROVISIONS

TITLE II FINAL PROVISIONS

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 279 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Court of Auditors <sup>(3)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(4)</sup>,

Whereas:

- (1) Since times have changed considerably since the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities <sup>(5)</sup> was adopted, in particular as a result of a financial perspective forming a framework for the development of the budget, developments in the institutional structure and a series of enlargements, that Financial Regulation has been substantially amended several times. In order to take account, in particular, of the requirements of simplification in legislative and administrative matters and the tightening up of management of Community finances, the Financial Regulation of 21 December 1977 should be recast in the interests of clarity.
- (2) This Regulation should be confined to stating the broad principles and basic rules governing the whole budgetary sector covered by the Treaty, while the implementing provisions should be moved to a Regulation on rules for the implementation of this Regulation in order to produce a better hierarchy of rules and make the Financial Regulation easier to read. The Commission should therefore be authorised to adopt the implementing rules.
- (3) The establishment and implementation of the budget should respect the four fundamental principles of budgetary law (unity, universality, specification, annuality), and the principles of budget accuracy, equilibrium, unit of account, sound financial management and transparency.

<sup>(1)</sup> OJ C 96 E, 27.3.2001, p. 1, and OJ C 103 E, 30.4.2002, p. 292.

<sup>(2)</sup> OJ C 153 E, 27.6.2002, p. 236.

<sup>(3)</sup> OJ C 162, 5.6.2001, p. 1 and OJ C 92, 17.4.2002, p. 1.

<sup>(4)</sup> OJ C 260, 17.9.2001, p. 42.

<sup>(5)</sup> OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Regulation (EC, ECSC, Euratom) No 762/2001 (OJ L 111, 20.4.2001, p. 1).

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- (4) This Regulation should reassert those principles and keep exceptions to a strict minimum subject to strict conditions.
- (5) As regards the principle of unity, this Regulation should specify that it also applies to operational expenditure on implementing the European Union Treaty provisions on the common foreign and security policy and on police and judicial cooperation in criminal matters, where this is charged to the budget. The principle of unity and budget accuracy means that all Community revenue and expenditure, and that of the Union, when this is charged to the budget, are entered in the budget.
- (6) As regards the principle of universality, the practices of repayment of payments on account and reuse should be discontinued; in some cases they should be replaced by assigned revenue and ways of reconstituting decommitted appropriations. These amendments do not affect the special rules applicable to the Structural Funds.
- (7) As regards the principle of specification, the institutions need to have some degree of management flexibility for transfers of appropriations. This Regulation should allow integrated presentation of the allocation of financial and administrative resources by purpose. The procedures for transferring appropriations should also be harmonised for all the other institutions so that transfers of staff and operating appropriations are a matter for each institution. As regards transfers of appropriations concerning operational expenditure, the Commission may make transfers between chapters within one and the same title within a total limit of 10 % of the appropriations for the financial year which appear on the line from which the transfer is made. The budgetary authority should be allowed to constitute reserves in only two cases: where there is no basic act or where it is not certain that appropriations are adequate.
- (8) As regards the principle of annuality, the distinction between differentiated appropriations and non-differentiated appropriations should be retained. Decisions on carryovers of commitment and payment appropriations should be taken by each institution. The additional periods should be confined exclusively to the cases where they are absolutely necessary, namely EAGGF payments.
- (9) The principle of equilibrium constitutes a basic budgetary rule. In this connection, it should be emphasised that recourse to loans is not compatible with the system of Community own resources. However, the principle of equilibrium is not such as to hinder the borrowing and lending operations guaranteed by the general budget of the Union.
- (10) In accordance with Article 277, first paragraph, of the EC Treaty and Article 181, first paragraph, of the Euratom Treaty the unit of account in which the budget is drawn up, and which is also used for purposes of implementation and for presentation of the accounts, should be determined.

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- (11) The principle of sound financial management should be defined by reference to the principles of economy, efficiency and effectiveness, and compliance with those principles checked by means of performance indicators established per activity and measurable in such a way that results can be assessed. The institutions should carry out *ex ante* and *ex post* evaluation, in accordance with the guidelines determined by the Commission.
- (12) Finally, as regards the principle of transparency, information on implementation of the budget and the accounts should be improved. A strict deadline should also be set for the publication of the budget without prejudice to provisional publication by the Commission between the declaration of definitive adoption by the President of the European Parliament and publication in the *Official Journal of the European Communities*. The possibility of a negative reserve is also to be retained.
- (13) As regards the establishment and presentation of the budget, the current provisions should be harmonised and simplified by eliminating the distinction, which has no practical impact, between supplementary budgets and amending budgets.
- (14) The Commission section of the budget should present appropriations and resources by purpose, i.e. activity-based budgeting, with a view to enhancing transparency in the management of the budget with reference to the objectives of sound financial management and in particular efficiency and effectiveness.
- (15) The institutions should enjoy a measure of flexibility in the management of statutory posts in relation to what is authorised in the budget, especially as the emphasis in management is now to be on results and not on means. This freedom will, however, continue to be restricted by the dual limit of budget appropriations for a financial year and the total number of posts allocated; in addition there will be no latitude as regards grade A 1, A 2 and A 3 posts.
- (16) As regards implementation of the budget, there should be clarification of the various possible methods of implementing the budget, either on a centralised basis by the Commission or on a shared basis with the Member States or on a decentralised basis with third countries receiving external aid or jointly with international organisations. It should be possible for centralised management either to be performed directly by Commission departments or indirectly by delegation to bodies governed by Community law or by national public law. The implementation methods should guarantee that the procedures for protecting Community funds are complied with, whatever the entity responsible for all or part of this implementation and must confirm that final responsibility for budgetary implementation lies with the Commission in accordance with Article 274 of the Treaty.
- (17) As the Commission is responsible for implementation of the budget, it may not delegate any tasks of public authority involving the use of discretionary powers. This Regulation should restate this principle and specify the scope of the tasks that may be delegated. It should also be stipulated that private-sector bodies, other than those which have a public-service

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mission and under specific conditions, should not be able to undertake any budgetary implementation measure but only provide specialist technical or administrative services or perform preparatory or ancillary tasks.

- (18) For the sake of compliance with the principles of transparency and sound financial management, the public-sector bodies or bodies with a public-service mission to which implementing tasks are delegated on behalf of the Commission should have transparent procurement procedures, effective internal controls, a system for presentation of the accounts which is separate from their other activities and an external audit.
- (19) In accordance with Article 279(c) of the Treaty, this Regulation defines the powers and responsibilities of authorising officers, the accounting officer and the internal auditor.

Authorising officers are made fully responsible for all revenue and expenditure operations executed under their authority and must be held accountable for their actions, including, where necessary, through disciplinary proceedings. This empowerment should therefore be strengthened by the removal of centralised prior controls and in particular ending the advance approval of revenue and expenditure operations by the financial controller and the check by the accounting officer that payment constitutes valid discharge.

The accounting officer continues to be responsible for the proper execution of payments, the collection of revenue and the recovery of receivables. He/She manages the treasury, keeps the accounts and is responsible for drawing up the institution's financial statements.

The internal auditor performs his duties in accordance with international audit standards. His role is to verify the proper functioning of the management and control systems put in place by the authorising officers.

The internal auditor is not an actor involved in the financial operations and does not have the role of exercising control over these operations ahead of the decisions by the authorising officers; the authorising officers should now assume full responsibility for these decisions.

- (20) The liability of authorising officers, accounting officers and imprest administrators is not different from that of other officials and staff and should be subject, under the Staff Regulations of officials of the European Communities, and the Conditions of employment of other servants of the European Communities, to the application of the existing disciplinary and financial compensation measures. On the other hand, certain specific provisions identifying cases of misconduct of accounting officers and imprest administrators, given the special nature of their duties, should be retained; they will no longer have any special allowance or insurance. Furthermore, the liability of the authorising officer should be clarified. In cases not involving fraud, in order to provide the appointing authority with the necessary expertise, each institution will set up a specialised

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financial irregularities panel which will determine whether or not an irregularity has occurred which could make the official or other servant liable to disciplinary action or payment of compensation and, if it has detected problems with systems, to report to the authorising officer and the internal auditor. For cases of fraud, however, this Regulation should refer to the provisions in force on the protection of the European Communities' financial interests and on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union.

- (21) The concepts of budgetary and legal commitment of expenditure and the conditions for applying them should be defined. In order to restrict the volume of dormant commitments, the period during which individual legal commitments may be made on the basis of overall budget commitments should be limited. Moreover, a decommitment provision must be provided for individual commitments which have not given rise to any payment over a three-year period.
- (22) This Regulation should define the typology of payments which may be made by authorising officers. Such payments must be made principally as a function of the effectiveness of the action and the results which flow from it.

The rather vague concepts of advance and payment on account should be removed; payments should be made in the form of pre-financing, interim payments and payments of the final balance, when the entire amount is not paid in one instalment.

- (23) This Regulation should stipulate that the operations of validation, authorisation and payment must be completed within a time limit which will be set in the implementing rules and that in the event of failure to respect this time limit creditors will be entitled to default interest to be charged to the budget.
- (24) As regards contracts awarded by the institutions of the Communities on their own account, provision should be made for the rules contained in the Directives of the European Parliament and of the Council coordinating the procedures for the award of public works, service and supply contracts to apply: the rules applicable to contracts awarded on behalf of third parties should also be consistent with the principles posited by those Directives.
- (25) In order to prevent irregularities and to combat fraud and corruption and promote sound and efficient management, candidates or tenderers who are guilty of such acts or have conflicting interests should be excluded from the award of contracts.
- (26) For the sake of transparency, candidates and tenderers should be informed in an appropriate manner about the award of contracts.
- (27) Finally, as part of the process of empowerment of authorising officers, prior checking by the current Advisory Committee on Procurement and Contracts should be dispensed with.



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- (28) As regards grants, a framework for the award and monitoring of Community grants involving specific provisions for implementing the principles of transparency, equal treatment, co-financing, prohibition of retrospective awards and control should be put in place.
- (29) In order to avoid any cumulation, it should not be possible for grants to be awarded to finance twice the same action or for operating expenditure for the same year.
- (30) In a similar manner to the rules concerning the award of public contracts, grounds for excluding certain parties from the award of grants should be laid down in order to give the institutions appropriate means of combating fraud and corruption.
- (31) To ensure that the rights and obligations of the institution and of the beneficiary are clear and are observed, the grant award should be the subject of a written agreement.
- (32) As regards accounting and the presentation of accounts, it should be stipulated that the accounts comprise general accounts and budget accounts and it should be added that the general accounts are based on a system of accrual accounting whereas the budget accounts are intended to draw up the budget outturn account and the reports on implementation of the budget.
- (33) The principles on which the general accounts are based and the financial statements are presented should be defined by reference to internationally accepted accounting principles and the Directives of the European Parliament and of the Council on the annual accounts of certain types of companies, where they are relevant in the context of the public service.
- (34) The provisions on the supply of information concerning implementation of the budget should be adapted to extend this information to the use of appropriations carried over, made available again and reused and to the various Community-law bodies, to improve the arrangements for providing monthly figures and the report on implementation, which will be sent three times a year to the budgetary authority.
- (35) The accounting methods employed by the institutions should be harmonised and, in this field, the Commission's accounting officer should have the right of initiative.
- (36) It should be specified that the use of computerised financial management systems should in no way restrict the Court of Auditors' rights of access to supporting documents.
- (37) As regards external audit and discharge, although the Commission is fully responsible for implementation of the budget, the importance of management shared with the Member States involves their cooperation in the audit procedure by the Court of Auditors and the discharge by the budgetary authority.

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- (38) In order to provide optimum conditions for the presentation of the accounts and the discharge procedure, the timetable leading up to discharge should be amended.
- (39) The Commission should submit to the European Parliament, at its request, any information required for the smooth application of the discharge procedure for the financial year in question, in accordance with Article 276 of the EC Treaty.
- (40) Special provisions should be laid down for certain Community policies; such provisions should comply with the basic principles of this Regulation.
- (41) It seems necessary to make provision for the possibility of advance commitments against EAGGF and administrative appropriations from 15 November preceding the financial year in question.
- (42) As regards the Structural Funds, the provision for repayment of payments on account 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 <sup>(1)</sup>, as last amended by Regulation (EC) No 1447/2001 <sup>(2)</sup>, should be retained.
- (43) As regards research, the presentation of the budget should be harmonised with the provisions concerning activity-based budgeting, whilst preserving the flexibility of management which the Joint Research Centre (JRC) currently enjoys.
- (44) As regards external action, decentralisation of management of external aid should be authorised provided that the Commission is given guarantees of sound financial management and the beneficiary State is accountable to the Commission for the funds paid to it.
- (45) Financing agreements or contracts signed with the beneficiary State or a national, Community or international public-sector body and natural or legal persons governed by private law must include the general procurement principles laid down in Title V of part one and Title IV of part two of this Regulation as regards external actions.
- (46) A special title should be included containing the general provisions for the management of European offices.
- (47) A separate title should also contain the special rules applicable to administrative appropriations. Provision should also be made to enable each of the two branches of the budgetary authority to issue an opinion in good time on building projects likely to have significant financial implications for the budget.
- (48) The change in the timetable for the consolidation of the institutions' accounts should be deferred until the financial year 2005 in order to allow the necessary time to put in place the essential internal procedures involved.

<sup>(1)</sup> OJ L 161, 26.6.1999, p. 1.

<sup>(2)</sup> OJ L 198, 21.7.2001, p. 1.

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- (49) A suitable framework, tailored to the specific management needs, should be provided for the financial rules to apply to bodies set up by the Communities and having legal personality, which receive a subsidy from the general budget of the European Communities. At the same time, and without in any way impairing the organic autonomy required by these bodies for the performance of their tasks, the substance of the rules governing certain matters, and in particular discharge and accounting, needs to be harmonised. The Commission's internal auditor will exercise the same powers over these bodies as over Commission departments. The financial rules internal to these bodies will have to be adapted accordingly to be compatible with this Financial Regulation. The Commission should accordingly be empowered to draw up a model financial regulation, which Community bodies can depart from only with the Commission's agreement,

HAS ADOPTED THIS REGULATION:

## PART ONE

## COMMON PROVISIONS

## TITLE I

## SCOPE

**▼M3***Article 1*

1. This Regulation lays down the rules for the establishment and the implementation of the general budget of the European Union, (the 'budget') and the presentation and auditing of the accounts.
2. For the purposes of this Regulation:
  - the term 'institution' refers to the European Parliament, the European Council and the Council, the European Commission, the Court of Justice of the European Union and the European 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 (hereinafter the 'EEAS').
  - the European Central Bank shall not be considered an institution of the Union.
3. Any reference to 'the Communities' or to 'the Union' shall be understood as a reference to the European Union and / or the European Atomic Energy Community as the context may require.

**▼B***Article 2*

Any provision concerning the implementation of the revenue and expenditure of the budget, contained in another legislative act, must comply with the budgetary principles set out in Title II.

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TITLE II  
BUDGETARY PRINCIPLES

**▼M1***Article 3*

The budget shall be established and implemented in compliance 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.

**▼B***CHAPTER 1**Principles of unity and of budget accuracy**Article 4*

1. The budget is the instrument which, for each financial year, forecasts and authorises all revenue and expenditure considered necessary for the European Community and the European Atomic Energy Community.
2. The revenue and expenditure of the Communities shall comprise:
  - (a) the revenue and expenditure of the European Community, including administrative expenditure occasioned for the institutions by the provisions of the Treaty on European Union relating to the common foreign and security policy and police and judicial cooperation in criminal matters, and the ►**C2** operational expenditure ◀ occasioned by implementation of those provisions where this is charged to the budget;
  - (b) the expenditure and revenue of the European Atomic Energy Community.
3. The budget shall record the guarantee for borrowing-and-lending operations entered into by the Communities and payments to the Guarantee Fund for external actions.

*Article 5*

1. Subject to Article 74, 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 not be entered in the budget if it is not for an item of expenditure considered necessary.

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4. Subject to Articles 5a, 18 and 74, interest yielded by the funds which are the property of the Communities shall be entered in the budget as miscellaneous revenue.

*Article 5a*

1. Interest generated by pre-financing payments shall be assigned to the programme or the action concerned and deducted from the payment of the balance of the amounts due to the beneficiary.

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The Regulation laying down the rules for implementing this Regulation, hereinafter ‘the implementing rules’, shall specify the cases in which the authorising officer responsible shall, by way of exception, recover annually such interest. That interest shall be entered in the budget as miscellaneous revenue.

2. Interest shall not be due to the Communities in the following cases:

- (a) pre-financing which does not represent a significant amount, as determined in the implementing rules;
- (b) pre-financing paid under a procurement contract within the meaning of Article 88;
- (c) pre-financing paid to Member States;
- (d) pre-financing paid under the pre-accession aid;
- (e) advances paid to members of the institutions and to staff in accordance with the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities, hereinafter ‘the Staff Regulations’;
- (f) pre-financing paid in the framework of joint management as referred to in point (c) of Article 53(1).

**▼ B***CHAPTER 2**Principle of annuality**Article 6*

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

*Article 7*

1. The budget shall contain differentiated appropriations, which shall 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 current financial year, subject to Articles 77(2) and 166(2).

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

4. Paragraphs 1 and 2 shall be without prejudice to the special provisions of Titles I, IV and VI of part two. They shall not prevent appropriations being committed globally nor budgetary commitments being made in annual instalments.

*Article 8*

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 the financial year. However, the own resources for the month of January of the next financial year may be paid in advance pursuant to the Council Regulation implementing the Decision on the system of the Communities' own resources.

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2. The entries in respect of value added tax own resources, the additional GNP-based resource and any financial contributions may be adjusted in accordance with the Regulation referred to in paragraph 1.
3. The appropriations authorised for a given financial year may be used solely to cover expenditure committed and paid in that financial year and to cover amounts due against commitments from earlier financial years.
4. Commitments shall be entered in the accounts on the basis of the legal commitments entered into up to 31 December, subject to the global commitments referred to in Article 77(2) and the financing agreements referred to in Article 166(2), which shall be entered in the accounts on the basis of the budget 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 at the latest.
6. By way of derogation from paragraphs 3, 4 and 5, the expenditure of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) shall be entered in the accounts for a financial year in accordance with the rules laid down in Title I of part two.

*Article 9*

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

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

►C2 2. Differentiated commitment appropriations ◀ and non-differentiated appropriations not yet committed at the close of the financial year may be carried over in respect of:

- (a) amounts corresponding to commitment appropriations for which most of the preparatory stages of the commitment procedure have been completed by 31 December. These amounts may then be committed up to 31 March of the following year;
- (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. ►M1 Payment appropriations ◀ may be carried over in respect of amounts needed to cover existing commitments or commitments linked to commitment appropriations carried over, when the appropriations provided for the relevant lines in the budget for the following financial year do not 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 close of the financial year shall be carried over automatically to the following financial year only.

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5. The institution concerned shall inform the European Parliament and the Council (hereinafter ‘the budgetary authority’) by 15 March at the latest 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. Appropriations placed in reserve and appropriations for staff expenditure may not be carried over.

*Article 10*

Revenue not used and appropriations available at 31 December arising from the assigned revenue referred to in Article 18 shall be carried over automatically. The appropriations available corresponding to assigned revenue carried over must be used first.

*Article 11*

Without prejudice to ►**M1** Articles 157 and 160a ◀, where amounts are decommitted as a result of total or partial non-implementation of the actions for which they were earmarked, in any financial year after that in which the appropriations were entered in the budget, the appropriations concerned shall be cancelled.

*Article 12*

The appropriations entered in the budget may be committed with effect from 1 January, once the budget has been finally adopted, save as otherwise provided in Title I and Title VI of part two.

*Article 13*

1. If the budget has not been finally adopted at the beginning of the financial year, the first paragraph of Article 273 of the EC Treaty and the first paragraph of Article 178 of the Euratom Treaty shall apply to commitment and payment of expenditure which it has been possible to book to a specific line in the budget as part of implementation of the last budget duly adopted.

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

Payments may be made monthly per chapter to a maximum of one twelfth of the allotted appropriations in the chapter in question of the preceding financial year.

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

3. If the continuity of action by the Communities and management needs so require:

- (a) the Council, acting by a qualified majority at the request of the Commission and after consulting the European Parliament, may simultaneously authorise two or more provisional twelfths both for commitments and for payments over and above those automatically made available by the provisions of paragraphs 1 and 2;

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- (b) for expenditure other than that necessarily resulting from the Treaties or acts adopted pursuant thereto, the third paragraph of Article 273 of the EC Treaty and the third paragraph of Article 178 of the Euratom Treaty shall apply.

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

4. If, for a given chapter, the authorisation of two or more provisional twelfths granted in the circumstances and under the procedures provided for in paragraph 3 is not sufficient to cover the expenditure necessary to avoid a break in continuity of the Communities' activity 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 budgetary authority shall act under the procedures provided for in paragraph 3. However, the available overall total of the appropriations in the budget of the preceding financial year may in no circumstances be exceeded.

*CHAPTER 3**Principle of equilibrium**Article 14*

1. Budget revenue and payment appropriations must be in balance.
2. Without prejudice to Article 46(1)(4), the European Community and the European Atomic Energy Community, as well as the bodies set up by the Communities as referred to in Article 185, may not raise loans.

*Article 15*

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 34. They shall be drawn up in accordance with the Council Regulation implementing the Decision on the system of the Communities' own resources.
3. After the presentation of the accounts for each financial year, any discrepancy with 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 preliminary draft amending budget must be submitted by the Commission within 15 days following the submission of the provisional accounts.



**▼ B***CHAPTER 4**Principle of unit of account**Article 16*

The budget shall be drawn up and implemented in euro and the accounts shall be presented in euro.

**▼ M1**

However, for the cash-flow purposes referred to in Article 61, the accounting officer and, in the case of imprest accounts, the imprest administrators, and, for the needs of the administrative management of ► **M3** the Commission and the EEAS ◀, the authorising officer responsible shall be authorised to carry out operations in national currencies as laid down in the implementing rules.

**▼ B***CHAPTER 5**Principle of universality**Article 17*

Total revenue shall cover total payment appropriations, subject to Article 18. All revenue and expenditure shall be entered in full without any adjustment against each other, subject to Article 20.

*Article 18*

1. ► **M1** Without prejudice to Article 160(1a) and Article 161(2), the following items of revenue shall be used to finance specific items of expenditure: ◀

(a) financial contributions from Member States to certain research programmes pursuant to the Council Regulation implementing the Decision on the system of the Communities' own resources;

**▼ M1**

(aa) financial contributions from Member States and other donor countries, including in both cases their public and parastatal agencies, or from international organisations to certain external aid projects or programmes financed by the Community and managed by the Commission on their behalf, pursuant to the relevant basic act;

**▼ B**

(b) interest on deposits and the fines provided for in the Regulation on speeding up and clarifying the implementation of the excessive deficit procedure;

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

(d) contributions to Community activities from third countries or various bodies;

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

**▼ M1**

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

**▼ B**

- (f) revenue arising from the repayment of amounts wrongly paid;
- (g) proceeds from the supply of goods, services and works for other institutions or bodies, including refunds by other institutions or bodies of mission allowances paid on their behalf;
- (h) insurance payments received;
- (i) revenue from payments connected with lettings;
- (j) revenue from the sale of publications and films, including those on an electronic medium.

2. The basic act applicable may also assign the revenue for which it provides to specific items of expenditure.

3. The budget shall carry lines to accommodate the categories of assigned revenue referred to in paragraphs 1 and 2 and wherever possible shall indicate the amount.

*Article 19*

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

2. ► **M1** Acceptance of donations of a value of EUR 50 000 or more which involve 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 the date of receipt of the request from the Commission. ◀ If no objection has been made within that period, the Commission shall take a final decision in respect of acceptance.

*Article 20*

1. The implementing rules may specify the cases where certain revenue may be deducted from invoices or requests for payment, which shall then be passed for payment of the net amount.

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

3. 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.

**▼B**

## CHAPTER 6

*Principle of specification**Article 21*

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

**▼M1***Article 22*

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 the transfers referred to in paragraph 1, the institutions shall inform the budgetary authority of their intentions. In the event of duly substantiated reasons being raised within this period by either branch of the budgetary authority, the procedure laid down in Article 24 shall apply.

3. Any institution other than the Commission may propose to the budgetary authority, within its own section of the budget, transfers from one title to another exceeding the limit of 10 % of the appropriations for the financial year on the line from which the transfer is to be made. Those transfers shall be subject to the procedure laid down in Article 24.

4. Any institution other than the Commission may, within its own section of the budget, make transfers within articles without informing the budgetary authority beforehand.

**▼B***Article 23*

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

- (a) transfer appropriations within articles and transfers between articles within each chapter;

**▼M1**

- (b) as regards expenditure on staff and administration, 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;

**▼B**

- (c) as regards operational expenditure, transfer appropriations between chapters within the same title, up to a maximum total of 10 % of the appropriations for the year shown on the line from which the transfer is made;

**▼M1**

- (d) transfer appropriations, as soon as the basic act is adopted pursuant to the procedure laid down in Article 251 of the Treaty, from the 'provisions' title referred to in Article 43 for the cases where no basic act existed for the action concerned when the budget was established.

**▼ M1**

Three weeks before making the transfers referred to in points (b) and (c) of the first subparagraph, the Commission shall inform the budgetary authority of its decision. In the event of duly substantiated reasons being raised within that three-week period by either branch of the budgetary authority, the procedure laid down in Article 24 shall apply.

However, during the last two months of the financial year, the Commission may 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 of the financial year. The Commission shall inform the budgetary authority within two weeks after its decision on those transfers.

The Commission shall inform the budgetary authority within two weeks after its decision on transfers referred to in point (d) of the first subparagraph.

**▼ B**

2. The Commission may propose to the budgetary authority, within its own section of the budget, transfers other than those referred to in ►**M1** paragraph 1 ◀.

*Article 24*

1. The budgetary authority shall take decisions on transfers of appropriations as provided for in paragraphs 2, 3 and 4, save as otherwise provided in Title I of part two.

2. In the case of proposals for transfers of appropriations relating to expenditure necessarily resulting from the Treaties or from acts adopted in accordance therewith, the Council shall, after consulting the European Parliament, act by a qualified majority within six weeks, except in urgent cases. The European Parliament shall deliver its opinion within such time as will permit the Council to take note of it and to act within the stipulated time limit. Where the Council does not act within this time limit, the proposals for transfers shall be deemed to be approved.

3. In the case of proposals for transfers relating to expenditure other than that necessarily resulting from the Treaties or from acts adopted in accordance therewith, the European Parliament shall, after consulting the Council, act within six weeks, except in urgent cases. The Council shall deliver its opinion, by a qualified majority, within such time as will permit the European Parliament to take note of it and to act within the stipulated time limit. Where no decision is taken within this time limit, the proposals for transfers shall be deemed to be approved.

4. Proposals for transfers relating both to expenditure necessarily resulting from the Treaties or from acts adopted in accordance therewith and to other expenditure shall be deemed to be approved if neither the European Parliament nor the Council has decided otherwise within six weeks of the date on which the two institutions received the proposals. If, in the case of such proposals for transfers, the European Parliament and the Council reduce the proposed transfer by different amounts, whichever is the smaller of the amounts accepted by one of the two institutions shall be deemed to be approved. Where one of the institutions rejects the principle of the transfer, the transfer shall not be made.

**▼B***Article 25*

1. Appropriations may be transferred only to budget lines for which the budget has authorised appropriations or carries a token entry (p.m.).
2. Appropriations corresponding to assigned revenue may be transferred only if such revenue is used for the purpose to which it is assigned.

*Article 26***▼M1**

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

**▼B**

2. ►**M1** Decisions on transfers to allow the utilisation of the reserve for emergency aid shall be taken by the budgetary authority on a proposal from the Commission. A separate proposal must be submitted for each individual operation ◀.

**▼M1****▼C3**

The procedure provided for in Article 24(2) and (3) shall apply. If the Commission proposal is not agreed to by both arms of the budgetary authority and there is a failure to arrive at a common position on the utilisation of this reserve, the European Parliament and the Council shall refrain from acting on the Commission's proposal for a transfer.

**▼M1**

3. In duly substantiated exceptional cases of international humanitarian disasters and crises, occurring after 15 December of the budgetary year, the Commission may transfer unused budgetary appropriations for the current budgetary year still available in the budget titles falling under heading 4 of the multiannual financial framework to the budget titles concerning the crisis management aid and humanitarian aid operations. The Commission shall inform the two branches of the budgetary authority immediately after making such transfers.

**▼B***CHAPTER 7**Principle of sound financial management**Article 27*

1. Budget 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 for 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 is concerned with the best relationship between resources employed and results achieved.

The principle of effectiveness is concerned with attaining the specific objectives set and achieving the intended results.

**▼ B**

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget. Achievement of those objectives shall be monitored by performance indicators for each activity and information shall be provided by the spending authorities to the budgetary authority. Such information, as referred to in Article 33(2)(d), shall be provided annually and at the latest in the documents accompanying the preliminary 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 disseminated to spending, legislative and budgetary authorities.

*Article 28***▼ M1**

► **M3** 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 (hereinafter the 'High Representative') or by a Member State, which may have an impact on the budget, including changes in the number of posts, must be accompanied by a financial statement and by the evaluation provided for in Article 27(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, must be accompanied by a financial statement prepared by the institution proposing the amendment.

**▼ B**

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 statements. This information shall include progress made and the stage reached by the legislative authority in its consideration of proposals presented. The appropriations required shall, where appropriate, be revised in the light of the progress of deliberations on the basic act.

**▼ M1**

3. In order to prevent the risk of fraud and irregularities, the financial statement referred to in paragraph 1 shall record any information regarding existing and planned fraud prevention and protection measures.

*Article 28a*

1. The budget shall be implemented in compliance with effective and efficient internal control as appropriate in each management mode, and in accordance with the relevant sector-specific regulations.

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

- (a) effectiveness, efficiency and economy of operations;
- (b) reliability of reporting;

**▼ M1**

- (c) safeguarding of assets and information;
- (d) prevention and detection of fraud and irregularities;
- (e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multi-annual character of programmes as well as the nature of the payments concerned.

**▼ B***CHAPTER 8**Principle of transparency**Article 29*

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

**▼ M1**

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

The budget shall be published within three months following the date on which the budget is declared finally 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.

**▼ B***Article 30*

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

2. Information on the operations of the Guarantee Fund for external actions shall appear in the financial statements.

**▼ M1**

► **M3** 3. The Commission shall make available, in an appropriate manner, information on the beneficiaries of funds deriving from the budget held by it when the budget is implemented on a centralised basis and directly by its departments or by Union Delegations in accordance with the second paragraph of Article 51, and information on the beneficiaries of funds as provided by the entities to which budget implementation tasks are delegated under other modes of management. ◀

This information shall be made available with due observance of the requirements of confidentiality, in particular the protection of personal data as laid down in 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 <sup>(1)</sup> and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2001 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 <sup>(2)</sup>, and of the requirements of security, taking into account the specificities of each management mode referred to in Article 53 and where applicable in conformity with the relevant sector-specific rules.

<sup>(1)</sup> OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1)

<sup>(2)</sup> OJ L 8, 12.1.2001, p. 1.

**▼B**

TITLE III  
ESTABLISHMENT AND STRUCTURE OF THE BUDGET

CHAPTER 1

*Establishment of the budget*

*Article 31*

The European Parliament, ►**M3** the European Council and ◀ the Council, the Court of Justice of the European Communities, the Court of Auditors, the Economic and Social Committee, the Committee of the Regions, the Ombudsman and the European Data-Protection Supervisor ►**M3** and the European External Action Service ◀ shall draw up an estimate of their revenue and expenditure, which they shall send to the Commission before 1 July each year.

**▼M3**

The EEAS shall draw up an estimate of its revenue and expenditure, which it shall send to the Commission before 1 July each year. The High Representative will 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.

**▼B**

These estimates shall also be sent by these institutions to the budgetary authority for information by no later than 1 July each year. The Commission shall draw up its own estimates, which it shall also send to the budgetary authority by the same date.

In preparing its own estimates the Commission shall use the information referred to in Article 32.

*Article 32*

Each body referred to in Article 185 shall, in accordance with the instrument establishing it, send to the Commission by 1 April each year an estimate of its revenue and expenditure, including the establishment plan, and its work programme.

The Commission shall forward these documents to the budgetary authority for information, except in the case provided for in point (3)(d) of Article 46(1).

*Article 33*

1. The Commission shall place a preliminary draft budget before the Council by 1 September each year at the latest. It shall at the same time transmit the preliminary draft budget to the European Parliament.

The preliminary draft budget shall contain a summary general statement of the expenditure and revenue of the Communities and consolidate the estimates referred to in Article 31.

2. The Commission shall attach to the preliminary draft budget:

- (a) an analysis of financial management in the previous year and the commitments outstanding;
- (b) where appropriate, an opinion on the estimates of the other institutions which may contain different estimates, accompanied by the reasons therefor;



**▼B**

- (c) any working paper it considers useful in connection with the establishment plans of the institutions and the grants which the Commission awards to the bodies referred to in Article 185 and to the European Schools;

**▼M1**

- (d) the activity statements containing the following:
  - 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,
  - full justification and cost-benefit approach for proposed changes in the level of appropriations,
  - clear rationale for intervention at the EU level in keeping, inter alia, with the principle of subsidiarity,
  - information on the implementation rates of the previous year's activity and implementation rates for the current year.

Evaluation results shall be consulted and referred to as evidence of the likely merits of proposed budget changes;

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

**▼M3**

3. 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<sup>(1)</sup> and in order to ensure the budgetary transparency in the area of external action of the Union, the Commission shall transmit to the budgetary authority, together with the draft budget, a working document presenting, in a comprehensive way,

- all administrative and operational expenditure related to the external actions of the Union, including Common Foreign and Security Policy / Common Security and Defence Policy (CFSP/CSDP) tasks, and financed from the Union's budget;
- the EEAS' overall administrative expenditure for the previous year, broken down into expenditure by delegation and expenditure for the EEAS' central administration; together with the operational expenditure, broken down by geographic area (regions, countries), thematic areas, Union Delegation and mission.

The working document shall also:

- 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 budget appropriations in each Union Delegation, as well as in the central administration of the EEAS;
- 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 year;

<sup>(1)</sup> OJ L 201, 3.8.2010, p. 30.

**▼M3**

- 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, Council and Commission staff; provide a detailed picture of all staff in place in the Union Delegations at the time of presenting the draft budget, including a breakdown by geographic area, 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.

**▼B***Article 34*

1. The Commission may, on its own initiative or if requested by the other institutions, each in respect of its own section, present to the Council a letter of amendment to the preliminary draft budget on the basis of new information which was not available at the time the preliminary draft was established.
2. However, save as otherwise agreed by the institutions or in exceptional circumstances, the Commission shall put such letter of amendment to the Council at least 30 days before the first reading of the draft budget by the European Parliament. The Council must put the letter of amendment to the European Parliament at least 15 days before the said first reading.

*Article 35*

1. The Council shall establish the draft budget in accordance with the procedure laid down in Article 272(3) of the EC Treaty and Article 177(3) of the Euratom Treaty.
2. The Council shall place the draft budget before the European Parliament by 5 October of the year preceding that of implementation of the budget at the latest. The Council shall attach to that draft budget an explanatory memorandum defining its reasons for departing from the preliminary draft budget.

*Article 36*

1. The President of the European Parliament shall declare the budget finally adopted in accordance with the procedure provided for in Article 272(7) of the EC Treaty and Article 177(7) of the Euratom Treaty.
2. Once the budget has been declared finally adopted, each Member State shall, from 1 January of the following financial year or from the date of the declaration of final adoption of the budget if that is after 1 January, be bound to make over to the Community the payments due as specified in the Council Regulation implementing the Decision on the system of the Communities' own resources.

*Article 37*

1. If there are unavoidable, exceptional or unforeseen circumstances, the Commission may present preliminary draft amending budgets.

**▼B**

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

**▼M1**

Before presenting a preliminary draft amending budget, the Commission and institutions other than the Commission shall examine the scope for reallocation of the relevant appropriations, taking into account any expected under-implementation of appropriations.

**▼B**

2. The Commission shall, save in exceptional circumstances, submit any preliminary draft amending budget to the Council by 1 September each year at the latest. It may attach an opinion to the requests for amending budgets from the other institutions.

3. The budgetary authority shall discuss them with due account for their urgency.

*Article 38*

1. Where the Council receives a preliminary draft amending budget, it shall draw up a draft amending budget in accordance with Articles 35 and 37.

2. Except for the timetable, Articles 35 and 36 shall apply to amending budgets. They must be substantiated by reference to the budget whose estimates they are amending.

*Article 39*

The Commission and the budgetary authority may agree to bring forward certain dates for the transmission of the estimates, and for the adoption and transmission of the preliminary draft and draft budgets. This arrangement may not, however, have the effect of shortening or prolonging the periods allowed for consideration of these texts under Article 272 of the EC Treaty and Article 177 of the Euratom Treaty.

*CHAPTER 2**Structure and presentation of the budget**Article 40*

The budget shall consist of:

**▼M1**

(a) a general statement of revenue and expenditure;

**▼B**

(b) separate sections subdivided into statements of revenue and expenditure for each institution.

*Article 41*

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

**▼B**

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

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

Each title may include ► **C2** operational appropriations ◀ and administrative appropriations.

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

*Article 42*

The budget may not contain negative revenue.

The own resources paid under the Council Decision on the system of the Communities' own resources shall be net amounts and shall be shown as such in the summary statement of revenue in the budget.

*Article 43*

1. Each section of the budget may include a 'provisions' title. Appropriations shall be entered in this title in the following two circumstances:

- (a) where no basic act exists for the action concerned when the budget is established;
- (b) where there are serious grounds for doubting the adequacy of the appropriations or the possibility of implementing, under conditions consonant with sound financial management, the appropriations entered on the lines concerned.

**▼M1**

The appropriations in this title may be used only after transfer in accordance with the procedure laid down in Article 23(1)(d), where the adoption of the basic act is subject to the procedure laid down in Article 251 of the Treaty, and that of Article 24, for all other cases.

**▼B**

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 budgetary authority shall take a decision on these transfers as provided in Article 24.

*Article 44*

The Commission section of the budget may include a 'negative reserve' limited to a maximum amount of EUR 200 million. This reserve, which shall be ► **C2** entered in a separate title ◀, may comprise both commitment appropriations and payment appropriations.

This reserve must be drawn upon before the end of the financial year by means of transfer in accordance with the procedure laid down in ► **M1** Articles 23 and 25 ◀.

**▼ M1***Article 45*

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 24 and 26.

**▼ B***Article 46*

1. The budget shall show:
  - (1) ► **M1** in the general statement of revenue and expenditure: ◀
    - (a) the estimated revenue of the Communities for the financial year in question;
    - (b) the estimated revenue for the preceding financial year and the revenue for year  $n - 2$ ;
    - (c) the commitment and payment appropriations for the financial year in question;
    - (d) the commitment and payment appropriations for the preceding financial year;
    - (e) the expenditure committed and the expenditure paid in year  $n - 2$ ,

**▼ M1**

- 
- (g) appropriate remarks on each subdivision, as set out in Article 41(1);
  - (2) in the section for each institution, the revenue and expenditure shall be shown in the same structure as in point (1);

**▼ B**

- (3) as regards staff:
  - (a) for each section of the budget, 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 budget appropriations;
  - (b) 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 budget appropriations;

**▼ M1**

- (c) 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 must specify the number of highly qualified technical or scientific personnel who are accorded special advantages under the specific provisions of the Staff Regulations;

**▼B**

- (d) an establishment plan setting the number of posts by grade and by category for each body referred to in Article 185 which receives a grant 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;
- (4) as regards borrowing-and-lending operations:
- (a) in the general statement of revenue, the budget lines corresponding to the relevant operations and intended to record any reimbursements received from beneficiaries who initially defaulted, leading to activation of the performance guarantee. These lines shall carry a token entry (p.m.) and be accompanied by appropriate remarks;
  - (b) in the Commission section:
    - (i) the budget lines containing the Communities' performance guarantees in respect of the operations in question. These lines shall carry a token entry (p.m.), so long as no effective charge which has to be covered by definitive resources has arisen;
    - (ii) remarks giving the reference to the basic act and the volume of the operations envisaged, the duration and the financial guarantee given by the Communities in respect of these operations;
  - (c) in a document annexed to the Commission section, as an indication:
    - (i) ongoing capital operations and debt management;
    - (ii) the capital operations and debt management for the financial year in question;

**▼M1**

- (5) the budget lines under revenue and expenditure necessary for implementing the Guarantee Fund for external actions;

**▼M3**

- (6) the total amount of Common Foreign and Security Policy (CFSP) expenditure shall be entered into one budget chapter, entitled CFSP, with specific budgetary articles. Those articles shall cover CFSP expenditure and shall contain specific budget lines identifying at least the single major missions.

**▼B**

- 2. In addition to the documents referred to in paragraph 1 the budgetary authority may attach any other relevant documents to the budget.

*Article 47*

- 1. The establishment plan described in point 3 of Article 46(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 ►**M1** grades AD 16, AD 15 and AD 14 ◀, each institution or body may modify establishment plans by up to 10 % of posts authorised, subject to two conditions:

- (a) that the volume of staff appropriations corresponding to a full financial year is not affected, and

**▼B**

- (b) that the limit of the total number of posts authorised by each establishment plan is not exceeded.

Three weeks before making the modifications referred to in the second subparagraph, the institutions shall inform the budgetary authority of their intentions. In the event of duly justified reasons being raised within this period by either branch of the budgetary authority, the institutions shall refrain from making the modifications and the normal procedure 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.

## TITLE IV

## IMPLEMENTATION OF THE BUDGET

## CHAPTER I

*General provisions**Article 48*

1. The Commission shall implement the revenue and expenditure of the budget in accordance with this Regulation, on 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.

**▼M1***Article 49*

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

A basic act is a legal act which provides a legal basis for the action and for the implementation of the corresponding expenditure entered in the budget.

2. In application of the EC Treaty and the Euratom Treaty, a basic act is an act adopted by the legislative authority and may take the form of a regulation, a directive, a decision within the meaning of Article 249 of the EC Treaty or a decision *sui generis*.
3. In application of Title V of the Treaty on European Union (concerning Common Foreign and Security Policy — CFSP), a basic act may take one of the forms specified in Articles 13(2) and (3), 14, 18(5), 23(1) and (2) and 24 of the Treaty on European Union.
4. In application of Title VI of the Treaty on European Union (concerning Police and Judicial Cooperation in Criminal Matters), a basic act may take one of the forms referred to in Article 34(2) of the Treaty on European Union.
5. Recommendations and opinions do not constitute basic acts within the meaning of this Article, nor do resolutions, conclusions, declarations or other acts which have no legal effects.

▼ M1

6. By way of derogation from paragraphs 1 to 4, the following may be implemented without a basic act provided the actions which they are intended to finance fall within the powers of the Communities or the European Union:

- (a) appropriations for pilot schemes 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 successive financial years;
- (b) appropriations for preparatory actions in the fields of application of the EC Treaty and the Euratom Treaty and of Title VI of the TEU, designed to prepare proposals with a view to the adoption of future actions. The preparatory actions are to follow a coherent approach and may take various forms. The relevant commitment appropriations may be entered in the budget for not more than three successive financial years. The legislative procedure must be concluded before the end of the third financial year. In the course of the legislative procedure, the commitment of appropriations must correspond to the particular features of the preparatory action as regards the activities envisaged, the aims pursued and the persons benefited. Consequently, the means implemented cannot correspond in volume to those envisaged for financing the definitive action itself.

When the preliminary draft budget is presented, the Commission shall submit a report to the budgetary authority on the actions referred to in points (a) and (b) which shall also contain an assessment of results and the follow-up envisaged;

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

For the purpose of EU crisis management operations, preparatory measures are 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, in full association with the Commission. To this end, the Presidency, assisted by the Secretary-General of the Council/High Representative for the CFSP, shall inform 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. In conformity with the provisions of this Regulation, the Commission shall take all the necessary measures to ensure a rapid disbursement of the funds;

- (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 EC Treaty 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 given in the implementing rules;



**▼ M1**

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

**▼ B***Article 50*

The Commission shall confer on the other institutions the requisite powers for the implementation of the sections of the budget relating to them. ► **M3** However, detailed arrangements may be agreed with the Commission in order to facilitate the implementation of the Union Delegations' administrative appropriations. Those arrangements shall not contain any derogation from the provisions of the Financial Regulation or its implementing rules. ◀

**▼ M1**

Each institution shall exercise these powers in accordance with this Regulation and within the limits of the appropriations authorised.

**▼ B***Article 51*

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 by this Regulation and by their internal rules and within the limits which they lay down in the instrument of delegation. Those so empowered may act only within the limits of the powers expressly conferred upon them.

**▼ M3**

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 sub-delegated authorising officers of the Commission, they shall apply the Commission rules for the implementation of the budget and shall be submitted to the same duties, obligations and accountability as any other sub-delegated authorising officer of the Commission.

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

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

**▼ M1***Article 52*

1. All financial actors and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any action which may bring their own interests into conflict with those of the Communities. Should such a case arise, the person in question must refrain from such actions and refer the matter to the competent authority.

**▼ M1**

2. There is a conflict of interests 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 the beneficiary.

**▼ B***CHAPTER 2**Methods of implementation***▼ M1***Article 53*

The Commission shall implement the budget in accordance with the provisions set out in Articles 53a to 53d in any of the following ways:

- (a) on a centralised basis;
- (b) by shared or decentralised management;
- (c) by joint management with international organisations.

**▼ M3***Article 53a*

Where the Commission implements the budget on a centralised basis, implementation tasks shall be performed, either directly by its departments or by Union Delegations in accordance with the second paragraph of Article 51, or indirectly, in accordance with Articles 54 to 57.

**▼ M1***Article 53b*

1. Where the Commission implements the budget by shared management, implementation tasks shall be delegated to Member States. That method shall apply in particular to the actions referred to in Titles I and II of Part Two.

2. Without prejudice to complementary provisions included in relevant sector-specific regulations, and in order to ensure in shared management that the funds are used in accordance with the applicable rules and principles, the Member States shall take all the legislative, regulatory and administrative or other measures necessary for protecting the Communities' financial interests. To this effect they shall in particular:

- (a) satisfy themselves that actions financed from the budget are actually carried out and to ensure that they are implemented correctly;
- (b) prevent and deal with irregularities and fraud;
- (c) recover funds wrongly paid or incorrectly used or funds lost as a result of irregularities or errors;
- (d) ensure, by means of relevant sector-specific regulations and in conformity with Article 30(3), adequate annual *ex post* publication of beneficiaries of funds deriving from the budget.

To that effect, the Member States shall conduct checks and shall put in place an effective and efficient internal control system, according to the provisions laid down in Article 28a. They shall bring legal proceedings as necessary and appropriate.

▼ M1

3. Member States shall produce an annual summary at the appropriate national level of the available audits and declarations.

4. In order to ensure that the funds are used in accordance with the applicable rules, the Commission shall apply clearance-of-accounts procedures or financial correction mechanisms which enable it to assume final responsibility for the implementation of the budget.

*Article 53c*

1. Where the Commission implements the budget by decentralised management, implementation tasks shall be delegated to third countries in accordance with Article 56 and Title IV of Part Two, without prejudice to delegation of residual tasks to bodies referred to in Article 54(2).

2. In order to ensure that the funds are used in accordance with the applicable rules, the Commission shall apply clearance-of-accounts procedures or financial correction mechanisms which enable it to assume final responsibility for the implementation of the budget.

3. Third countries to which implementation tasks are delegated shall ensure, in conformity with Article 30(3), adequate annual *ex post* publication of beneficiaries of funds deriving from the budget.

*Article 53d*

1. Where the Commission implements the budget by joint management, certain implementation tasks shall be delegated to international organisations, in accordance with the implementing rules, in the following cases:

- (a) wherever the Commission and the international organisation are bound by a long-term framework agreement laying down the administrative and financial arrangements for their cooperation;
- (b) wherever the Commission and the international organisation elaborate a joint project or programme;
- (c) where the funds of several donors are pooled and are not earmarked for specific items or categories of expenditure, that is to say, in the case of multi-donor actions.

These organisations shall, in their accounting, audit, internal control and procurement procedures, apply standards which offer guarantees equivalent to internationally accepted standards.

2. Individual agreements concluded with international organisations for the award of financing shall contain detailed provisions for the implementation of the tasks entrusted to such international organisations.

3. International organisations to which implementation tasks are delegated shall ensure, in conformity with Article 30(3), adequate annual *ex post* publication of beneficiaries of funds deriving from the budget.

**▼B***Article 54***▼M1**

1. The Commission may not delegate to third parties the executive powers it enjoys under the Treaties where they involve a large measure of discretion implying political choices. The implementing tasks delegated must be clearly defined and fully supervised as to the use made of them.

The delegation of budget-implementation tasks shall comply with the principle of sound financial management which requires effective and efficient internal control and shall ensure compliance with the principle of non-discrimination, and the visibility of Community action. No implementing tasks delegated in this way may give rise to conflicts of interests.

**▼B**

2. ►**M1** Within the limits laid down in paragraph 1, the Commission may, when implementing the budget by indirect centralised management or by decentralised management under Articles 53a or 53c, delegate tasks of public authority and in particular budget implementation tasks to: ◀

(a) agencies governed by Community law, referred to in Article 55, hereinafter: 'executive agencies';

**▼M1**

(b) bodies set up by the Communities as referred to in Article 185 and other specialised Community bodies, such as the European Investment Bank or the European Investment Fund, provided that to do so is compatible with the tasks of each body as defined in the basic act;

(c) national or international public-sector bodies or bodies governed by private law with a public-service mission providing adequate financial guarantees and complying with the conditions provided for in the implementing rules;

(d) persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union, and identified in the relevant basic act within the meaning of Article 49 of this Regulation.

**▼B**

3. Where the bodies referred to in paragraph 2 perform implementation tasks, they shall conduct regular checks to ensure that the actions to be financed from the budget have been implemented correctly.

**▼M1**

Such bodies or persons shall take appropriate measures to prevent irregularities and fraud and if necessary bring legal proceedings to recover funds wrongly paid or incorrectly used.

*Article 55*

1. The executive agencies shall be legal persons under Community law created by Commission Decision to which powers may be delegated to implement all or part of a Community programme or project on behalf of the Commission 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 <sup>(1)</sup>.

<sup>(1)</sup> OJ L 11, 16.1.2003, p. 1.

▼ M1

2. Implementation of the corresponding operational appropriations shall be carried out by the director of the agency.

*Article 56*

1. Where the Commission implements the budget by indirect centralised management, it shall first obtain evidence of the existence and proper operation within the entities to which it entrusts implementation of the following:

- (a) transparent procurement and grant-award procedures which are non-discriminatory and exclude any conflict of interest and which are in accordance with the provisions of Titles V and VI respectively;
- (b) an effective and efficient internal control system for the management of operations, which includes effective segregation of the duties of authorising officer and accounting officer or of the equivalent functions;
- (c) an accounting system that enables the correct use of Community funds to be verified and the use of funds to be reflected in Community accounts;
- (d) an independent external audit;
- (e) public access to information at the level provided for in Community Regulations;
- (f) adequate annual *ex post* publication of beneficiaries of funds deriving from the budget in conformity with Article 30(3).

The Commission may accept that the audit, accounting and procurement systems of the entities referred to in paragraphs 1 and 2 are equivalent to its own, with due account for internationally accepted standards.

2. In the case of decentralised management, the criteria laid down in paragraph 1 with the exception of the criterion provided in point (e), shall apply, in full or in part, depending on the degree of decentralisation, agreed between the Commission and the third country, national or international public-sector bodies concerned.

Notwithstanding paragraph (1)(a) and Article 169a, the Commission may decide:

- in the case of pooling of funds, and
- under the conditions provided in the basic act,

to use the procurement or grant procedures of the beneficiary partner country or as agreed among donors.

Before taking such a decision, the Commission shall first obtain evidence on a case-by-case basis that such procedures satisfy the principles of transparency, equal treatment and non-discrimination, prevent any conflict of interest, offer guarantees equivalent to internationally accepted standards and ensure compliance with the provisions of sound financial management which requires effective and efficient internal control.

The third country, national or international public-sector bodies concerned shall undertake to fulfil the following obligations:

- (a) to comply, subject to the first subparagraph of this paragraph, with the criteria laid down in paragraph 1;

**▼ M1**

- (b) to ensure that the audit referred to in point (d) of paragraph 1 is exercised by a national institution for independent external auditing;
- (c) to conduct regular checks to ensure that the actions to be financed from the budget have been implemented correctly;
- (d) to take appropriate measures to prevent irregularities and fraud and, if necessary, to bring legal proceedings to recover funds wrongly paid.

3. The Commission shall ensure supervision, evaluation and control of the implementation of the tasks entrusted. It shall take the equivalence of control systems into account when it carries out controls using its own control systems.

**▼ B***Article 57***▼ M1**

1. The Commission may not entrust measures of implementation of funds deriving from the budget, including payment and recovery, to external private-sector entities or bodies, except in the case referred to in Article 54(2)(c) or in specific cases where the payments involved are to be made to beneficiaries determined by the Commission, are subject to conditions and amounts fixed by the Commission and do not involve the exercise of discretion by the entity or body making the payments.

**▼ B**

2. The tasks which may be entrusted by contract to external private-sector entities or bodies other than those which have a public-service mission are technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary powers of judgment.

*CHAPTER 3****Financial actors*****Section 1****Principle of segregation of duties***Article 58*

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

**Section 2****Authorising officer***Article 59*

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

**▼ M1**

1a. For the purposes of this Title, the term 'staff' refers to persons covered by the Staff Regulations.

**▼ M1**

2. Each institution shall lay down in its internal administrative rules the staff of an appropriate level to whom it delegates in compliance with the conditions in its rules of procedure the duties of the authorising officer, the scope of the powers delegated and the possibility for the persons to whom these powers are delegated to subdelegate them.

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

**▼ B**

4. Authorising officers by delegation or subdelegation may act only within the limits set by the instrument of delegation or subdelegation. The responsible authorising officer by delegation or subdelegation may be assisted in his/her task by one or more members of staff entrusted, under his/her responsibility, to carry out certain operations necessary for implementation of the budget and presentation of the accounts.

**▼ M3**

5. Where Heads of Union Delegations act as authorising officers by sub-delegation in accordance with the second paragraph of Article 51, they shall be subject to the Commission as the institution responsible for the definition, exercise, control and appraisal of their duties and responsibilities as authorising officers by sub-delegation. The Commission shall, at the same time, inform the High Representative thereof.

**▼ B***Article 60*

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

2. To implement expenditure, the authorising officer by delegation and by subdelegation shall make budgetary commitments and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminaries for the implementation of appropriations.

3. 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.

4. The authorising officer by delegation shall put in place, in compliance with 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, the organisational structure and the internal management and control procedures suited to the performance of his/her duties, including where appropriate *ex post* verifications. Before an operation is authorised, the operational and financial aspects shall be verified by members of staff other than the one who initiated the operation. The initiation and the *ex ante* and *ex post* verification of an operation shall be separate functions.

**▼ B**

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

6. Any member of staff involved in the financial management and control of transactions who considers that a decision he/she is required by his/her superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules he/she is required to observe shall inform the authorising officer by delegation in writing and, if the latter fails to take action, the panel referred to in Article 66(4). In the event of any illegal activity, fraud or corruption which may harm the interests of the Community, he/she shall inform the authorities and bodies designated by the applicable legislation.

**▼ M1**

7. The authorising officer by delegation shall report to his institution on the performance of his duties in the form of an annual activity report together with financial and management information confirming that the information contained in the report presents a true and fair view except as otherwise specified in any reservations related to defined areas of revenue and expenditure.

That report shall indicate the results of the operations by reference to the objectives set, the risks associated with these operations, the use made of the resources provided and the efficiency and effectiveness of the internal control system. The internal auditor shall take note of the annual report and any other pieces of information identified. No later than 15 June each year, the Commission shall send to the budgetary authority a summary of the annual reports for the previous year. ► **M3** The annual activity reports of the authorising officers by delegation shall also be made available to the budgetary authority. ◀

**▼ M3***Article 60a*

1. Where Heads of Union Delegations act as authorising officers by sub-delegation in accordance with the second paragraph of Article 51, they shall cooperate closely with the Commission for the proper implementation of the funds, in order to ensure, in particular, the legality and regularity of financial transactions, the respect of 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 sub-delegated to them as well as any conflict of priorities which is likely to have an impact on the implementation of the financial management tasks sub-delegated to them.

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



**▼M3**

2. If Heads of Union Delegations find themselves in a situation referred to in Article 60(6), they shall refer the matter to the specialised financial irregularities panel set up pursuant to Article 66(4). 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 sub-delegation in accordance with the second paragraph of Article 51 shall report to their authorising officer by delegation so that the latter can integrate their reports in his annual activity report referred to in Article 60(7). The reports of the Heads of Union Delegations shall include information on the efficiency and effectiveness of internal management and control systems put in place in their Delegation, as well as on the management of operations sub-delegated to them, and provide the assurance pursuant to Article 66(3a). These reports shall be annexed to the annual activity report of the authorising officer by delegation, and shall be made available to the budgetary authority taking into account, where appropriate, their confidentiality.

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

4. Heads of Union Delegations acting as authorising officers by sub-delegation in accordance with the second paragraph of Article 51 shall reply to any request by the authorising officer by delegation of Commission at its own request or, in the context of discharge, at the request of the European Parliament.

5. The Commission shall ensure that sub-delegating powers are not detrimental to the discharge procedure, in accordance with Article 319 of the Treaty on the Functioning of the European Union.

**▼B****Section 3****Accounting officer***Article 61*

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

- (a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;
- (b) preparing and presenting the accounts in accordance with Title VII;
- (c) keeping the accounts in accordance with Title VII;
- (d) laying down, in accordance with Title VII, the accounting rules and methods and the chart of accounts;

**▼ B**

- (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; ► **M1** the accounting officer shall be empowered to verify the respect of validation criteria; ◀
- (f) treasury management.

**▼ M3**

The responsibilities of the accounting officer of 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 sub-delegated to Heads of Union Delegations.

The accounting officer of the Commission shall also act as the accounting officer of the EEAS in respect of the implementation of the EEAS section of the budget, subject to Article 186a.

**▼ B**

2. The accounting officer shall obtain from authorising officers, who shall guarantee its reliability, all the information necessary for the production of accounts which give a true image of the Communities' assets and of budgetary implementation.

**▼ M1**

- 2a. Before the adoption of the accounts by the institution, the accounting officer shall sign them off, thereby certifying that he has a reasonable assurance that the accounts present a true and fair view of the financial situation of the institution.

For that purpose, the accounting officer shall satisfy himself that the accounts have been prepared in accordance with the accounting rules, methods and accounting systems established under his responsibility as laid down in this Regulation for the accounts of his institution, and that all revenue and expenditure is entered in the accounts.

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

The authorising officers shall remain fully responsible for the proper use of the funds they manage as well as the legality and regularity of the expenditure under their control.

- 2b. The accounting officer shall be empowered to check the information received as well as to carry out any further checks he 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.

- 2c. The accounting officers of the other institutions and agencies shall sign off their annual accounts and send them to the Commission's accounting officer.

**▼ M1**

3. Save as otherwise provided in this Regulation, only the accounting officer is empowered to manage cash and cash equivalents. He shall be responsible for their safekeeping.

**▼ B***Article 62***▼ M1**

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

**▼ B**

The instrument of delegation shall lay down the tasks entrusted to the delegates.

**Section 4****Imprest administrator****▼ M1***Article 63*

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 implementing rules.

However, in the field of crisis management aid and humanitarian aid operations within the meaning of Article 110, imprest accounts may be used without any limitation on the amount while respecting the level of appropriations decided by the budgetary authority 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.

**▼ B***CHAPTER 4****Liability of the financial actors*****Section 1****General rules***Article 64*

1. Without prejudice to any disciplinary action, authorising officers by delegation and subdelegation may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them.

2. Without prejudice to any disciplinary action, the accounting officer may at any time be suspended temporarily or definitively from his/her duties by the authority which appointed him/her.

3. Without prejudice to any disciplinary action, imprest administrators may at any time be suspended temporarily or definitively from their duties by the authority which appointed them.

**▼B***Article 65***▼M1**

1. The provisions of this Chapter are without prejudice to any liability under criminal law which the financial actors referred to in Article 64 may incur as provided in the applicable national law and in the provisions in force on the protection of the Communities' financial interests and on the fight against corruption involving officials of the Communities or officials of Member States.

**▼B**

2. Each authorising officer, accounting officer or imprest administrator shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations, without prejudice to Articles 66, 67 and 68. In the event of illegal activity, fraud or corruption which may harm the interests of the Community, the matter will be submitted to the authorities and bodies designated by the applicable legislation.

## Section 2

**Rules applicable to authorising officers by delegation and subdelegation***Article 66***▼M1**

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

1a. The obligation to pay compensation shall apply in particular if:

- (a) the authorising officer, whether intentionally or through gross negligence on his part, determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation and the implementing rules;
- (b) the authorising officer, whether intentionally or through gross negligence on his part, 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.

**▼B**

2. An authorising officer by delegation or subdelegation who considers that a decision which it is his/her responsibility to take is irregular or contrary to the principles 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 the decision in question, the authorising officer may not be held liable.

**▼M1**

3. In the event of subdelegation within his services, the authorising officer by delegation continues 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.

**▼ M3**

3a. In the event of sub-delegation 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, 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 must complete specific training courses on the tasks and responsibilities of authorising officers and the implementation of the budget, in accordance with Article 50 of the Implementing Rules.

Heads of Union Delegations shall report on their responsibilities pursuant to the first subparagraph of this paragraph in accordance with Article 60a(3).

Each year, Heads of Union Delegations shall provide to the authorising officer by delegation of the Commission the assurance on the internal management and control systems put in place in their Delegation, as well as on the management of operations sub-delegated to them and the results thereof, in order to allow the authorising officer to establish his statement of assurance, as provided for in Article 60(7).

**▼ M1**

4. 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.

**▼ B**

On the basis of the opinion of this panel, the institution shall decide whether to initiate proceedings entailing liability to disciplinary action or to 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, provided the latter is not the person involved, as well as to the internal auditor.

**▼ M3**

5. Where Heads of Union Delegations act as authorising officers by sub-delegation in accordance with the second paragraph of Article 51, the specialised financial irregularities panel set up by the Commission pursuant to paragraph 4 of this Article shall be competent for cases referred to in that paragraph.

If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer, the High Representative and to the authorising officer by delegation of the Commission, provided the latter is not 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 entailing liability to disciplinary action or to payment of compensation against authorising officers by sub-delegation if irregularities concern the competencies of the Commission sub-delegated to them. In such a case, the High Representative will take appropriate action in accordance with the Staff Regulations in order to enforce decisions on disciplinary action and/or the payment of compensation, as recommended by the Commission.

**▼ M3**

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 Article 2, point (e) of the Conditions of Employment of Other Servants of the European Communities applies.

**▼ B****Section 3****Rules applicable to accounting officers and imprest administrators***Article 67*

An accounting officer shall be liable to disciplinary action and payment of compensation, as laid down and in accordance with the procedures in the Staff Regulations. He/She may in particular render himself liable by any of the following forms of misconduct:

- (a) he/she loses or damages monies, assets and documents in his/her keeping;
- (b) he/she wrongly alters bank accounts or postal giro accounts;
- (c) he/she recovers or pays amounts which are not in conformity with the corresponding recovery or payment orders;
- (d) he/she fails to collect revenue due.

*Article 68*

An imprest officer shall be liable to disciplinary action and payment of compensation, as laid down and in accordance with the procedures in the Staff Regulations. He/She may in particular render himself liable by any of the following forms of misconduct:

- (a) he/she loses or damages monies, assets and documents in his/her keeping;
- (b) he/she cannot provide proper supporting documents for the payments he/she has made;
- (c) he/she makes payments to persons other than those entitled;
- (d) he/she fails to collect revenue due.

*CHAPTER 5****Revenue operations*****Section 1****Making available of own resources***Article 69*

An estimate of revenue constituted by own resources, as referred to in the Council Decision on the system of the Communities' own resources, shall be entered in the budget in euro. It shall be made available in accordance with the Council Regulation implementing that Decision.



## Section 2

### **Estimate of amounts receivable**

#### *Article 70*

1. An estimate of the amount receivable shall first be made by the authorising officer responsible in respect of any measure or situation which may give rise to or modify an amount owing to the Communities.
2. 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 the Council Decision on the system of the Communities' own resources which are paid at fixed intervals by the Member States. The authorising officer responsible shall issue a recovery order in respect of these amounts.

## Section 3

### **Establishment of amounts receivable**

#### *Article 71*

1. Establishment of an amount receivable is the act by which the authorising officer by delegation or subdelegation:
  - (a) verifies that the debt exists;
  - (b) determines or verifies the reality and the amount of the debt;
  - (c) verifies the conditions in 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 must 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 conditions in which interest on late payment is due to the Communities shall be laid down in the implementing rules.

## Section 4

### **Authorisation of recovery**

#### *Article 72*

1. The authorisation of recovery is the act whereby the authorising officer by delegation or subdelegation responsible instructs the accounting officer, by issuing a recovery order, to recover an amount receivable which he/she has established.
2. The institution may formally establish an amount as being receivable from persons other than States by means of a decision which shall be enforceable within the meaning of Article 256 of the EC Treaty.

**▼B**

## Section 5

**Recovery***Article 73*

1. The accounting officer shall act on recovery orders for amounts receivable duly established by the authorising officer responsible. He/She shall exercise due diligence to ensure that the Communities receive their revenue and shall see that their rights are safeguarded.

The accounting officer shall recover amounts by offsetting them against equivalent claims that the Communities have on any debtor who himself/herself has a claim on the Communities that is certain, of a fixed amount and due.

**▼M1**

2. Where the responsible authorising officer by delegation is planning to waive or partially waive recovery of an established amount receivable, he/she shall ensure that the waiver is in order and complies with the principle of sound financial management and proportionality in accordance with the procedures and the criteria laid down in the implementing rules. The waiver decision must be substantiated. The authorising officer may delegate the decision only as laid down in the implementing rules.

The responsible authorising officer may furthermore cancel or adjust an established amount receivable, in accordance with the conditions set out in the implementing rules.

*Article 73a*

Without prejudice to the provisions of specific regulations and the application of the Council Decision relating to the Communities' own resources system, entitlements of the Communities in respect of third parties and entitlements of third parties in respect of the Communities shall be subject to a limitation period of five years.

The date for calculating the limitation period and the conditions for interrupting this period shall be laid down in the implementing rules.

**▼B***Article 74*

Revenue received by way of fines, periodic penalty payments and other penalties and any accrued interest shall not be finally recorded as budgetary revenue as long as the decisions imposing them may be annulled by the Court of Justice.

The first paragraph shall not apply to decisions on clearance of accounts or financial corrections.

## CHAPTER 6

***Expenditure operations****Article 75*

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 ►**M1** Article 49(6)(e) ◄, the commitment of the expenditure shall be preceded by a financing decision adopted by the institution or the authorities to which powers have been delegated by the institution.





## Section 1

### Commitment of expenditure

#### Article 76

1. The budgetary commitment is the operation reserving the appropriation necessary to cover subsequent payments to honour a legal commitment.

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

The budgetary commitment and the legal commitment shall be adopted by the same authorising officer, save in duly substantiated cases as provided for in the implementing rules.

2. The budgetary commitment is individual when the beneficiary and the amount of the expenditure are known.

The budgetary commitment is global when at least one of the elements necessary to identify the individual commitment is still not known.

The budgetary commitment is provisional when it is intended to cover the expenditure referred to in Article 150 or routine administrative expenditure and either the amount or the final beneficiaries are not definitively known.

3. 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 and for administrative expenditure. Where the budgetary commitment is thus divided into annual instalments, the legal commitment shall stipulate this, except in the case of expenditure on staff.

#### Article 77

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible must first make a budgetary commitment before entering into a legal obligation with third parties.

2. Subject to the special provisions of Title IV of part two, global budget commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of year  $n + 1$ .

Subject to Article 76(3) and Article 179(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 these budgetary commitments shall be decommitted by the authorising officer responsible.

**▼B**

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

3. The legal commitments entered into for actions extending over more than one financial year and the corresponding budgetary commitments shall, save in the case of staff expenditure, have a final date for implementation set in compliance 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 11.

**▼M1**

The amount of a budget commitment corresponding to a legal commitment for which no payment within the meaning of Article 81 has been made in a period of three years following the signing of the legal commitment shall be decommitted.

**▼B***Article 78*

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 conforms to the provisions of the Treaties, of the budget, of this Regulation, of the implementing rules and of all acts adopted in accordance with the Treaties and regulations;
- (d) the principle of sound financial management is complied with.

2. When registering a legal commitment, the authorising officer shall ensure that:

- (a) the commitment is covered by the corresponding budgetary commitment;
- (b) the expenditure is regular and conforms to the provisions of the Treaties, of the budget, of this Regulation, of the implementing rules and of all acts adopted in accordance with the Treaties and the regulations;
- (c) the principle of sound financial management is respected.

**Section 2****Validation of expenditure***Article 79*

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 in which payment is due.

**▼B**

## Section 3

**Authorisation of expenditure***Article 80*

Authorisation of expenditure is the act whereby the authorising officer responsible, having verified that the appropriations are available and by issuing a payment order, instructs the accounting officer to pay an amount of expenditure which he/she has validated.

**▼M1**

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

**▼B**

## Section 4

**Payment of expenditure***Article 81*

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;
  - (ii) one or more interim payments;
  - (iii) payment of the balance of the amounts due.

2. A distinction shall be made in the accounts between the different types of payment referred to in paragraph 1 at the time they are made.

*Article 82*

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 83*

The validation, authorisation and payment of expenditure must be completed within the time limits laid down in the implementing rules, which shall also specify the circumstances in which creditors paid late are entitled to receive default interest charged to the line from which the principal was paid.

**▼ B***CHAPTER 7**IT systems**Article 84*

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

*CHAPTER 8**Internal auditor**Article 85*

Each institution shall establish an internal auditing function which must be performed in compliance with the relevant international standards. The internal auditor appointed by the institution shall be answerable to the latter for verifying the proper operation of budgetary implementation systems and procedures. The internal auditor may not be either authorising officer or accounting officer.

**▼ M3**

For the purposes of the internal auditing of the EEAS, Heads of Union Delegations, acting as authorising officers by sub-delegation in accordance with the second paragraph of Article 51 shall be subject to the verifying powers of the internal auditor of the Commission for the financial management sub-delegated 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 186a.

**▼ B***Article 86*

1. The internal auditor shall advise his/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.

He/She shall be responsible in particular:

(a) for 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;

**▼ M1**

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

**▼ B**

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

**▼B**

3. The internal auditor shall report to the institution on his/her findings and recommendations. The institution shall ensure that action is taken on 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 on those recommendations.

4. Each year the institution shall forward a report to the discharge authority summarising the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.

*Article 87*

Special rules applicable to the internal auditor shall be laid down by the institution and shall be such as to guarantee that he/she is totally independent in the performance of his/her duties and to establish his responsibility.

**▼M1**

If the internal auditor is a member of staff, he shall assume responsibility as laid down in the Staff Regulations and spelt out in the implementing rules.

**▼B**

## TITLE V

## PROCUREMENT

## CHAPTER 1

*General provisions*

## Section 1

**Scope and award principles****▼M1***Article 88*

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 104 and 167, 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.

These contracts comprise:

- (a) contracts for the purchase or rental of a building;
- (b) supply contracts;
- (c) works contracts;
- (d) service contracts.

2. Framework contracts are contracts concluded between one or more contracting authorities and one or more economic operators, 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.

**▼ M1**

3. This Title does not relate to grants, without prejudice to Articles 93 to 96.

**▼ B***Article 89*

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

2. All procurement contracts shall be put out to tender on the broadest possible base, except when use is made of the negotiated procedure referred to in Article 91(1)(d).

**▼ M1**

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

**▼ B**

Section 2  
**P u b l i c a t i o n**

*Article 90***▼ M1**

1. All contracts exceeding the thresholds provided for in Article 105 or Article 167 shall be published in the *Official Journal of the European Union*.

Contract notices shall be published in advance except in the cases referred to in Article 91(2) of this Regulation, as specified in the implementing rules, and for the service contracts covered by Annex IIB 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 <sup>(1)</sup>.

**▼ B**

Publication of certain information after the contract has been awarded may be dropped where it 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 them.

**▼ M1**

2. Contracts with a value below the thresholds provided for in Article 105 or Article 167 and the service contracts referred to in Annex IIB to Directive 2004/18/EC shall be advertised by appropriate means, as specified in the implementing rules.

<sup>(1)</sup> OJ L 134, 30.4.2004, p. 114. Directive as last amended by Commission Regulation (EC) No 2083/2005 (OJ L 333, 20.12.2005, p. 28).

**▼B**

## Section 3

**Procurement procedures***Article 91***▼M1**

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

- (a) the open procedure;
- (b) the restricted procedure;
- (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 185, 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 one institution and a contracting authority from a Member State, the procurement procedure may be carried out jointly by the institution and this contracting authority, as specified in the implementing rules.

**▼B**

2. For contracts where the value exceeds the thresholds provided for in Article 105 or Article 167, use of the negotiated procedure shall be authorised only in the cases provided for in the implementing rules.

**▼M1**

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**▼B**

3. The thresholds below which the contracting authority may either use a negotiated procedure or, by way of derogation from the first subparagraph of Article 88(1), simply pay costs against invoices shall be determined in the implementing rules.

**▼M1**

4. The implementing rules shall define the procurement procedure, referred to in paragraph 1, applicable to service contracts covered by Annex IIB to Directive 2004/18/EC and to contracts which are declared to be secret, whose performance must be accompanied by special security measures, or when the protection of essential interests of the Communities or the European Union so requires.

*Article 92*

The documents relating to the call for tenders 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.

**▼B***Article 93*

1. ►**M1** 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 have been convicted of an offence concerning their professional conduct by a judgment 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;
- (d) they have not fulfilled 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 have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;

**▼M1**

- (f) they are currently subject to an administrative penalty referred to in Article 96(1).

Points (a) to (d) of the first subparagraph shall not apply in the case of 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.

2. 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, as specified in the implementing rules.

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

- (a) where the candidate or tenderer is a legal entity, provide information on the ownership or on the management, control and power of representation of the legal entity;



▼ M1

- (b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1.

3. The implementing rules shall determine the maximum period during which the situations referred to in paragraph 1 give rise to the exclusion of candidates or tenderers from participation in a procurement procedure. The maximum period shall not exceed 10 years.

*Article 94*

A contract shall not be awarded to candidates or tenderers who, during the procurement procedure for this contract:

- (a) are subject to a conflict of interest;
- (b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this information;
- (c) find themselves in one of the situations of exclusion, referred to in Article 93(1), for this procurement procedure.

*Article 95*

1. A central database shall be set up and operated by the Commission in compliance with Community rules on the protection of personal data. The database shall contain details of candidates and tenderers which is in one of the situations referred to in Articles 93, 94, 96(1)(b) and (2)(a). It shall be common to the institutions, executive agencies and the bodies referred to in Article 185.

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 53 and 54, shall communicate to the competent authorising officer information on candidates and tenderers which are in one of the situations referred to in Article 93(1) (e), where the conduct of the operator concerned was detrimental to the Communities' financial interest. The authorising officer shall receive this information and request the accounting officer to enter it into the database.

The authorities and bodies mentioned 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 for the award of contracts associated with the implementation of the budget.

3. Transparent and coherent criteria to ensure proportionate application of the exclusion criteria shall be laid down in the implementing rules. The Commission shall define standardised procedures and technical specifications for the operation of the database.

*Article 96*

1. The contracting authority may impose administrative or financial penalties on the following:

- (a) candidates or tenderers in the cases referred to in point (b) of Article 94;

**▼ M1**

- (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 must first give the person concerned an opportunity to present his 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 in:

- (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 the contract in question.

*Article 97*

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 93, 94 and 96(2)(a) 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.

**▼ B***Article 98***▼ M1**

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. If deemed appropriate and proportionate, the contracting authority may require tenderers, as provided in the implementing rules, to lodge a security in advance as a guarantee that the bids made will not be withdrawn.

**▼ B**

3. With the exception of the contracts involving small amounts referred to in Article 91(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.

**▼ M1**

4. 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.

**▼B***Article 99*

While the procurement procedure is under way, all contacts between the contracting authority and candidates or tenderers must satisfy conditions ensuring transparency and equal treatment. They may not lead to amendment of the conditions of the contract or the terms of the original tender.

*Article 100*

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, and all tenderers whose tenders are admissible 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.

*Article 101*

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 must be substantiated and be brought to the attention of the candidates or tenderers.

**Section 4****Guarantees and control****▼M1***Article 102*

1. The contracting authority shall require contractors to lodge a guarantee in advance in the cases specified in the implementing rules.

2. The contracting authority may, if it deems it appropriate and proportionate, require contractors to lodge such a guarantee in order to:

(a) ensure full performance of the contract;

(b) limit the financial risks connected with payment of pre-financing.

▼ **M1***Article 103*

Where the award procedure proves to have been subject to substantial errors, irregularities or fraud, the institutions 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 institutions may, depending on the stage reached in the procedure, refrain from concluding the contract or suspend performance of the contract or, where appropriate, terminate the contract.

Where such errors, irregularities or fraud are attributable to the contractor, the institutions may in addition refuse to make payments, may recover amounts already paid or may terminate all the contracts concluded with this contractor, in proportion to the seriousness of the errors, irregularities or fraud.

▼ **B***CHAPTER 2**Provisions applicable to contracts awarded by the Community institutions on their own account**Article 104*

The Community institutions shall be deemed to be contracting authorities in the case of contracts awarded on their own account. ► **M1** They shall delegate, in accordance with Article 59, the necessary powers for the exercise of the function of contracting authority ◀.

▼ **M1***Article 105*

1. Subject to Title IV of Part Two of this Regulation, Directive 2004/18/EC lays down the thresholds which determine:

- (a) the publication arrangements referred to in Article 90;
- (b) the choice of procedures referred to in Article 91(1);
- (c) the corresponding time limits.

2. Subject to exceptions and conditions specified in the implementing rules, 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 period of standstill has elapsed.

▼ **B***Article 106*

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 with the European Communities a special agreement in the field of public procurement under the conditions laid down in that agreement.

**▼B***Article 107*

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 this agreement, under the conditions laid down in that agreement.

## TITLE VI

## GRANTS

**▼M1**

## CHAPTER 1

*Scope and form of grants***▼B***Article 108*

1. Grants are direct financial contributions, by way of donation, from the budget in order to finance:

- (a) either an action intended to help achieve an objective forming part of a European Union policy;
- (b) or the functioning of a body which pursues an aim of general European interest or has an objective forming part of a European Union policy.

**▼M1**

They shall be covered either by a written agreement or by a Commission decision notified to the successful applicant.

2. The following shall 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) loans, risk-bearing instruments of the Community or Community financial contributions to such instruments, the public contracts referred to in Article 88 and aid paid as macro financial assistance and budgetary support;
- (c) equity investments on the basis of the private investor principle, quasi-equity financing and shareholdings or equity participations in international financial institutions such as the European Bank for Reconstruction and Development (EBRD) or specialised Community bodies such as the European Investment Fund (EIF);
- (d) contributions paid by the Communities as subscriptions to bodies of which they are members;
- (e) expenditure implemented as part of shared, decentralised or joint management within the meaning of Articles 53 to 53d;
- (f) payments made to bodies to which implementation tasks are delegated in accordance with Article 54(2) and contributions made by virtue of their constitutive basic act to bodies set up by the legislative authority;

▼ **M1**

- (g) expenditure relating to fisheries markets referred to in Article 3(2) (f) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy <sup>(1)</sup>;
  - (h) repayment of travel and subsistence expenses incurred by, or where appropriate any other indemnities paid to, persons invited or mandated by the institutions.
3. The following shall be assimilated to grants and shall be governed, as appropriate, by this Title:
- (a) the benefit deriving from an interest subsidy on certain loans;
  - (b) equity investments or participations other than those referred to in point (c) of paragraph 2.
4. Each institution may award grants for communication activities where, for duly justified reasons, the use of public procurement procedures is not appropriate.

*Article 108a*

1. Grants may take any of the following forms:
- (a) reimbursement of a specified proportion of the eligible costs actually incurred;
  - (b) lump sums;
  - (c) flat-rate financing;
  - (d) a combination of the forms referred to in points (a), (b) and (c).
2. Grants shall not exceed an overall ceiling expressed in terms of absolute value.

*CHAPTER 2****Principles****Article 109*

1. Grants shall be subject to the principles of transparency and equal treatment.

They may not be cumulative or awarded retrospectively and they must involve co-financing.

On no account may the combined total costs eligible, as specified in the implementing rules, for financing be exceeded.

2. Grants may not have the purpose or effect of producing a profit for the beneficiary.
3. Paragraph 2 shall not apply to the following:
- (a) study, research or training scholarships paid to natural persons;
  - (b) prizes awarded following contests;
  - (c) actions the objective of which is the reinforcement of the financial capacity of a beneficiary or the generation of an income in the framework of external actions.

<sup>(1)</sup> OJ L 209, 11.08.2005, p. 1. Regulation as amended by Regulation (EC) No 320/2006 (OJ L 58, 28.2.2006, p. 42).

**▼ M2**

4. If a political party at European level realises a surplus of income over expenditure at the end of a financial year for which it received an operating grant, part of that surplus up to 25 % of the total income for that year may, by derogation from the no-profit rule laid down in paragraph 2, be carried over to the following year provided that it is used before the end of the first quarter of this following year.

For the purpose of verifying compliance with the no-profit rule, the own resources, in particular donations and membership fees, aggregated in the annual operations of a political party at European 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 European level exceed 100 % of its average annual income.

**▼ B***Article 110***▼ M1**

1. Grants shall be subject to an annual work programme, to be published at the start of the year.

That annual work programme shall be implemented through the publication of calls for proposals, save in duly substantiated 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 as recipient of a grant.

The first subparagraph shall not apply to crisis management aid and humanitarian aid operations.

**▼ B**

2. All grants awarded in the course of a financial year shall be published annually with due observance of the requirements of confidentiality and security.

**▼ M1***Article 111*

Each action may give rise to the award of only one grant from the budget to any one beneficiary, except where the relevant basic acts authorise otherwise.

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.

*Article 112*

1. A grant may be awarded for an action which has already begun only where the applicant can demonstrate the need to start the action before the grant is awarded.

**▼ M1**

In such cases, costs eligible for financing may not have been incurred prior to the date of submission of the grant application, save in duly substantiated exceptional cases as provided for in the basic act or in the case of expenditure necessary for the proper implementation of crisis management aid or humanitarian aid operations as provided for in the implementing rules.

No grant may be awarded retrospectively for actions already completed.

2. An operating grant shall be awarded within six months after the start of the beneficiary's budgetary year. Costs eligible for financing may neither have been incurred before the grant application was lodged nor before the start of the beneficiary's budgetary year.

**▼ B***Article 113*

1. The grant may not finance the entire costs of the action, subject to Title IV of part two.

The grant may not finance the entire operating expenditure of the beneficiary body.

**▼ M1**

2. Unless otherwise specified in the basic act with regard to bodies pursuing an objective of general European interest, when operating grants are renewed, they shall be gradually decreased. This provision shall not apply to grants taking one of the form referred to in points (b) and (c) of Article 108a(1).

**▼ B***CHAPTER 3**Award procedure***▼ M1***Article 114*

1. Grant applications shall be submitted in writing.
2. Grant applications shall be eligible if submitted by the following:
  - (a) legal persons; 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 their behalf and assume financial liability;
  - (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.
3. Grants may not be awarded to applicants who are, at the time of a grant award procedure, in one of the situations referred to in Articles 93(1), 94 and 96(2)(a).



**▼ M1**

Applicants must certify that they are not in one of the situations referred to in the first subparagraph. However, the authorising officer may refrain from requiring such certification for very low value grants, as specified in the implementing rules.

4. Administrative and financial penalties which are effective, proportionate and dissuasive may be imposed on applicants by the authorising officer, in accordance with Article 96.

Such 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 or fail to supply this information.

**▼ B***Article 115*

1. The selection criteria 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.

*Article 116***▼ M1**

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.

**▼ B**

2. The authorising officer responsible shall then, 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 shall give the reasons for the rejection of the application, with reference in particular to the selection and award criteria already announced.

*CHAPTER 4****Payment and control****Article 117*

The pace of payments shall be determined by the financial risks involved, the duration and progress of the action or the costs incurred by the beneficiary.

**▼ M1***Article 118*

1. The authorising officer responsible may, if he deems it appropriate and proportionate, require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing.
2. The authorising officer shall require the beneficiary to lodge such a guarantee in advance in the cases specified in the implementing rules.

**▼ B***Article 119*

1. The amount of the grant shall not become final until after the institution has accepted the final reports and accounts, without prejudice to subsequent checks by the institution.

**▼ M1**

2. Should the beneficiary fail to comply with his obligations, the grant shall be suspended or reduced or terminated in the cases provided for by the implementing rules after the beneficiary has been given the opportunity to make his observations.

**▼ B***CHAPTER 5****Implementation*****▼ M1***Article 120*

1. Where implementation of the action requires the award of procurement contracts by the beneficiary, the relevant procedures shall be as set out in the implementing rules.
2. Where implementation of the action requires financial support to be given to third parties, the beneficiary of a Community grant may give such financial support provided that the following conditions are met:
  - (a) the financial support is not the primary aim of the action;
  - (b) the conditions for the giving of such support are strictly defined in the grant decision or agreement between the beneficiary and the Commission, with no margin for discretion;
  - (c) the amounts concerned are small.

For the purpose of point (c), the maximum amount of financial support that can be paid to a third party by a beneficiary shall be determined in the implementing rules.

3. Each grant decision or agreement shall provide expressly for the Commission and the Court of Auditors to exercise their powers of control, on documents and on the premises, over all contractors and subcontractors who have received Community funds.

**▼B**

TITLE VII  
PRESENTATION OF THE ACCOUNTS AND ACCOUNTING

CHAPTER 1

*Presentation of the accounts*

*Article 121*

The Community accounts shall comprise:

**▼M1**

- (a) the financial statements of the institutions as set out in Article 126, those of the bodies referred to in Article 185 and of other bodies whose accounts must be consolidated in accordance with Community accounting rules;

**▼B**

- (b) the consolidated financial statements which present in aggregated form the financial information contained in the financial statements of the institutions and bodies referred to in point (a);
- (c) the reports on implementation of the budget of the institutions and the budgets of the bodies referred to in Article 185;

**▼M1**

- (d) the aggregated reports on implementation of the budget which present the information contained in the reports referred to in point (c).

*Article 122*

1. The accounts of the institutions and bodies referred to in Article 121 shall be accompanied by a report on budgetary and financial management of the financial year.

2. The report referred to in paragraph 1 shall give an account, inter alia, of the rate of implementation of the appropriations together with summary information on the transfers of appropriations among the various budget items.

**▼B**

*Article 123*

The accounts must comply with the rules and be accurate and comprehensive and present a true and fair view:

- (a) as regards the financial statements, of the assets and liabilities, charges and income, entitlements and obligations not shown as assets or liabilities and cash flow;
- (b) as regards reports on budgetary implementation, of revenue and expenditure operations.

*Article 124*

The financial statements shall be drawn up in accordance with the generally accepted accounting principles, namely:

- (a) going-concern basis;
- (b) prudence;

**▼B**

- (c) consistent accounting methods;
- (d) comparability of information;
- (e) materiality;
- (f) no netting;
- (g) reality over appearance;
- (h) accrual-based accounting.

*Article 125*

1. In accordance with the principle of accrual-based accounting, the financial statements shall show the charges and income for the financial year, regardless of the date of payment or collection.
2. The value of assets and liabilities shall be determined in accordance with the valuation rules provided for in Article 133.

*Article 126*

1. The financial statements shall be presented in millions of euro and shall comprise:
  - (a) the balance sheet and the economic outturn account, which represent the assets and liabilities and financial situation and the economic outturn at 31 December of the previous year; they shall be presented in accordance with the structure laid down by the Directives of the European Parliament and of the Council on the annual accounts of certain types of companies, but with account being taken of the specific nature of the Communities' activities;
  - (b) the cash-flow table showing amounts collected and disbursed during the year and the final treasury position;
  - (c) the statement of changes in capital presenting in detail the increases and decreases during the year in each item of the capital accounts.
2. The Annex 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 Communities.

*Article 127*

The budgetary implementation reports shall be presented in millions of euro. They shall comprise:

- (a) the budgetary outturn account, which sets out all budgetary operations for the year in terms of revenue and expenditure; the structure in which it is presented shall be the same as that of the budget itself;
- (b) the Annex to the budget outturn account, which shall supplement and comment on the information given in that account.

▼ M1*Article 128*

The accounting officers of the other institutions and bodies referred to in Article 121 shall send to the Commission's accounting officer and to the Court of Auditors by 1 March of the following year at the latest their provisional accounts together with the report on budgetary and financial management during the year.

The Commission's accounting officer shall consolidate these provisional accounts with the Commission's provisional accounts and shall send to the Court of Auditors, by 31 March of the following year at the latest, the Commission's provisional accounts accompanied by its report on budgetary and financial management during the year together with the provisional consolidated accounts.

The accounting officer of each institution and body referred to in Article 121 shall also send the report on budgetary and financial management to the European Parliament and the Council by the date specified in the second paragraph.

▼ B*Article 129*

1. The Court of Auditors shall, by 15 June at the latest, make its observations on the provisional accounts of each institution and each body referred to in ► M1 Article 121 ◀.

▼ M1

2. The institutions other than the Commission, and each of the bodies referred to in Article 121, shall draw up their final accounts in accordance with Article 61 and send them to the Commission's accounting officer and the Court of Auditors by 1 July of the following year at the latest with a view to drawing up the final consolidated accounts.

2a. The Commission's accounting officer shall prepare the final consolidated accounts on the basis of the information presented by the other institutions under paragraph 2. The final consolidated accounts shall be accompanied by a note established by the Commission's accounting officer, by which he/she declares that they were prepared in accordance with Title VII and with the accounting principles, rules and methods set out in annex to the financial statements.

3. 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 before 31 July of the following financial year.

▼ B

4. The final consolidated accounts shall be published in the *Official Journal of the European Communities* together with the statement of assurance given by the Court of Auditors in accordance with Article 248 of the EC Treaty and Article 160c of the Euratom Treaty by ► M1 15 November ◀ of the following financial year.

**▼B***CHAPTER 2**Information on the implementation of the budget**Article 130*

In addition to the statements provided for in Articles 126 and 127, the Commission shall report to the European Parliament and to the Council twice a year on budgetary guarantees and the corresponding risks.

This information shall be sent to the Court of Auditors at the same time.

*Article 131*

1. In addition to the statements provided for in Articles 126 and 127, ►**M1** 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.

These figures shall also provide details of the utilisation of appropriations carried over.

The figures shall be sent within 10 working days following the end of each month.

2. Three times a year, within the 30 working days following 31 May, 31 August and 31 December, ►**M1** 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.

This report shall also provide details of the utilisation of appropriations carried over from previous 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.

*CHAPTER 3**Accounting**Section 1***Common provisions***Article 132*

1. The institution's accounting system is the system serving to organise the budgetary and financial information in such a way that figures can be input, filed and registered.

2. The accounts shall consist of general accounts and budgetary accounts. These accounts shall be kept in euro on the basis of the calendar year.

3. The figures in the general accounts and the budgetary accounts shall be adopted at the close of the budgetary year so that the accounts referred to in Chapter 1 can be drawn up.

4. Notwithstanding paragraphs 2 and 3, the authorising officer by delegation may keep analytical accounts.

**▼B***Article 133*

1. The Commission's accounting officer shall, after consulting the accounting officers of the other institutions and bodies referred to in ►**M1** Article 121 ◀, adopt the accounting rules and methods 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 ►**M1** Article 121 ◀.
2. When adopting the rules and methods referred to in paragraph 1, the Commission's accounting officer shall be guided by the internationally accepted accounting standards for the public sector but may depart from them where justified by the specific nature of the Communities' activities.

**Section 2****General accounts***Article 134*

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 bodies referred to in ►**M1** Article 121 ◀.

*Article 135*

1. Movements on the accounts and the balances shall be entered in the accounting ledgers.
2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which they shall refer.
3. The accounting system must be such as to leave a trail for all accounting entries.

*Article 136*

The accounting officer shall, after the close of the budgetary year and up to the date of presentation of the accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of the accounts which complies with the rules.

**Section 3****Budgetary accounts***Article 137*

1. The budgetary accounts provide a detailed record of budgetary implementation.
2. For the purposes of applying paragraph 1, the budgetary accounts shall record all budgetary revenue and expenditure operations provided for in Title IV of part one.

**▼B***CHAPTER 4****Property inventories****Article 138*

1. Each institution and each body referred to in ►**M1** Article 121 ◀ shall keep inventories showing the quantity and value of all the Communities' tangible, intangible and financial assets in accordance with a model drawn up by the accounting officer of the Commission.

Each institution and each body referred to in ►**M1** Article 121 ◀ shall check that entries in the inventory correspond to the actual situation.

2. The sale of movable property shall be suitably advertised.

## TITLE VIII

**EXTERNAL AUDIT AND DISCHARGE***CHAPTER 1****External audit****Article 139*

1. 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 9, 13, 18, 22, 23, 26 and 36.

**▼M1**

2. Each institution shall inform the Court of Auditors and the budgetary authority of any internal rules it adopts in respect of financial matters.

**▼B**

3. The Court of Auditors shall be informed of the appointment of authorising officers, internal auditors, accounting officers and imprest administrators and of delegation decisions under Articles 51, 61, 62, 63 and 85.

*Article 140*

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 provisions of the Treaties, the budget, this Regulation, the implementing rules 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 142, all documents and information relating to the financial management of departments or bodies with regard to operations financed or co-financed by the Communities. It shall have the power to make enquiries of 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



**▼B**

shall be carried out in conjunction with the national audit institutions or, where they do not have the necessary powers, with the national departments responsible. The Court of Auditors and the national audit bodies 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 Community institution.

At the request of the Court of Auditors, each institution shall authorise financial institutions holding Community 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 141*

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 142*

1. The Commission, the other institutions, the bodies administering revenue or expenditure on the Communities' behalf and the final beneficiaries of payments from the budget 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 Community 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 and, for the same purposes, all documents and data created or stored on a magnetic medium.

The other services and internal audit bodies of the national administrations concerned shall afford the Court of Auditors all the facilities which it considers necessary for the performance of its task.

The first subparagraph shall also apply to natural or legal persons receiving payments from the Community budget.

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**

- (b) present the correspondence and any other document required for the full implementation of the audit referred to in Article 140(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 Communities 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 Communities' 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 Community funds received by way of grants.

5. Community financing paid to beneficiaries outside the institutions shall be subject to the agreement in writing by the beneficiaries or, failing agreement on their part, by the 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 may not have the effect of reducing the access of the Court of Auditors to the supporting documents.

*Article 143*

1. The annual report of the Court of Auditors shall be governed by the provisions of paragraphs 2 to 6 of this Article.

2. The Court of Auditors shall transmit to the Commission and the institutions concerned, by ►**M1** 30 June ◀ at the latest, any observations which are, in its opinion, such that they should appear in the annual report. These observations must remain confidential. Each institution shall address its reply to the Court of Auditors by ►**M1** 15 October ◀ at the latest. The replies of institutions other than the Commission shall be sent to the Commission at the same time.

3. The annual report shall contain an assessment of the soundness of financial management.

4. 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 immediately after the observations to which they relate.

**▼M1**

5. The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 15 November at the latest, its annual report accompanied by the replies of the institutions and shall ensure publication thereof in the Official Journal of the European Union.

**▼B**

6. As soon as the Court of Auditors has transmitted the annual report, the Commission shall inform the Member States concerned immediately of the details of that report which relate to management of the funds for which they are responsible under the rules applicable.

Following receipt of such information, the Member States shall reply to the Commission within 60 days. The latter shall transmit a summary to the Court of Auditors, the Council and the European Parliament before ►**M1** 28 February ◀.

*Article 144*

1. The Court of Auditors shall notify the institution concerned of all observations which are, in its opinion, such that they should appear in a special report. These observations must remain confidential.

The institution concerned shall have two-and-a half months within which to inform the Court of Auditors of any comments it wishes to make on the observations in question.

The Court of Auditors shall adopt the definitive version of the special report in question the following month.

The special reports, together with the replies of the institutions 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.

**▼M1**

Should the Court of Auditors decide to have any such special reports published in the Official Journal of the European Union, they shall be accompanied by the replies of the institutions concerned.

**▼B**

2. ►**M1** The opinions referred to in Article 248(4) of the EC Treaty and Article 160c(4) of the Euratom Treaty 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 145*

1. The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before ►**M1** 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.

**▼B***Article 146*

1. The discharge decision shall cover the accounts of all the Communities' revenue and expenditure, the resulting balance and the assets and liabilities of the Communities 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 and financial statements referred to in Article 275 of the EC Treaty and Article 179a of the Euratom Treaty. It shall also examine the annual report made by the Court of Auditors together with the replies of the institutions under audit, any relevant special reports by the Court of Auditors in respect of the financial year in question 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 in question, in accordance with Article 276 of the EC Treaty.

*Article 147*

1. In accordance with Article 276 of the EC Treaty and Article 180b 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 these observations and comments, and, in particular, on the instructions they have given to those 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 these 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.

**▼M3***Article 147a*

The EEAS shall be fully subject to the procedures provided for in Article 319 of the Treaty on the Functioning of the European Union and in Articles 145 to 147 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.

**▼ B**PART TWO  
SPECIAL PROVISIONS**▼ M1**TITLE I  
EUROPEAN AGRICULTURAL GUARANTEE FUND**▼ B***Article 148***▼ M1**

1. Parts One and Three of this Regulation shall 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, save as otherwise provided in this Title.

**▼ B**

2. Operations managed directly by the Commission shall be implemented in accordance with the rules laid down in parts one and three.

*Article 149***▼ M1**

1. For each financial year, the EAGF 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.

**▼ B**

2. Payment appropriations which have been carried over but which have not been used by the end of the financial year shall be cancelled.

**▼ M1**

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 next financial year only.

Such carryover shall not exceed, within a limit of 2 % of the initial appropriations referred to in the first subparagraph, the amount of the adjustment of direct payments referred to in Article 11 of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers<sup>(1)</sup> and which was applied during the last financial year.

Appropriations which are carried over shall be returned exclusively to the budgetary lines which cover the actions referred to in Article 3(1)(c) of Regulation (EC) No 1290/2005.

Such carryover may lead to an additional payment only to the final beneficiaries who have been subject, in the last financial year, to the adjustment of direct payments in accordance with Article 11 of Regulation (EC) No 1782/2003.

<sup>(1)</sup> OJ L 270, 21.10.2003, p. 1. Regulation as last amended by Regulation (EC) No 1405/2006 (OJ L 265, 26.9.2006, p. 1).

**▼ M1**

The carryover decision shall be taken, at the latest on 15 February of the year to which the carryover is being made, by the Commission, which shall inform the budgetary authority.

**▼ B***Article 150*

1. The Commission shall reimburse the expenditure incurred by the Member States.

**▼ M1**

2. The Commission decisions fixing the amounts of these payments shall constitute global provisional commitments, which may not exceed the total appropriations entered for the EAGF.

3. As from 15 November, routine management expenditure for the EAGF may be committed in advance against the appropriations provided for the following financial year. Such commitments may not, however, exceed three quarters of the total corresponding appropriations for the current financial year. They may apply only to expenditure for which the principle is laid down in an existing basic act.

**▼ B***Article 151*

1. ►**M1** Expenditure effected by the authorities and bodies referred to in the rules relating to the EAGF shall, within two months following receipt of the statements sent in by Member States, be the subject of a commitment by chapter, article and item. Such commitment may be made after the elapse of that two-month period whenever a procedure for a transfer of appropriations concerning the budget lines in question is necessary. Save 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 ◀.

This budgetary commitment shall be deducted from the global provisional commitment referred to in Article 150.

2. Global provisional commitments which have been made for a financial year and which have not given rise to commitment on specific lines in the budget nomenclature by 1 February of the following financial year shall be cancelled in respect of the original financial year.

3. Paragraphs 1 and 2 shall apply subject to the clearance of accounts.

**▼ M1***Article 152*

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 the year concerned at the latest, provided that the payment order has reached the accounting officer by 31 January of the following financial year at the latest.

**▼B***Article 153***▼M1**

1. Where the Commission may transfer appropriations pursuant to Article 23(1), it shall take its decision by 31 January of the following financial year at the latest and shall inform the budgetary authority as provided for in Article 23(1).

**▼B**

2. In cases other than those referred to in paragraph 1, the Commission shall submit transfer proposals to the budgetary authority by 10 January of the following financial year at the latest.

The budgetary authority shall take decisions on such transfers in accordance with the procedure provided for in Article 24, but within a time limit of three weeks.

**▼M1***Article 154*

1. Assigned revenue under this Title shall be assigned according to origin in accordance with Article 18(2).

2. The result of decisions on clearance of accounts, as 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, AND EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT****▼B***Article 155***▼M1**

1. Parts One and Three of this Regulation shall apply to expenditure effected by the authorities and bodies referred to in the Regulations governing the European Agricultural Fund for Rural Development (EAFRD)<sup>(1)</sup>, the European Regional Development Fund (ERDF)<sup>(2)</sup>, the European Social Fund (ESF)<sup>(3)</sup>, the Cohesion Fund<sup>(4)</sup>, and the European Fisheries Fund (EFF)<sup>(5)</sup>, hereinafter 'the Funds', and to their revenue, save as otherwise provided in this Title.

**▼B**

2. Operations managed directly by the Commission shall also be implemented in accordance with the rules laid down in parts one and three of this Regulation.

**▼M1**

<sup>(1)</sup> Regulation (EC) No 1290/2005.

<sup>(2)</sup> Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund (OJ L 210, 31.7.2006, p. 1).

<sup>(3)</sup> Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund (OJ L 210, 31.7.2006, p. 12).

<sup>(4)</sup> Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund (OJ L 210, 31.7.2006, p. 79).

<sup>(5)</sup> Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund (OJ L 223, 15.8.2006, p. 1)

**▼B***Article 156*

1. Payment by the Commission of financial contributions from the Funds shall be made in accordance with the regulations referred to in Article 155.
2. The time limit for interim payments by the Commission shall be laid down in accordance with the regulations referred to in Article 155.
3. The treatment of repayments by the Member States and the implications for the amount of contributions from the Funds shall be governed by the regulations referred to in Article 155.

*Article 157*

The Commission shall automatically decommit appropriations that have been committed as provided for in the regulations referred to in Article 155.

**▼M1**

The decommitted appropriations may be made available again in the event of a manifest error attributable solely to the Commission.

**▼B**

To this end, the Commission shall examine decommitments made during the previous financial year and decide, by 15 February of the current year, on the basis of requirements, whether it is necessary to make the corresponding appropriations available again.

**▼M1***Article 158*

With regard to the operational expenditure referred to in this Title, the Commission may, except in the case of the EAFRD, make transfers from one title to another, provided that the appropriations in question are for the same objective within the meaning of the Regulations governing the Funds referred to in Article 155, or are Technical Assistance expenditure.

**▼B***Article 159*

Aspects concerning the management and selection of projects and audit shall be governed by the regulations referred to in Article 155.

## TITLE III

**RESEARCH***Article 160*

1. Parts one and three shall apply to the research and technological development appropriations, save as otherwise provided in this Title.

These appropriations shall be entered either in one of the titles of the budget relating to the policy area research by direct or indirect action or in a chapter relating to research activities in another title.

They shall be used by implementation of the actions listed in the implementing rules.



**▼ M1**

1a. The appropriations relating to the revenue generated by the Research Fund for Coal and Steel established by the Protocol annexed to the EC Treaty on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel shall be treated as assigned revenue within the meaning of Article 18. The commitment appropriations generated by this 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.

**▼ B**

2. 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.

3. Experts paid from the research and technological development appropriations shall be recruited in accordance with the procedures laid down by the Council when it adopts each research framework programme.

**▼ M1***Article 160a*

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 substantiated cases, be made available again where it is essential to carry out the programme originally planned, unless the budget for the current financial year 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 previous financial year and assess, in the light of the requirements, the need for making the appropriations available again.

On the basis of this assessment, the Commission may submit appropriate proposals to the budgetary authority, by 15 February of each financial year, stating for each budget item the reasons for making these appropriations available again.

3. The budgetary authority 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.

**▼B***Article 161*

1. The Joint Research Centre (JRC) may receive funding charged to appropriations entered outside the titles and the chapters referred to in Article 160(1) in respect of its participation on a competitive or negotiated basis in Community activities financed in whole or in part from the general budget.

2. The appropriations relating to the activities in which the JRC participates on a competitive basis shall be treated as assigned revenue within the meaning of Article 18. The commitment appropriations generated by this revenue shall be made available as soon as the amount receivable has been estimated.

The utilisation of these 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.

3. The rules on procurement in Title V of part one shall not apply to the activities of the JRC on behalf of third parties.

4. By way of derogation from Article 23, the Commission may, within the title of the budget relating to the policy area 'Direct action research', 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 I

*General provisions**Article 162*

1. Parts one and three shall apply to external actions financed from the budget, save as otherwise provided in this Title.

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;
- (b) or under agreements concluded with one or more beneficiary third countries;
- (c) or under agreements with the international organisations referred to in Article 53.

## CHAPTER 2

*Implementation of actions**Article 163*

►**M3** The actions referred to in this Title may be implemented on a centralised basis by the Commission pursuant to Article 53a, by shared management, on a decentralised basis by the beneficiary third country or countries, or jointly with international organisations in compliance with the relevant provisions of Articles 53 to 57. ◀. Appropriations for external actions may be combined with funds from other sources to achieve a joint objective.

▼ M1▼ B*Article 165*

► **M3** The implementation of actions by beneficiary third countries or international organisations is subject to scrutiny by the Commission and by Union Delegations in accordance with the second paragraph of Article 51. ◀ Such scrutiny shall be exercised either by prior approval, by *ex post* checks or by a combined procedure.

*Article 166*

1. Actions carried out shall give rise to:

▼ M1

- (a) a financing agreement drawn up between the Commission, acting for the Communities, and the beneficiary third country or countries or the bodies they have designated, hereinafter: 'the beneficiaries';
- (b) a contract or a grant agreement between the Commission and national or international public-sector bodies or 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 grants provided for in points (a) and (b) shall be managed.

2. Financing agreements with the beneficiary third countries referred to in paragraph 1(a) shall be concluded by 31 December of year  $n+1$  at the latest, year  $n$  being the one in which the budgetary commitment was made.

The individual contracts, grant decisions and agreements which implement such financing agreements shall be concluded or adopted no later than three years following the date of conclusion of the financing agreement.

Individual contracts and agreements relating to audit and evaluation may be concluded later.

3. The provision under paragraph 2 shall not apply to the multi-annual programmes in the following cases:

- the cross-border cooperation, regional development, human resources development and rural development components of Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) <sup>(1)</sup>,
- the cross-border cooperation component of Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument <sup>(2)</sup>.

In these cases, the following rules shall apply:

- (a) any portion of a budget commitment for such a multi-annual programme shall be automatically decommitted where, by 31 December of the third year following year  $n$  being the one in which the budget commitment was made:
  - (i) it has not been used for the purpose of pre-financing; or

<sup>(1)</sup> OJ L 210, 31.7.2006, p. 82.

<sup>(2)</sup> OJ L 310, 9.11.2006, p. 1.

**▼ M1**

- (ii) it has not been used for making intermediate payments; or
  - (iii) no declaration of expenditure has been presented in relation to it;
- (b) that part of budget commitments still open on 31 December 2017 for which a declaration of expenditure has not been made by 31 December 2018 shall be automatically decommitted.

**▼ B***CHAPTER 3****Procurement****Article 167*

1. The provisions of Article 56 and 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 laid down in the implementing rules. 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 beneficiaries;
- (b) the beneficiary or beneficiaries;

**▼ M1**

- (c) a national or international public-sector body or natural or legal persons who are beneficiaries of a grant for the implementation of an external action.

2. The procurement procedures must be laid down in the financing agreements or in the grant decision or grant agreement provided for in Article 166.

**▼ B***Article 168*

1. Participation in tendering procedures shall be open on equal terms to all persons coming within the scope of the Treaties and, in accordance with the specific provisions in the basic instruments governing the cooperation sector concerned, to all such natural and legal persons who are nationals of the beneficiary third countries or of any other third country as are expressly mentioned in those instruments.

2. In duly substantiated exceptional cases, it may be decided, on the basis of the specific conditions laid down in the basic acts governing cooperation, 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 Community 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 this agreement.

▼ M1

## CHAPTER 4

**Grants**▼ B*Article 169*

An action may be financed in full by the budget only if this proves essential for it to be carried out.

▼ M1*Article 169a*

Grant procedures to be applied in decentralised management by beneficiary third countries shall be laid down in the financing agreements referred to in Article 166. They shall be based on the rules laid down in Title VI of Part One.

▼ B

## CHAPTER 5

**Auditing of accounts**▼ M1*Article 170*

Each financing agreement or grant agreement or grant decision must 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 Community funds.

▼ B

## TITLE V

**EUROPEAN OFFICES***Article 171*

1. 'European offices' for the purposes of applying this Title are the administrative structures set up by one or more institutions to perform specific cross-cutting tasks.

▼ M1

2. This Title shall apply to the operation of the European Anti-fraud Office (OLAF), with the exception of Articles 174, 174a and 175(2).

▼ B

3. Parts one and three shall apply to the operation of the European offices, save as otherwise provided in this Title.

*Article 172*

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.

**▼B**

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.

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 budgetary authority of such transfers.
4. Each European office's accounts shall form an integral part of the Communities' accounts referred to in Article 121.

**▼M1***Article 173*

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 59.

**▼B***Article 174*

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. ► **M1** 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 is entered the total appropriation for each interinstitutional European office shall show an estimate of the cost of services supplied by the 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.

**▼M1***Article 174a*

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.
2. The internal auditor of the Commission shall exercise all responsibilities laid down in Title IV, Chapter 8 of Part One.

*Article 175*

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.

**▼B**

TITLE VI  
ADMINISTRATIVE APPROPRIATIONS

*Article 177*

Parts one and three shall apply to administrative appropriations, save as otherwise provided in this Title.

*Article 178*

1. As from 15 November of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. ►**M1** Such commitments may not, however, exceed one quarter of the appropriations decided by the budgetary authority on the corresponding budget line for the current financial year ◄. They may not apply to new expenditure of a kind not yet approved in principle in the last budget duly adopted.

2. Expenditure which must 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. ►**M1** In this case, the limit referred to in paragraph 1 shall not apply ◄.

*Article 179***▼C1**

1. Administrative appropriations shall be non-differentiated appropriations.

**▼B**

►**C2** 2. Operating 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. The institutions shall inform the two branches of the budgetary authority as soon as possible of any building project likely to have significant financial implications for the budget.

**▼M1**

If either branch of the budgetary authority intends to issue an opinion, it shall within two weeks after receipt of the information on the building project notify the institution concerned of its intention to issue such an opinion. Failing a reply, the institution concerned may proceed with the planned operation under its administrative autonomy, subject to Article 282 of the EC Treaty and Article 185 of the Euratom Treaty with regard to Community representation.

This opinion shall be forwarded to the institution concerned within two weeks of such notification.

▼ M1

## TITLE VII

**EXPERTS***Article 179a*

The implementing rules shall include a specific procedure for the selection of experts, to be paid on the basis of a fixed amount, for assisting the institutions, in particular in evaluating proposals and grant applications or tenders for procurement, and for providing technical assistance in the follow-up to, and final evaluation of, projects financed by the budget.

▼ B

## PART THREE

**TRANSITIONAL AND FINAL PROVISIONS**

## TITLE I

**TRANSITIONAL PROVISIONS**▼ M1*Article 181*

1. As regards the Funds mentioned in Article 155(1) for which the basic acts were repealed before the date of application of this Regulation, appropriations which were decommitted in application of Article 157(1) may be made available again in the event 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 these Funds.

2. The central database referred to in Article 95 shall be set up by 1 January 2009.

3. For transfers of appropriations concerning operational expenditure referred to in the Regulations governing the Structural Funds and the Cohesion Fund for the 2000 to 2006 programming period, for which Community payments still have to be made for the financial settlement of outstanding Community commitments until the closure of the assistance, the Commission may make transfers from one title to another, provided that the appropriations in question:

— are for the same objective, or

— relate to Community initiatives or to technical assistance and innovative measures and are transferred to measures of the same nature.

4. Article 30(3) shall apply for the fund mentioned in Article 148(1) for the first time in respect of the payments charged to the 2008 budget.



**▼B**

TITLE II  
FINAL PROVISIONS

*Article 182*

The European Parliament and the Council shall be empowered to obtain any information or explanations regarding budgetary matters within their fields of competence.

*Article 183*

The Commission shall adopt rules for implementing this Regulation.

*Article 184*

Every three years, or whenever it proves necessary to do so, this Regulation shall be the subject of a review in accordance with the procedure laid down by Article 279 of the EC Treaty and Article 183 of the Euratom Treaty, after recourse to the conciliation procedure, if the European Parliament so requests.

**▼C1**

\_\_\_\_\_

**▼B***Article 185*

1. ►**M1** The Commission shall adopt a framework financial regulation for the bodies set up by the Communities and having legal personality which actually receive contributions charged to the budget ◀. The financial rules of these bodies may not depart from the framework regulation except where their specific operating 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.

3. The Commission's internal auditor shall exercise the same powers over the bodies referred to in paragraph 1 as he/she does in respect of Commission departments.

**▼M1**

\_\_\_\_\_

**▼B***Article 186*

The Financial Regulation of 21 December 1977 is hereby repealed.

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.

▼ **M3**

*Article 186a*

The third subparagraph of Article 61(1) and the third paragraph of Article 85 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.

▼ **B**

*Article 187*

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.



## ANNEX

## CORRELATION TABLE

referred to in Article 186

Financial Regulation of 21 <sup>st</sup> December 1977	Financial Regulation of 25 <sup>th</sup> June 2002
Part I — Provisions applicable to the general budget of the European Communities	Part one — Common provisions
Title I: General principles	Title II: Budgetary principles
Article 1, 1(1)	Article 4, 4(1) and 4(2)
Article 1, 1(2)	Article 6
Article 1, 1(3)	Article 179, 179(2)
Article 1, 1(4) and 1(5)	Article 7
Article 1, 1(6)	Deleted
Article 1, 1(7)	Article 77, 77(3)
Article 2	Articles 27 and 48, 48(2)
Article 3	Article 28
Article 4, 4(1)	Article 17
Article 4, 4(2)	Articles 17 and 18
Article 4, 4(3)	Article 19
Article 5	Article 5
Article 6	Articles 6 and 8
Article 7, 7(1)	Article 9(1), 9(2), 9(4) and 9(6)
Article 7, 7(2)	Article 9(1), 9(2), 9(3), 9(5) and 9(6)
Article 7, 7(3)	Deleted
Article 7, 7(4)	Article 10
Article 7, 7(5)	Article 9(1)
Article 7, 7(6)	Articles 11 and 157
Article 7, 7(7)	Deleted, except Article 156, 156(3)
Article 7, 7(8)	Consigned to the regulation foreseen in Article 183
Article 7, 7(9)	Consigned to the regulation foreseen in Article 183
Article 8, 8(1)	Article 12
Article 8, 8(2) and 8(3)	Articles 150, 150(3) and 178
Article 9	Article 13
Article 10	Article 29, 29(2)
Article 11	Article 16
Title II: Establishment and structure of the budget	Title III: Establishment and structure of the budget
Section I: Establishment of the budget	Chapter 1: Establishment of the budget
Article 12	Article 31
Article 13	Article 33
Article 14	Article 34
Article 15, except 15(2)	Article 37
Articles 15, 15(2) and 16, 16(2)	Article 38
Article 16, 16(1)	Article 35
Article 17	Article 36
Article 18	Article 39

▼B

Financial Regulation of 21 <sup>st</sup> December 1977	Financial Regulation of 25 <sup>th</sup> June 2002
Section II: Structure and presentation of the budget	Chapter 2: Structure and presentation of the budget
Article 19, 19(1)	Articles 40 and 41
Article 19, 19(2) and 19(3)	Article 41
Article 19, 19(4)	Article 43
Article 19, 19(5)	Article 44
Article 19, 19(6)	Deleted
Article 19, 19(7)	Article 30, 30(1)
Article 19, 19(8)	Article 45
Article 20, except 20(4)	Article 46
Article 20, 20(4)	Article 47
Title III: Implementation of the budget	Title IV: Implementation of the budget
Section I: General provisions	Chapter 1: General provisions
Article 21	Article 58
Article 22, 22(1)	Articles 48 and 49
Article 22, 22(2)	Article 50, 54(1) and 57(1)
Article 22, 22(3)	Deleted
Article 22, 22(4)	Articles 51, 52 and 59
Article 22, 22(4a)	Article 56
Article 22, 22(5)	Article 1(2)
Article 23	Article 84
Article 24	Deleted
Article 24a	Articles 85 and 86
Article 25	Article 61
Article 26, 26(1)	Article 21
Article 26, 26(2) and 26(4)	Article 22
Article 26, 26(3)	Article 23
Article 26, 26(5)	Article 24
Article 26, 26(6) and (7)	Deleted
Article 26, 26(8) and (9)	Article 25
Article 26, 26(10) and (11)	Article 26
Article 27, 27(1)	Article 20, 20(1)
Article 27, 27(2) and (5)	Deleted
Article 27, 27(2a)	Article 20, 20(2)
Article 27, 27(3)	Deleted
Article 27, 27(4)	Article 20, 20(3)
Section II: Budgetary revenue, management of available funds	Chapter 5: Revenue operations
Article 28, 28(1)	Article 70, 70(1)
Article 28, 28(2)	Article 71, 71(2)
Article 28, 28(3)	Article 70, 70(2)
Article 28a	Article 74
Article 29	Article 73
Article 30	Consigned to the regulation foreseen in Article 183

## ▼B

Financial Regulation of 21 <sup>st</sup> December 1977	Financial Regulation of 25 <sup>th</sup> June 2002
Article 31	Article 69
Article 32	Article 15
Article 33	Consigned to the regulation foreseen in Article 183
Article 34	Article 131
Article 35	Consigned to the regulation foreseen in Article 183
Section III: Commitment, validation, authorisation and payment of expenditure	Chapter 6: Expenditure operations
Article 36	Articles 77, 77(1) and (2) and 166, 166(2)
Article 37	Deleted
Article 38	Deleted
Article 39	Deleted
Article 40	Article 79
Article 41	Consigned to the regulation foreseen in Article 183
Article 42	Consigned to the regulation foreseen in Article 183
Article 43	Article 80
Article 44	Consigned to the regulation foreseen in Article 183
Article 45	Consigned to the regulation foreseen in Article 183
Article 46	Article 81
Article 47	Deleted
Article 48	Deleted
Article 49	Article 71, 71(4)
Article 50	Deleted
Article 51, 51(1)	Deleted
Article 51, 51(2)	Article 82
Article 51, 51(3)	Deleted
Article 52	Deleted
Article 53	Consigned to the regulation foreseen in Article 183
Article 54	Article 63
Section IV: Management of posts	
Article 55	Deleted
Title IV: Conclusion of contracts, inventories, accountancy	Title V: Procurement
Section I: Contracts for the supply of goods and services; contracts for purchase, lease and hire	
Article 56	Article 105
Article 57	Deleted
Article 58, 58(1)	Articles 88, 89, 89(2) and 91
Article 58, 58(2)	Article 90
Article 58, 58(3)	Article 97, 97(1)
Article 58, 58(4)	Consigned to the regulation foreseen in Article 183
Article 59	Article 91, 91(2)
Article 60	Article 91, 91(3)



Financial Regulation of 21 <sup>st</sup> December 1977	Financial Regulation of 25 <sup>th</sup> June 2002
Article 61	Deleted
Article 62	Article 89, 89(1)
Article 63	Deleted
Article 64	Deleted
Article 64a	Article 102
Section II: Inventories of movable and immovable property	Title VII: Presentation of the accounts and accounting Chapter 4: Property inventories
Article 65	Article 138, 138(1)
Article 66	Article 138, 138(2)
Article 67	Consigned to the regulation foreseen in Article 183
Article 68	Consigned to the regulation foreseen in Article 183
Section III: Accounts	Chapter 3: Accounting
Article 69	Articles 132 and 133
Article 70	Articles 132, 133, 134 and 137
Article 70a	Consigned to the regulation foreseen in Article 183
Article 71	Deleted
Article 72	Articles 132, 132(3) and 136
Title V: Responsibilities of authorising officers, financial controllers, accounting officers and administrators of advance funds	Title IV: Implementation of the budget Chapter 4: Liability of the financial actors
Article 73	Article 66
Article 74	Deleted
Article 75, 75(1)	Article 67
Article 75, 75(2)	Article 68
Article 75, 75(3)	Deleted
Article 75, 75(4)	Deleted
Article 75, 75(5)	Consigned to the regulation foreseen in Article 183
Article 76	Article 65, 65(2)
Article 77	Deleted
Title VI: Presenting and auditing accounts	Title VII: Presentation of the accounts and accounting Chapter 1: Presentation of the accounts
Article 78	Article 128
Article 79	Article 128
Article 80	Articles 122 and 127
Article 81	Articles 126 and 128
Article 82	Article 128, 128(2)
Article 83, 83(1)	Article 140, 140(3)
Article 83, 83(2) bis (4)	Article 139
Article 84	Deleted
Article 85	Article 140, 140(1) and (2)
Article 86	Article 141
Article 87	Article 142, 142(1) bis (5)
Article 88	Article 143



Financial Regulation of 21 <sup>st</sup> December 1977	Financial Regulation of 25 <sup>th</sup> June 2002
Article 88a	Deleted
Article 89, 89(1)	Article 145, 145(1)
Article 89, 89(2), (3) and (5)	Article 146
Article 89, 89(4)	Article 145, 145(2) and (3)
Article 89, 89(6)	Deleted
Article 89, 89(7) and (8)	Article 147
Article 89, 89(9) and (10)	Consigned to the regulation foreseen in Article 183
Article 90	Article 144
Title VII: Special provisions applicable to research and technological development appropriations	Part Two: Special provisions Title III: Research
Article 91	Article 160, 160(1)
Article 92, 92(1) and (2)	Article 160, 160(1)
Article 92, 92(3)	Article 161, 161(1)
Article 92, 92(4)	Article 161, 161(3)
Article 93	Deleted
Article 94	Deleted
Article 95	Article 161, 161(4)
Article 96, 96(1) and (4)	Article 161, 161(2)
Article 96, 96(2) and (3)	Deleted
Article 97	Deleted
Title VIII: Special provisions applicable to the European Agricultural Guidance and Guarantee Fund, Guarantee Section	Part Two: Special provisions Title I: European Agricultural Guidance and Guarantee Fund, Guarantee Section
Article 98	Article 148
Article 99, 99(1)	Article 150, 150(1) and (2)
Article 99, 99(2)	Deleted
Article 100	Article 151, 151(1)
Article 101	Article 152
Article 102	Consigned to the regulation foreseen in Article 183
Article 103	Article 151, 151(2)
Article 104	Article 153
Title IX: Special provisions applicable to external aid	Part Two: Special provisions Title IV: External actions
Section I: General provisions	Chapter 1: General provisions
Article 105, 105(1) and (2)	Article 162
Article 105, 105(3)	Consigned to the regulation foreseen in Article 183
Article 105, 105(4)	Deleted
Article 105, 105(5)	Consigned to the regulation foreseen in Article 183
Article 106, 106(1)	Article 166
Article 106, 106(2)	Deleted
Article 106, 106(3)	Consigned to the regulation foreseen in Article 183
Section II: Implementation	Chapter 2: Implementation of actions
Article 107	Deleted
Article 108	Deleted

▼B

Financial Regulation of 21 <sup>st</sup> December 1977	Financial Regulation of 25 <sup>th</sup> June 2002
Article 109	Deleted
Article 110	Deleted
Article 111	Deleted
Section III: Award of contracts	Chapter 3: Procurement
Article 112	Article 167, 167(1)
Article 113	Article 167, 167(2)
Article 114	Article 168
Article 115	Consigned to the regulation foreseen in Article 183
Article 116	Deleted
Article 117	Deleted
Article 118	Consigned to the regulation foreseen in Article 183
Article 119	Deleted
Section IV: Auditing of accounts	Chapter 4: Auditing of accounts
Article 120	Article 170
Title X: Special provisions applicable to the management of appropriations relating to staff serving in offices and suboffices in the Community and in delegations outside the Community and to their administration	Deleted
Article 121	Deleted
Article 122 (Deleted)	Deleted
Article 123	Deleted
Title XI: Special provisions applicable to financial participation by third parties and outside bodies in Community activities	Deleted
Section I: General provisions	
Article 124 to 126	Article 18(1)(d)
Section II: Provisions applicable to participation provided for pursuant to the agreement on the European Economic Area	
Article 127 to 132	Article 18(1)(d)
Title XIa: Special provisions relating to the sanctions referred to in Section 4 of Regulation (EC) No 1467/97	
Article 132a	Article 18(1)(b)
Title XII: Special provisions relating to the Office for Official Publications of the European Communities	Title V: European Offices
Article 133	Article 171 to 175
Part II: Provisions applicable to borrowing-and-lending operations by the European Communities	
Article 134	Article 130
Article 135	Consigned to the regulation foreseen in Article 183



**▼B**

Financial Regulation of 21 <sup>st</sup> December 1977	Financial Regulation of 25 <sup>th</sup> June 2002
Article 136	Deleted
Article 137	Article 142, 142(6)
Part III: Transitional and final provisions	Part three: Transitional and final provisions
Article 138	Article 182
Article 139	Article 183
Article 140	Article 184
Article 141	Article 186
Article 142	Article 185
Article 143	Article 187