

Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (repealed)

PART ONE

COMMON PROVISIONS

TITLE IV

IMPLEMENTATION OF THE BUDGET

CHAPTER 4

Liability of the financial actors

Section 1

General rules

Article 74

Bodies responsible in matters of fraud (Articles 66(8) and 72(2) of the Financial Regulation)

The authorities and bodies referred to in Articles 66(8) and 72(2) of the Financial Regulation shall be understood as the bodies designated in the Staff Regulations and the decisions of the Union institutions concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any other illegal activity detrimental to the Union's interests.

Section 2

Rules applicable to authorising officers by delegation and subdelegation

Article 75

Financial irregularities (Articles 66(7) and 73(6) of the Financial Regulation)

Without prejudice to the powers of OLAF, the Financial Irregularities Panel referred to in Article 29 (hereinafter 'the Panel') shall be competent in respect of any infringement of a provision of the Financial Regulation or of a provision relating to financial management or the checking of operations resulting from an act or omission of a member of staff.

Article 76

Financial Irregularities Panel(Articles 66(7) and 73(6) of the Financial Regulation)

1 Cases of financial irregularities as referred to in Article 75 of this Regulation shall be referred to the Panel by the appointing authority for an opinion referred to in the second subparagraph of Article 73(6) of the Financial Regulation.

Where Heads of Union delegations act as authorising officers by subdelegation in accordance with Article 56(2) of the Financial Regulation, the responsible authorising officer may refer directly to the Panel for an opinion on cases of financial irregularities as referred to in Article 75 of this Regulation.

An authorising officer by delegation may refer a matter to the panel if he considers that a financial irregularity has occurred. The Panel shall deliver an opinion evaluating whether irregularities within the meaning of Article 75 have occurred, how serious they are and what their consequences might be. Where the Panel's analysis suggests that the case referred to it is a matter for OLAF, it shall transmit the file to the appointing authority without delay and shall inform OLAF at once.

When the Panel is directly informed of a matter by a member of staff in accordance with Article 66(8) of the Financial Regulation, it shall transmit the file to the appointing authority and shall inform the member of staff accordingly. The appointing authority may request the Panel's opinion on the case.

2 The institution or, in the case of a joint Panel, the participating institutions shall, depending on its or their own internal organisation, specify the operating arrangements of the Panel and its composition, which shall include an external participant with the required qualifications and expertise.

Article 77

Confirmation of instructions(Article 73(3) of the Financial Regulation)

1 An authorising officer by delegation or subdelegation who receives a binding instruction which he considers to be irregular or contrary to the principle of sound financial management, in particular because the instruction cannot be carried out with the resources allocated to him, shall, in writing, so inform the authority from which he received the delegation or subdelegation. If the instruction is confirmed in writing and that confirmation is received in good time and is sufficiently clear, in that it refers explicitly to the points which the authorising officer by delegation or subdelegation has challenged, the authorising officer may not be held liable. He shall carry out the instruction, unless it is manifestly illegal or constitutes a breach of the relevant safety standards.

2 Paragraph 1 shall also apply in cases where an authorising officer learns, in the course of acting on a binding instruction, that the circumstances of the case may give rise to an irregular situation.

Any instructions confirmed in the circumstances described in Article 73(3) of the Financial Regulation shall be recorded by the authorising officer by delegation responsible and mentioned in his annual activity report.