

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (repealed)

PART ONE

COMMON PROVISIONS

TITLE IV

IMPLEMENTATION OF THE BUDGET

CHAPTER 4

Liability of financial actors

Section 1

General rules

Article 71

Withdrawal of delegation and suspension of duties given to financial actors

- 1 Authorising officers responsible may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them.
- 2 The accounting officer or imprest administrators, or both, may at any time be suspended temporarily or definitively from their duties by the authority which appointed them.
- 3 This Article shall be without prejudice to any disciplinary action taken in respect of the financial actors referred to in paragraphs 1 and 2.

Article 72

Liability of the authorising officer for illegal activity, fraud or corruption

- 1 This Chapter is without prejudice to any liability under criminal law which the financial actors referred to in Article 71 may incur as provided for in applicable national law and in the provisions in force concerning the protection of the Union's financial interests and the fight against corruption involving Union officials or officials of Member States.
- 2 Without prejudice to Articles 73, 74 and 75 of this Regulation, each authorising officer responsible, accounting officer or imprest administrator shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations. In the event of illegal activity, fraud or corruption which may harm the interests of the Union, the matter shall be submitted to the authorities and bodies designated by the applicable legislation, in particular to OLAF.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of the authorising officers, the accounting officers and the imprest administrators in the event of illegal activity, fraud or corruption.

Section 2

Rules applicable to authorising officers responsible

Article 73

Rules applicable to authorising officers

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

2 The obligation to pay compensation shall apply in particular if the authorising officer responsible, whether intentionally or through gross negligence on his or her part:

- a determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation or the delegated acts adopted pursuant to this Regulation;
- b 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.

3 An authorising officer by delegation or subdelegation who considers that a decision, which is his or her responsibility to take, is irregular or contrary to the principle 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 that decision, that authorising officer shall not be held liable.

4 In the event of subdelegation within his or her service, the authorising officer by delegation shall continue 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.

5 In the event of subdelegation 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, as well as 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 shall complete specific training courses on the tasks and responsibilities of authorising officers and the implementation of the budget.

Heads of Union Delegations shall report on their responsibilities pursuant to the first subparagraph of this paragraph in accordance with Article 67(3).

Each year, Heads of Union Delegations shall provide to the Commission's authorising officer by delegation assurance on the internal management and control systems put in place in their Delegation, as well as on the management of operations subdelegated to them, and the results thereof, in order to allow the authorising officer to make the statement of assurance provided for in Article 66(9).

Status: This is the original version (as it was originally adopted).

6 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.

On the basis of the opinion of this panel, the institution shall decide whether to initiate proceedings for disciplinary action or 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, unless the latter is the person involved, as well as to the internal auditor.

7 Where Heads of Union Delegations act as authorising officers by subdelegation in accordance with Article 56(2), the specialised financial irregularities panel set up by the Commission pursuant to paragraph 6 of this Article shall be competent for cases referred to in Article 56(2).

If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer, the High Representative and the Commission's authorising officer by delegation, unless the latter is 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 for disciplinary action or payment of compensation against authorising officers by subdelegation if irregularities concern the competences of the Commission subdelegated to them. In such a case, the High Representative shall take appropriate action in accordance with the Staff Regulations in order to enforce decisions on disciplinary action or the payment of compensation, as recommended by the Commission.

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

8 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules applicable to authorising officers by delegation, including confirmation of instructions and the role of the Financial Irregularities Panel.

Section 3

Rules applicable to accounting officers and imprest administrators

Article 74

Rules applicable to accounting officers

1 An accounting officer shall be liable to disciplinary action and payment of compensation, as laid down in, and in accordance with, the procedures in the Staff Regulations. An accounting officer may, in particular, become liable as a result of any of the following forms of misconduct on his or her part:

- a losing or damaging funds, assets or documents in his or her keeping;
- b wrongly altering bank accounts or postal giro accounts;

- c recovering or paying amounts which are not in conformity with the corresponding recovery or payment orders;
- d failing to collect revenue due.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of accounting officers in the event of other forms of misconduct.

Article 75

Rules applicable to imprest administrators

1 An imprest administrator officer shall be liable to disciplinary action and payment of compensation, as laid down in, and in accordance with, the procedures in the Staff Regulations. An imprest administrator may in particular become liable as a result of any of the following forms of misconduct on his or her part:

- a losing or damaging funds, assets or documents in his or her keeping;
- b not providing proper supporting documents for the payments he or she has made;
- c making payments to persons other than those entitled to such payments;
- d failing to collect revenue due.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of imprest administrators in the event of other forms of misconduct.