

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rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (repealed)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 TWO

SPECIAL PROVISIONS

TITLE I

EUROPEAN AGRICULTURAL GUARANTEE FUND

Article 168

Special provisions on the European Agricultural Guarantee Fund

1 Parts One and Three shall, except as otherwise provided in this Title, 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.

2 Operations managed directly by the Commission shall be implemented in accordance with the rules laid down in Parts One and Three.

Article 169

Commitments of EAGF appropriations

1 For each financial year, the EAGF appropriations 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.

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

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 following financial year only.

Such carryover shall not exceed, within a limit of 2 % of the initial appropriations, the amount of the adjustment of direct payments as referred to in Article 11 of Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers⁽¹⁾, and which was applied during the preceding financial year.

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

Status: Point in time view as at 01/01/2016.

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Such carryover may lead to an additional payment only to the final recipients who were subject, in the preceding financial year, to the adjustment of direct payments as referred to in Article 11 of Regulation (EC) No 73/2009.

The carryover decision shall be taken, by 15 February of the year to which the carryover is being made, by the Commission, which shall inform the European Parliament and the Council thereof.

Article 170

Global provisional commitments of EAGF appropriations

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

2 The Commission decisions fixing the amount of reimbursement of such expenditure shall constitute global provisional commitments, which may not exceed the total appropriations entered for the EAGF.

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

Article 171

Schedule and timing of EAGF budgetary commitments

1 Expenditure effected by the authorities and bodies referred to in the rules relating to the EAGF shall, within two months of receipt of the statements sent in by Member States, be the subject of a commitment by chapter, article and item. Such commitments may be made after the lapse of that two-month period where a procedure for a transfer of appropriations concerning the relevant budget lines is necessary. Except 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.

The commitments referred to in the first subparagraph shall be deducted from the global provisional commitment referred to in Article 170.

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

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

Article 172

Accounting of EAGF expenditure

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

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

Article 173

Transfer of EAGF appropriations

1 Where the Commission transfers appropriations pursuant to Article 26(1), it shall take its decision by 31 January of the following financial year and shall inform the European Parliament and the Council as provided for in Article 26(1).

2 In cases other than those referred to in paragraph 1, the Commission shall submit transfer proposals to the European Parliament and the Council by 10 January of the following financial year.

The European Parliament and the Council shall take decisions on such transfers in accordance with the procedure provided for in Article 27, but for the purposes of this Article, the time limit applicable shall be three weeks.

Article 174

Assigned EAGF revenue

1 Assigned revenue under this Title shall be assigned according to the origin of the revenue in accordance with Article 21(3).

2 The result of decisions referred to in Article 30 of Regulation (EC) No 1290/2005, shall be entered in a single article.

[^{F1}TITLE II

STRUCTURAL FUNDS, COHESION FUND, EUROPEAN FISHERIES FUND, EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT, FUNDS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE MANAGED IN SHARED MANAGEMENT AND CONNECTING EUROPE FACILITY]

Article 175

Special provisions

1 Parts One and Three shall apply to expenditure effected by the authorities and bodies referred to in Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)⁽²⁾, Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund⁽³⁾, Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund⁽⁴⁾, Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund⁽⁵⁾, Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund⁽⁶⁾, Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund⁽⁷⁾, and funds in the area of Freedom, Security and Justice including the Funds under the "Solidarity and Management of

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Migration Flows" Programme, managed in shared management pursuant to Article 59 (the "Funds"), and to their revenue, except as otherwise provided in this Title.

2 Operations managed directly by the Commission shall also be implemented in accordance with the rules laid down in Parts One and Three.

Article 176

Respect of the allocations of commitment appropriations

The European Parliament and the Council shall respect the allocations of commitment appropriations provided for in the relevant basic acts for structural operations, rural development and the European Fisheries Fund.

Article 177

Payments of contributions, interim payments and repayments

1 Payment by the Commission of financial contributions from the Funds shall be made in accordance with the Regulations referred to in Article 175.

2 The time limit for interim payments by the Commission shall be laid down in accordance with the Regulations referred to in Article 175.

3 In accordance with the Regulations referred to in Article 175, the repayment in full, or in part, of pre-financing payments in respect of a given operation shall not have the effect of reducing the contribution from the Funds to the operation concerned.

Amounts repaid shall constitute internal assigned revenue in accordance with point (c) of Article 21(3).

The treatment of repayments by the Member States and the implications of that treatment for the amount of contributions from the Funds shall be governed by the Regulations referred to in Article 175.

4 By way of derogation from Article 14, commitment appropriations available on 31 December arising from repayments of pre-financing payments may be carried over until the closure of the programme and used when necessary provided that other commitment appropriations are no longer available.

5 In budgetary accounting, expenditure shall be booked to the accounts for a financial year on the basis of reimbursements made by the Commission to the Member States by 31 December of that financial year, including the expenditure charged by 31 January of the following financial year, against the payment appropriations made available in the month following the transfers referred to in Article 179.

Article 178

Decommitment of appropriations

1 The Commission shall automatically decommit appropriations that have been committed as provided for in the Regulations referred to in Article 175.

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

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

- [^{F23} The decommitted appropriations shall be made available again in the event of:
- a the decommitment of appropriations from a programme under the arrangements for the implementation of the performance reserve established in Article 20 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁽⁸⁾;
 - b the decommitment of appropriations from a programme dedicated to a specific financial instrument in favour of SMEs following the discontinuance of the participation of a Member State in the financial instrument, as referred to in the seventh subparagraph of Article 39(2) of Regulation (EU) No 1303/2013.]

Textual Amendments

- F2** Inserted by Regulation (EU, Euratom) No 547/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union.

[^{F2} Article 178a

Carry-over of commitment appropriations for the Connecting Europe Facility

1 For the financial years 2014, 2015 and 2016, commitment appropriations for projects financed under the Connecting Europe Facility established by Regulation (EU) No 1316/2013 of the European Parliament and of the Council⁽⁹⁾ not yet committed at the end of the financial year may be carried over to the next financial year only.

2 The Commission shall submit carry-over proposals in respect of the preceding financial year to the European Parliament and to the Council by 15 February of the current financial year.

3 The European Parliament and the Council, the latter acting by qualified majority, shall deliberate upon each carry-over proposal by 31 March of the current financial year.

4 The carry-over proposal shall be approved if, by the deadline set out in paragraph 3, any of the following occurs:

- a the European Parliament and the Council approve it;
- b either the European Parliament or the Council approves it and the other institution refrains from acting;
- c the European Parliament and the Council refrain from acting or do not take a decision to refuse it.]

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Textual Amendments

- F2** Inserted by [Regulation \(EU, Euratom\) No 547/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

Article 179

Transfer of appropriations

1 With regard to the operational expenditure referred to in this Title, the Commission may, except in the case of the European Agricultural Fund for Rural Development, make transfers from one title to another, provided that the appropriations concerned are for the same objective within the meaning of the Regulations referred to in Article 175, or are Technical Assistance expenditure. The Commission shall take its decisions by 31 January of the following financial year.

2 In cases other than those referred to in paragraph 1, the Commission may submit proposals for transfers to the Funds of payment appropriations to the European Parliament and the Council by 10 January of the following financial year. The transfer of the payment appropriations may be made from any item of the budget. The European Parliament and the Council shall take decisions on such transfers in accordance with the procedure provided for in Article 27, but for the purposes of this Article the time limit applicable shall be three weeks.

3 If the transfer is not approved or only partially approved by the European Parliament and the Council, the corresponding part of the expenditure referred to in Article 177(5) shall be charged to the payment appropriations of the following financial year.

Article 180

Management, selection and audit

The management and selection of projects, and their audit, shall be governed by the Regulations referred to in Article 175.

Textual Amendments

- F1** Substituted by [Regulation \(EU, Euratom\) No 547/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

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TITLE III

RESEARCH

Article 181

Research funds

1 Parts One and Three shall apply to research and technological development appropriations, except as otherwise provided in this Title.

Such appropriations shall be entered either in one of the titles of the budget relating to the policy areas linked to "Indirect research" and "Direct research" or in a chapter relating to research activities in another title.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on types of operations under research.

2 The appropriations relating to the revenue generated by the Research Fund for Coal and Steel established by Protocol No 37 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel annexed to the TEU and the TFEU shall be treated as assigned revenue within the meaning of Article 21. The commitment appropriations generated by such 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.

3 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.

4 Experts paid from research and technological development appropriations shall be recruited in accordance with the procedures laid down by the European Parliament and the Council when they adopt each research framework programme or in accordance with the corresponding rules for the participation of undertakings, research centres and universities.

Article 182

Commitments of Research Fund

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 justified cases, be made available again where it is essential to carry out the programme originally planned, unless the budget for the financial year concerned (year n) 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 preceding financial year (year n – 1) and assess, in the light of the requirements, the need to make the appropriations available again.

On the basis of this assessment, the Commission may submit appropriate proposals to the European Parliament and the Council, by 15 February of each financial year, stating for each budget item the reasons for making those appropriations available again.

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3 The European Parliament and the Council 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.

Article 183

Joint Research Centre

1 The Joint Research Centre (JRC) may receive funding charged to appropriations entered outside the titles and the chapters referred to in Article 181(1) in respect of its participation in procurement and grant procedures following Titles V and VI of Part One, and financed in whole or in part from the budget.

For the purposes of the participation in the procurement and grant procedures, the JRC shall be considered as a legal person established in a Member State.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the JRC.

2 Appropriations relating to the following shall be treated as assigned revenue within the meaning of Article 21(2):

- a grant and procurement procedures in which the JRC participates;
- b activities of the JRC on behalf of third parties; or
- c activities undertaken under an administrative agreement with other institutions or other Commission departments for the provision of technical-scientific services.

The commitment appropriations generated by revenue referred to in points (a) and (c) of the first subparagraph shall be made available as soon as the amount receivable has been estimated.

For activities referred to in point (c) of the first subparagraph, appropriations not used within five years shall be cancelled.

3 The use of 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.

[^{F34} When participating in grant or procurement procedures in accordance with paragraph 1 of this Article, the JRC shall not be subject to the conditions laid down in Articles 105a, 106, points (a) and (b) of Article 107(1), Article 108 and Article 131(4) regarding provisions on exclusion and penalties in relation to procurement and grants.]

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The JRC shall also be presumed to meet the requirements relating to economic and financial capacity.

The JRC shall be exempted from lodging guarantees as referred to in Articles 115 and 134.

5 The rules on procurement in Title V of Part One shall not apply to the activities of the JRC on behalf of third parties.

6 By way of derogation from Article 26, the Commission may, within the title of the budget relating to the "Direct research" policy area, make transfers between chapters of up to 15 % of the appropriation in the line from which the transfer is made.

Textual Amendments

- F3** Substituted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union](#).

TITLE IV

EXTERNAL ACTIONS

CHAPTER 1

General provisions

Article 184

External actions

1 Parts One and Three shall apply to external actions financed from the budget, except as otherwise provided in this Title.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the actions which may be financed under external actions.

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; or
- b in partnership with a third country as referred to in point (i) of Article 58(1)(c), through the signature of a financing agreement.

3 Where external actions are co-financed both from appropriations entered in the budget and from external assigned revenue referred to in point (b) of Article 21(2), the funds which are not committed after the end of the contracting period referred to in Article 189(2) for the relevant action shall be reimbursed on a pro rata basis after the deduction of a lump sum corresponding to audit, evaluation and contingencies which can be committed at a later time.

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4 The second subparagraph of Article 90(4) shall not apply to the actions referred to in this Title.

For grants under direct management of more than EUR 5 000 000 financing external actions, no more than two pre-financing payments shall remain uncleared throughout the duration of the action.

CHAPTER 2

Implementation of actions

Section 1

General provisions

Article 185

Implementation of external actions

The actions referred to in this Title may be implemented directly by the Commission pursuant to point (a) of Article 58(1), under shared management pursuant to point (b) of Article 58(1) or indirectly by any entity or person entrusted pursuant to point (c) of Article 58(1), in accordance with the relevant provisions of Articles 58 to 63. Appropriations for external actions may be combined with funds from other sources to achieve a joint objective.

Section 2

Budget support and multi-donor trust funds

Article 186

Use of budget support

1 Where provided for in the relevant basic acts, the Commission may provide budget support to a beneficiary third country if that country's management of public finances is sufficiently transparent, reliable and effective.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the use of budget support and on the obligations of recipients.

2 The financing decision referred to in Article 84 shall detail the objectives and the expected results of the provision of budget support to a beneficiary third country. The payment of the Union contribution shall be based on the fulfilment of conditions referred to in paragraph 1, including the improvement of the management of public finances, and on clear and objective performance indicators forming the basis for the measurement of progress over time in the respective sector.

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3 The Commission shall include in the corresponding financing agreement concluded in accordance with point (b) of Article 184(2), the appropriate provisions pursuant to which the beneficiary third country is to commit to immediately reimburse all or part of the relevant operation funding, in the event that it is established that the payment of the relevant Union funds has been vitiated by serious irregularities attributable to the that country.

In order to process the reimbursement referred to in the first subparagraph, the second subparagraph of Article 80(1) may be applied.

4 The Commission shall support in beneficiary third countries the development of parliamentary control and audit capacities and increase transparency and public access to information.

Article 187

Union trust funds for external actions

1 For emergency, post-emergency or thematic actions, the Commission may create trust funds under an agreement concluded with other donors. The constitutive act of each trust fund shall define the objectives of the trust fund.

2 Union trust funds shall be implemented in accordance with the principles of sound financial management, transparency, proportionality, non-discrimination and equal treatment, and in accordance with the specific objectives defined in each constitutive act.

Union trust funds shall be implemented directly by the Commission pursuant to point (a) of Article 58(1), with the exception of Union trust funds for emergency or post-emergency action, which may also be implemented indirectly by entrusting budget implementation tasks to entities pursuant to points (i), (ii), (v), and (vi) of Article 58(1) (c).

3 Union trust funds shall comply with the following conditions:

- a there is added value to the Union intervention: trust funds shall only be created and implemented at Union level where their objectives, in particular by reason of their scale or potential effects, can be better achieved at Union level than at national level;
- b Union trust funds shall bring clear Union political visibility and managerial advantages as well as better Union control of risks and disbursements of the Union and other donors' contributions. They should not be created if they merely duplicate other existing funding channels or similar instruments without providing any additionality.

4 A board chaired by the Commission shall be established for each Union trust fund to ensure the representation of the donors, and of the non-contributing Member States as observers, and to decide upon the use of the funds.

5 Union trust funds shall be created for a limited duration determined in their constitutive act. This duration may be extended by a decision of the Commission upon request of the board of the trust fund concerned.

The European Parliament and/or the Council may request the Commission to discontinue appropriations for that trust fund or to revise the constitutive act with a view to the liquidation of the trust fund, where appropriate. In such an event, any remaining funds shall be returned on a pro rata basis to the budget as general revenue and to the contributing Member States and other donors.

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6 The contributions of the Union and of the donors shall be lodged in a specific bank account. The contributions of the Union shall be transferred to this account on the basis of payment requests that are duly substantiated with disbursement forecasts, taking into account the balance available on the account and the resulting need for additional payments. Disbursement forecasts are to be provided on an annual, or where appropriate on a semi-annual, basis.

Contributions shall not be integrated in the budget and shall be managed by the Commission under the responsibility of the authorising officer by delegation.

The accounting officer of a Union trust fund shall be the accounting officer of the Commission. He or she shall be responsible for laying down accounting procedures and chart of accounts common to all Union trust funds.

The Commission's internal auditor and the Court of Auditors shall exercise the same powers over the trust fund as they do in respect of other actions carried out by the Commission.

The specific bank account of the trust fund shall be opened and closed by the accounting officer.

The Commission shall ensure a strict separation of duties between accounting and authorising officers.

Funds shall be committed and paid by financial actors of the Commission, as defined in Chapter 3 of Title IV of Part One.

7 The Commission shall be authorised to withdraw a maximum of 5 % of the amounts pooled into the trust fund to cover its management costs from the years in which the contributions referred to in paragraph 6 have started to be used. For the duration of the trust fund, such management fees shall be assimilated to assigned revenue within the meaning of point (b) of Article 21(2).

The accounting officer shall act on the recovery orders relating to actions funded by the trust fund. Revenue arising from the repayment of these recovery orders shall be returned to the specific bank account of the trust fund. Cancellation and waiving of recovery orders shall be made under the rules referred to in Article 80.

8 The Commission shall submit its draft decisions concerning the creation, the extension and the liquidation of a Union trust fund to the competent committee provided for in the basic act under which the Union contribution to the Union trust fund is provided.

9 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the management, reporting and governance of trust funds for external actions.

10 The Commission shall submit annually a comprehensive and detailed report to the European Parliament and the Council on the activities supported by Union trust funds, on their implementation and performance, as well as on their accounts. The Commission shall attach its report to the summary of the annual reports referred to in the third subparagraph of Article 66(9).

Status: Point in time view as at 01/01/2016.

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Section 3

Other management modes

Article 188

Implementation of external actions through indirect management

1 The implementation of actions implemented indirectly pursuant to point (c) of Article 58(1) shall be subject to scrutiny by the Commission and by Union Delegations in accordance with Article 56(2). Such scrutiny shall be exercised either by prior approval, by *ex post* checks or by a combined procedure.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the implementation of external actions through indirect management.

Article 189

Financing agreements on the implementation of external actions

1 External actions carried out shall give rise to one or more of the following instruments:

- a a financing agreement between the Commission and an entity or person referred to in Article 185;
- b a contract or a grant agreement 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 grant agreements provided for in points (a) and (b) of the first subparagraph shall be managed.

2 Financing agreements with the entities referred to in point (a) of the first subparagraph of paragraph 1 shall be concluded by 31 December of year $n + 1$, year n being the one in which the budgetary commitment was made.

The financing agreements shall lay down the period within which the entities referred to in point (a) of the first subparagraph of paragraph 1 shall conclude all individual contracts and grant agreements which implement the action. Such period shall be no longer than three years following the date of conclusion of the financing agreement, except:

- a for multi-donor actions;
- b for individual contracts relating to audit and evaluation;
- c in the following exceptional circumstances:
 - (i) riders are added to contracts which have already been concluded;
 - (ii) individual contracts are to be concluded after early termination of an existing contract;
 - (iii) changes of the entity charged with the entrusted tasks.

3 Paragraph 2 shall not apply to the multiannual programmes that are implemented through split commitments in the following cases:

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- a the Instrument for Pre-Accession Assistance;
- b the European Neighbourhood and Partnership Instrument.

In those cases, the appropriations shall be automatically decommitted by the Commission in accordance with the sector-specific rules.

4 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on financing agreements concerning the implementation of external actions.

CHAPTER 3

Procurement

Article 190

External action procurement

1 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on external action procurement.

[^{F32} The provisions 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 to be laid down in the delegated acts adopted pursuant to this Regulation. Articles 117 and 120 shall not be applicable to the procurement set out in this Chapter.

This Chapter shall apply to:

- a procurement where the Commission does not award contracts for its own account;
- b procurement by entities or persons entrusted pursuant to point (c) of Article 58(1) where provided for in the financing agreement referred to in Article 189.]

3 The procurement procedures shall be laid down in the financing agreements provided for in Article 189.

[^{F34} This Chapter shall not apply to actions under sector-specific basic acts relating to humanitarian crisis management aid, civil protection operations and humanitarian aid operations.]

Textual Amendments

- F3** Substituted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

[^{F3} Article 191

Rules on access to procurement

1 Participation in procurement procedures shall be open on equal terms to all persons within the scope of the Treaties and to any other natural or legal person in accordance with the

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specific provisions in the basic instruments governing the cooperation sector concerned. It shall also be open to international organisations.

2 In the cases referred to in Article 54(2), it may be decided, under exceptional circumstances duly justified by the authorising officer responsible, to allow third-country nationals, other than those referred to in paragraph 1 of this Article, to tender for contracts.

3 Where an agreement on widening the market for procurement of goods or services to which the Union is party applies, the procurement procedures for contracts financed by the budget shall also be open to natural and legal persons established in a third country other than those referred to in paragraphs 1 and 2, under the conditions laid down in that agreement.

4 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on access to procurement procedures.]

Textual Amendments

F3 Substituted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

CHAPTER 4

Grants

Article 192

Full financing of an external action

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

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the full financing of an external action.

Article 193

Applicable rules for external action grants

Grant procedures to be applied in indirect management by the entities referred to in Article 185 shall be laid down in the agreements concluded between the Commission and those entities.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on grant procedures applicable under indirect management.

Status: Point in time view as at 01/01/2016.

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CHAPTER 5

Auditing of accounts

Article 194

Union audit in external action

Each agreement between the Commission and an entity referred to in Article 185, or grant agreement or grant decision shall 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 Union funds.

TITLE V

EUROPEAN OFFICES

Article 195

The European Offices

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

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the scope of the European offices and the delegations by the institutions to the European offices.

2 This Title shall apply to the operation of OLAF, with the exception of Articles 198, 199 and 200.

3 Parts One and Three shall apply to the operation of the European offices, except as otherwise provided in this Title.

Article 196

Appropriations regarding the European offices

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.

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.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the appropriations for the European offices, including the delegation of certain tasks by the accounting officer, treasury and bank accounts.

2 Each European office's establishment plan shall be annexed to that of the Commission.

Status: Point in time view as at 01/01/2016.

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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 European Parliament and the Council of such transfers.

4 Each European office's accounts shall form an integral part of the Union's accounts referred to in Article 141.

Article 197

Authorising Officer of European offices

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 65.

Article 198

The accounts of the interinstitutional European offices

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

Article 199

Delegation of authorising officer powers for interinstitutional European offices

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.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the delegation of authorising officer powers to the director of an interinstitutional European office.

2 The internal auditor of the Commission shall exercise all responsibilities laid down in Chapter 9 of Title IV of Part One.

Status: Point in time view as at 01/01/2016.

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Article 200

Services to third parties

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.

TITLE VI

ADMINISTRATIVE APPROPRIATIONS

Article 201

General provisions

1 Parts One and Three shall apply to administrative appropriations, except as otherwise provided in this Title.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the scope of administrative appropriations and rent guarantees.

Article 202

Commitments

1 As from 15 October of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments shall not, however, exceed one quarter of the appropriations decided by the European Parliament and the Council on the corresponding budget line for the current financial year. They shall not apply to new expenditure of a kind not yet approved in principle in the last budget duly adopted.

2 Expenditure which shall 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. In this case, the limit referred to in paragraph 1 shall not apply.

Article 203

Specific provisions regarding administrative appropriations

1 Administrative appropriations shall be non-differentiated appropriations.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on specific administrative appropriations, including buildings and advances to staff members of the institutions.

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2 Administrative 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 Each institution shall provide the European Parliament and the Council, by 1 June each year, with a working document on its building policy, which shall incorporate the following information:

- a for each building, the expenditure and surface area covered by the appropriations of the corresponding budget lines;
- b the expected evolution of the global programming of surface area and locations for the coming years with a description of the building projects in planning phase which are already identified;
- c the final terms and costs, as well as relevant information regarding project implementation of new building projects previously submitted to the European Parliament and the Council under the procedure established in paragraphs (4) and (5) and not included in the preceding year's working documents.

4 For any building project likely to have significant financial implications for the budget, the institution shall inform the European Parliament and the Council as early as possible about the building surface area required and provisional planning before any prospecting of the local market takes place, in the case of building contracts, or before invitations to tender are issued, in the case of building works.

5 For any building project likely to have significant financial implications for the budget, the institution shall present the building project, including its detailed estimated costs and its financing, as well as a list of draft contracts intended to be used, and shall request the approval of the European Parliament and the Council before contracts are concluded. At the request of the institution, documents submitted relating to the building project shall be treated confidentially.

Except in cases of *force majeure*, the European Parliament and the Council shall deliberate upon the building project within four weeks of its receipt by both institutions.

The building project shall be deemed approved at the expiry of this four-week period, unless the European Parliament or the Council take a decision contrary to the proposal within that period of time.

If the European Parliament and/or the Council raise duly justified concerns within that four-week period, that period shall be extended once by two weeks.

If the European Parliament or the Council take a decision contrary to the building project, the institution concerned shall withdraw its proposal and may submit a new one.

6 In cases of *force majeure*, the information provided for in paragraph 4 may be submitted jointly with the building project. The European Parliament and the Council shall deliberate upon the building project within 2 weeks of its receipt by both institutions. The building project shall be deemed to be approved at the expiry of this two-week period, unless the European Parliament and/or the Council take a decision contrary to the proposal within this period of time.

7 The following shall be considered as building projects likely to have significant financial implications for the budget:

- (i) any acquisition of land;

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- (ii) the acquisition, sale, structural renovation, construction of buildings or any project combining these elements to be implemented in the same timeframe, exceeding EUR 3 000 000;
- (iii) any new building contract (including usufructs, long-term leases and renewals of existing building contracts under less favourable conditions) not covered by point (ii) with an annual charge of at least EUR 750 000;
- (iv) the extension or renewal of existing building contracts (including usufruct and long-term leases) under the same or more favourable conditions, with an annual charge of at least EUR 3 000 000.

This paragraph shall also apply to building projects which have an interinstitutional nature, as well as to Union delegations.

8 Without prejudice to Article 17, a building acquisition project may be financed through a loan, subject to prior approval by the European Parliament and the Council.

Loans shall be contracted and repaid in accordance with the principle of sound financial management and with due regard to the best financial interest of the Union.

When the institution proposes to finance the acquisition through a loan, the financing plan to be submitted, together with the request for prior approval by the institution concerned, shall specify in particular, the maximum level of financing, the financing period, the type of financing, the financing conditions and savings compared to other types of contractual arrangements.

The European Parliament and the Council shall deliberate upon the request for prior approval within four weeks, extendable once by two weeks, of its receipt by both institutions. The acquisition through a loan shall be deemed to be rejected if the European Parliament and the Council do not expressly approve it within the deadline.

TITLE VII

EXPERTS

Article 204

Remunerated external experts

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on remunerated external experts, including a specific procedure for the selection of natural persons as remunerated external experts, for assisting the institutions in the evaluation of grant applications, projects and tenders, and for providing opinions and advice in specific cases.

Such experts shall be remunerated on the basis of a fixed amount announced in advance and shall be chosen on the basis of their professional capacity. The selection shall be done on the basis of selection criteria respecting the principles of non-discrimination, equal treatment and absence of conflict of interests.

[^{F4}Experts shall be subject to Article 105a, paragraphs 1 to 3 and 7, except point (b) of the first subparagraph and the second subparagraph of that paragraph, paragraphs 8

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to 10, point (a) of paragraph 11 and paragraphs 13 to 17 of Article 106, and Articles 107 and 108.]

Textual Amendments

- F4** Inserted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

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- (1) [OJ L 30, 31.1.2009, p. 16.](#)
- (2) [OJ L 277, 21.10.2005, p. 1.](#)
- (3) [OJ L 210, 31.7.2006, p. 1.](#)
- (4) [OJ L 210, 31.7.2006, p. 12.](#)
- (5) [OJ L 210, 31.7.2006, p. 25.](#)
- (6) [OJ L 210, 31.7.2006, p. 79.](#)
- (7) [OJ L 223, 15.8.2006, p. 1.](#)
- (8) [^{F2}Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 ([OJ L 347, 20.12.2013, p. 320](#)).]
- (9) [^{F2}Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 ([OJ L 348, 20.12.2013, p. 129](#)).]

Textual Amendments

- F2** Inserted by [Regulation \(EU, Euratom\) No 547/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

Status:

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Changes to legislation:

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