

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

PART ONE

**FINANCIAL REGULATION**

TITLE V

**COMMON RULES**

*CHAPTER 2*

***Rules applicable to direct and indirect management***

*Section 1*

***Rules on procedures and management***

*Article 130*

**Financial framework partnerships**

1 The Commission may establish financial framework partnership agreements for a long-term cooperation with persons and entities implementing Union funds pursuant to point (c) of the first subparagraph of Article 62(1) or with beneficiaries. Without prejudice to point (c) of paragraph 4 of this Article, financial framework partnership agreements shall be reviewed at least once during the term of every multiannual financial framework. Contribution agreements or grant agreements may be signed under such agreements.

2 The purpose of a financial framework partnership agreement shall be to facilitate the achievement of policy objectives of the Union by stabilising the contractual terms of the cooperation. The financial framework partnership agreement shall specify the forms of financial cooperation and shall include an obligation to set out, in the specific agreements signed under the financial framework partnership agreement, arrangements for monitoring the achievement of specific objectives. Those agreements shall also, on the basis of the results of an *ex ante* assessment, indicate whether the Commission may rely on the systems and the procedures of the persons or entities implementing Union funds pursuant to point (c) of the first subparagraph of Article 62(1) or of beneficiaries, including audit procedures.

3 With a view to optimising costs and benefits of audits and facilitate coordination, audit or verification agreements may be concluded with persons and entities implementing Union

funds pursuant to point (c) of the first subparagraph of Article 62(1) or with beneficiaries. Such agreements shall be without prejudice to Articles 127 and 129.

- 4 In the case of financial framework partnerships implemented through specific grants:
- a the financial framework partnership agreement shall, in addition to paragraph 2, specify:
    - (i) the nature of the actions or work programmes foreseen;
    - (ii) the procedure for awarding specific grants, in compliance with the principles and procedural rules in Title VIII;
  - b the financial framework partnership agreement and the specific grant agreement taken as a whole shall comply with the requirements of Article 201;
  - c the duration of the financial framework partnership shall not exceed four years save in duly justified cases which are clearly indicated in the annual activity report referred to in Article 74(9);
  - d the financial framework partnership shall be implemented in compliance with the principles of transparency and equal treatment of applicants;
  - e the financial framework partnership shall be treated as a grant with regard to programming, *ex ante* publication and award;
  - f specific grants based on the financial framework partnership shall be subject to the *ex post* publication procedures set out in Article 38.

5 A financial framework partnership agreement implemented through specific grants may provide for the reliance on the systems and the procedures of the beneficiary in accordance with paragraph 2 of this Article, where those systems and procedures have been assessed in accordance with Article 154(2), (3) and (4). In such a case, point (d) of Article 196(1) shall not apply. Where the procedures of the beneficiary for providing financing to third parties referred to in point (d) of the first subparagraph of Article 154(4) were positively assessed by the Commission, Articles 204 and 205 shall not apply.

6 In the case of financial framework partnership agreement implemented through specific grants the verification of the financial and operational capacity referred to in Article 198 shall be performed before signature of the financial framework partnership agreement. The Commission may rely on an equivalent verification of the financial and operational capacity carried out by other donors.

7 In the case of financial framework partnerships implemented through contribution agreements, the financial framework partnership agreement and the contribution agreement taken as a whole shall comply with Article 129 and Article 155(6).

### *Article 131*

#### **Suspension, termination and reduction**

1 Where an award procedure has been subject to irregularities or fraud, the authorising officer responsible shall suspend the procedure and may take any necessary measures, including the cancellation of the procedure. The authorising officer responsible shall inform OLAF immediately of suspected cases of fraud.

2 Where, after the award, the award procedure proves to have been subject to irregularities or fraud, the authorising officer responsible may:

- a refuse to enter into the legal commitment or cancel the award of a prize;
- b suspend payments;

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- c suspend the implementation of the legal commitment;
- d where appropriate, terminate the legal commitment in whole or with regard to one or more recipients.

3 The authorising officer responsible may suspend payments or the implementation of the legal commitment where:

- a the implementation of the legal commitment proves to have been subject to irregularities, fraud or breach of obligations;
- b it is necessary to verify whether presumed irregularities, fraud or breach of obligations have actually occurred;
- c irregularities, fraud or breach of obligations call into question the reliability or effectiveness of the internal control systems of a person or entity implementing Union funds pursuant to point (c) of the first subparagraph of Article 62(1) or the legality and regularity of the underlying transactions.

Where the presumed irregularities, fraud or breach of obligations referred to in point (b) of the first subparagraph are not confirmed, the implementation or payments shall resume as soon as possible.

The authorising officer responsible may terminate the legal commitment in whole or with regard to one or more recipients in the cases referred to in points (a) and (c) of the first subparagraph.

4 In addition to measures referred to in paragraph 2 or 3, the authorising officer responsible may reduce the grant, the prize, the contribution under the contribution agreement or the price due under a contract in proportion to the seriousness of the irregularities, fraud or of the breach of obligations, including where the activities concerned were not implemented or were implemented poorly, partially or late.

In the case of financing referred to in point (a) of the first subparagraph of Article 125(1) the authorising officer responsible may reduce the contribution proportionally if the results have been achieved poorly, partially or late or the conditions have not been fulfilled.

5 Points (b), (c) and (d) of paragraph 2 and paragraph 3 shall not apply to applicants in a contest for prizes.

#### *Article 132*

### **Record-keeping**

1 Recipients shall keep records and supporting documents, including statistical records and other records pertaining to the funding, as well as records and documents in an electronic format, for five years following the payment of the balance or, in the absence of such payment, the transaction. This period shall be three years where the funding is of an amount lower than or equal to EUR 60 000.

2 Records and documents pertaining to audits, appeals, litigation, the pursuit of claims relating to legal commitments or pertaining to OLAF investigations shall be retained until such audits, appeals, litigation, pursuit of claims or investigations have been closed. For records and documents pertaining to OLAF investigations, the obligation to retain shall apply once those investigations have been notified to the recipient.

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3 Records and documents shall be kept either in the form of the originals, or certified true copies of the originals, or on commonly accepted data carriers including electronic versions of original documents or documents existing in electronic version only. Where electronic versions exist, no originals shall be required where such documents meet the applicable legal requirements in order to be considered as equivalent to originals and to be relied on for audit purposes.

#### *Article 133*

### **Adversarial procedure and means of redress**

1 Before adopting any measure adversely affecting the rights of a participant or a recipient the authorising officer responsible shall ensure that the participant or the recipient has been given the opportunity to submit observations.

2 Where a measure of an authorising officer adversely affects the rights of a participant or a recipient, the act establishing that measure shall contain an indication of the available means of administrative and/or judicial redress for challenging it.

#### *Article 134*

### **Interest rate rebates and guarantee fee subsidies**

1 Interest rate rebates and guarantee fee subsidies shall be provided in accordance with Title X where they are combined in a single measure with financial instruments.

2 Where interest rate rebates and guarantee fee subsidies are not combined in a single measure with financial instruments they may be provided in accordance with Title VI or VIII.