

Amendments to the Financial Regulation

2022/0125(COD) - 22/04/2022 - Legislative proposal

PURPOSE: to amend Regulation (EU, Euratom) 2018/1046 on the financial rules applicable to the general budget of the Union in order to ensure an appropriate level of compensation in the event of reimbursement of a provisionally paid fine and to ensure that the Union is in a position to meet the financial obligations arising from it.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: in its judgment of 20 January 2021 in Case C-301/19 P, *Commission v Printeos*, the Court held that, on the basis of the obligation to take the necessary measures to comply with judgments of the Court of Justice of the European Union reducing or annulling a competition fine provisionally paid by an undertaking under Article 266(1) TFEU, the Commission was under an obligation to pay default interest for late repayment of the fine from the date the undertaking provisionally paid the fine to the Commission until the date of repayment.

This recent case law has led to unprecedented interest claims, far exceeding the interest earned on the amounts provisionally paid, for which appropriate solution needs to be found in the Union budget.

Therefore, it is therefore urgent to propose legislative measures to ensure an appropriate level of compensation in the event of reimbursement of a provisionally paid fine and the ability of the Union budget to satisfy the resulting financial needs. This requires several targeted amendments to the Financial Regulation.

CONTENT: the proposal specifies the budgetary tools and procedures to address the consequences of judgments of the Court of Justice of the European Union which reduce or cancel fines, other periodic penalty payments or sanctions initially imposed by an EU institution.

The main elements of the proposal are as follows:

Negative revenue

By derogation from the general rule that the budget should not contain negative revenue, the proposal specifies that interest and any other charge due on such cancelled or reduced amounts of fines, other penalties or sanctions, including any negative return related to those amounts should be considered as negative revenue of the Union's budget, so as to avoid any undue effect on the expenditure side of the Union budget

Interest for late payment

To compensate for the loss of enjoyment of monies from the date the undertaking provisionally paid the fine to the Commission until the date of repayment, the amount to be repaid should be increased by an interest at the rate applied by the European Central Bank to its principal refinancing operations increased by one and a half percentage points as an adequate compensation for the undertaking in such situations, which excludes the need to apply any other interest rate on that amount.

Budgeting

To secure sufficient cash flow to compensate third parties for the loss of enjoyment of monies, it should be specified that the amounts received by way of fines, other penalties or sanctions and any accrued interest or other income generated by them may be entered in the budget by the end of the following financial year.

Restitutio in integrum

Pursuant to the general principle of restitutio in integrum applicable to the reimbursement of fines, other penalties or sanctions imposed by Union institutions and provisionally paid that are later cancelled or reduced by the Court of Justice of the European Union, it should be clarified that any negative return on the provisionally collected amount of such fines, other penalties or sanctions should not be deducted from the amount to be repaid.