Basic information

2010/0154(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure lapsed or withdrawn
Financial Regulation applicable to the general budget of the European Union **Subject** 8.70.02 Financial regulations	

Key players

Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Economic and Financial Affairs ECOFIN	3044	2010-11-15
European Commission	**Commission DG**	**Commissioner**	
	Budget	LEWANDOWSKI Janusz	

Key events

Date	Event	Reference	Summary
28/05/2010	Legislative proposal published	COM(2010)0260	Summary
07/09/2010	Committee referral announced in Parliament, 1st reading		
11/11/2010	Debate in Council		Summary
15/11/2010	Additional information		
05/01/2011	Proposal withdrawn by Commission		

Technical information

Procedure reference	2010/0154(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Regulation
Legal basis	Euratom Treaty A 106a-pa Rules of Procedure EP 59 Treaty on the Functioning of the European Union TFEU 322-p1
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	BUDG/7/03087

Documentation gateway				
European Commission				
Document type	Reference		Date	Summary
Legislative proposal	COM(2010)0260		28/05/2010	Summary
Document attached to the procedure	SEC(2010)0639		28/05/2010	
National parliaments				
Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2010)0260	27/09/2010	
Other institutions and bodies				
Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	6/2010 OJ C 334 10.12.2010, p. 0001	21/10/2010	Summary

Additional information		
Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Financial Regulation applicable to the general budget of the European Union

2010/0154(COD) - 11/11/2010

The Conciliation Committee was also not able to agree on the "Lisbon package" which aims to implement the budgetary and financial consequences of the new Treaty and consists of the following three pieces of texts:

- a draft regulation laying down the multiannual financial framework for the years 2007-2013;
- a new draft interinstitutional agreement between the European Parliament, the Council and the Commission on cooperation in budgetary matters;
- a draft regulation amending the financial regulation.

Despite the Council's willingness to discuss the question if and under which conditions the current possibility for the Council to adapt the multiannual financial framework within a margin for unforeseen expenditure by up to 0.03% of the Gross National Income (GNI) of the EU should be maintained, the Conciliation Committee did not reach agreement.

Financial Regulation applicable to the general budget of the European Union

2010/0154(COD) - 28/05/2010 - Legislative proposal

PURPOSE: the revision of the Financial Regulation applicable to the general budget of the European Union.

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

BACKGROUND: budget is one of the key instruments to deliver EU policies. In 2011 more than EUR 130 billion is planned for allocation to EU policies benefiting the Union and its citizens.

In the current economic context, it is even more important that the delivery mechanisms of the budget operate in the most efficient way and facilitate the implementation of EU policies, while securing sound treatment of European taxpayers' money. In particular, it is important that these mechanisms are **simple and transparent** (especially to final recipients of EU funds), **provide the possibility for leverage of non-EU budget resources** and at the same time **strengthen the Commission's accountability** for implementation of the budget as set in Article 317 TFEU.

Reform is necessary with a view to **adapting the financial rules to the new requirements of budget implementation** (co-financing with other donors, specific financial instruments, PPPs) or where the basic principles create disproportionate workload (interests on pre-financing) or may unduly impede efficiency (prohibition of budget implementation through private sector bodies). The award of small grants and contracts also needs to be facilitated.

BASIS FOR THE REVISION: in terms of content, the key elements of the financial reforms should be preserved, in particular: i) the role of financial actors, ii) the importance of the financing decision adopted by the College for operational expenditure, iii) the integration of controls with operational services, iv) the internal audit function, activity-based budgeting, and modernisation of accounting principles and vi) basic rules applicable to grants. Procurement rules should be preserved in line with the procurement Directives.

In terms of method, any modification of substance has been assessed against the **following benchmarks**:

- reduce the administrative burden for beneficiaries, contractors and implementing partners;
- facilitate, whenever possible, the leveraging of budget appropriations;
- facilitate the Commission’s obligation under Article 317 of the Treaty to implement the budget and accomplish the policy objectives by improving delivery instruments and simplifying the rules and procedures;
- ensure sound financial management and protect the financial interests of the Union against fraud and other illegal activities.

LEGAL BASE: for the first time this triennial revision is handled in accordance with the **ordinary legislative procedure foreseen in Article 322 TFEU** and is presented as a recast. In order to allow the legislative authority to have a global view of the proposed modifications, the Implementing Rules of the FR (hereinafter IR) are presented, in a Commission Staff working document, together with the FR in a single package. The Implementing Rules, which contain more detailed provisions complementing the FR, will be adopted under the delegated powers of the Commission according to Article 290 TFEU.

CONTENT: the FR is subject to revision every three years, or whenever it proves necessary and this proposal represents such a triennial revision. This proposal builds on the results of the public consultation of 19 October 2009, which resulted in a total of 235 contributions of stakeholders who implement or receive Union funds: from citizens to public and private operators, regional and national administrations.

The present revision does not cover the changes stemming from the entry into force of the Lisbon Treaty, except for the obligations of Member States concerning internal control and audit and their resulting responsibilities in shared management which are included in the present revision. The Commission has treated other Lisbon-related changes, due to their very specific nature, in two separate ad hoc proposals: one related to the creation of the European External Action Service, and the other related to the new budgetary rules (introduction of the multiannual financial framework in the Treaty and new annual budgetary procedure in particular).

The Commission has based its proposal on the following objectives:

- to introduce more flexibility in the application of budgetary principles, which should better suit operational needs and alleviate unnecessary administrative burden for recipients of Union funds;
- to streamline relations with implementing partners to which the Commission entrusts the management of programmes or part of programming actions (projects), in particular taking account of the nature of the implementing partner (Member States, agencies, EIB, public and private operators, etc.) and the financial risks entailed (proportionality);
- to shift the regime of grants from a real-cost based management (inputs) towards a performance-based scheme (outputs), in order to better target policy objectives and achieve significant simplification of procedural and documentary requirements for the benefit of beneficiaries, and facilitate the use of lump sums;
- to ensure sound financial management while leaving significant room for manoeuvre for Authorising Officers so that they can adapt the means to their operational constraints and the financial risks they are faced with;
- to modernise the system of risk management and control measures so as to make them more proportional to the probability of errors and to the cost involved.

The FR revision will be negotiated while preparation for the post-2013 programmes will also be under way, and should be considered in this wider context. For this reason, it is important that all the actors concerned in the legislative process, in particular the European Parliament and the Council, agree on an ambitious timetable for the present revision and on the need to ensure coherence between the financial rules enshrined in the FR and on the content of sectoral basic acts. For this to be effective, they should aim at an **agreement on the package (FR + IR) that could enter into application by the end of 2011**, which is a very ambitious timetable given the inherent constraints of the ordinary legislative procedure.

BUDGETARY IMPACT: the proposal has no impact on the budget of the European Union.

Financial Regulation applicable to the general budget of the European Union

2010/0154(COD) - 21/10/2010 - Court of Auditors: opinion, report

COURT OF AUDITORS OPINION No 6/2010 on a proposal for a regulation of the European Parliament and of the Council on the Financial Regulation applicable to the general budget of the European Union.

The Commission's proposal contains a large number of detailed proposed changes to the articles of the Financial Regulation.

The Court states that improving the financial management of the European Union and the arrangements for holding the Commission to account for its management of funds is an important task. Changes to the Financial Regulation can play a role in this — and the proposed amendments include many desirable changes that will take this process further.

But, as the Court has pointed out elsewhere, improving the quality of EU spending requires **simplification of, and other improvements to, sectoral legislation** together with other steps to support, encourage and require sound action by managers in the Commission, the other institutions, and the Member States. Complex legislation is unlikely to produce the improved performance sought by all EU stakeholders.

The Court lays down the following **observations and recommendations**:

- the Commission has described this proposal as going beyond the normal scope of triennial revision. But in practice, the changes proposed are **less ambitious than portrayed**. For example, the explanatory memorandum talks of switching the regime of grants from one based on inputs to one based on outputs. In practice, while there are some innovations such as provision for the award of prizes, the proposals fall short of this aspiration;

- the Commission's proposal on **external assigned revenue** is soundly based, but it appears unnecessary to maintain a category of internally assigned revenue;

- the Commission makes proposals on a **tolerable risk of error**. The Court notes that considerable uncertainty surrounds the definition and application of the concept of tolerable risk; and that the Commission proposal appears to use the concept of tolerable risk solely as a basis for judging what level of irregular payment of funds should be regarded as acceptable ex post. The Court suggests that the Parliament and Council consider whether the Financial Regulations should require the Commission to improve its screening of spending proposals at the time they are put forward, and to improve its diagnosis of the causes of error. The Financial Regulation should not seek to restrict the responsibility of the Court to decide on an appropriate level of materiality;

- the Commission's proposal on **management modes** involves a significant requirement for a management declaration on the use of all funds whose management is shared with Member States. However the proposals raise issues of cost, practicality and responsibility which require careful consideration;

- the Court recommends that the Implementing Regulation should take account of earlier comments by the Court in respect of fiduciary accounts;

- the inclusion in the Financial Regulation of a **specific legal basis for the use of financial instruments is appropriate**. However, the Court notes that the proposed addition to the Financial Regulation does not tackle the issue of ownership. It is not clear whether the Commission expects to record all financial instruments in the balance sheet of the European Union;

- substantial parts of the proposals on **external audit** would constrain the ability of the Court to carry out its Treaty responsibilities effectively. The Court therefore recommends the Parliament and Council to reject the greater part of these proposals;

- the Commission proposes the creation of **European trust funds**. The Court draws the attention of the Parliament and Council to issues of administration, accountability and audit raised by this proposal;

- the provision on the '**light model Financial Regulation**' for the proposed special public-private partnership bodies does not explicitly require consultation of the Court. The Court considers that it is important that this document should in no way restrict the capacity of the Court to audit the use of EU funds;

- the Court recommends the further strengthening of the provision on **prefinancing**, together with management action to reduce an excessive build-up of uncleared items;

- the proposals involve some simplification to the **arrangements for preparing and presenting the accounts**. The Court recommends that in addition the Commission's commitment to preparing financial statements in accordance with the internationally accepted standards be restated and clarified;

- the Court recommends the clarification of the Commission's proposal for the **audit of the agencies** in order to maximise the contribution which this proposal might make to overall assurance on the legality and regularity of expenditure;

- the Court suggests a review of **reporting requirements**.

Taken as a whole, the proposals contained in the recast of the Financial Regulation will provide opportunities for the Commission to improve transparency and financial management. Simplification of sectoral legislation remains however an important route to a significant improvement in performance.