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*Plenary sitting*

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**A9-0180/2023**

4.5.2023

**\*\*\*I**

## **REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on the financial rules applicable to the general budget of the Union (recast)  
(COM(2022)0223 – C9-0179/2022 – 2022/0162(COD))

Committee on Budgets  
Committee on Budgetary Control

(Joint committee procedure – Rule 58 of the Rules of Procedure)

Rapporteurs: Nils Ušakovs, Monika Hohlmeier(Recast – Rule 110 of the Rules  
of Procedure)

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (recast)  
(COM(2022)0223 – C9-0179/2022 – 2022/0162(COD))**

**(Ordinary legislative procedure – recast)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0223),
  - having regard to Article 294(2) and Article 322(1) of the Treaty on the Functioning of the European Union and to Article 106a of the Treaty establishing the European Atomic Energy Community, pursuant to which the Commission submitted the proposal to Parliament (C9-0179/2022),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the Court of Auditors of 31 October 2022<sup>1</sup>,
  - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>2</sup>,
  - having regard to the letter of 25 April 2023 sent by the Committee on Legal Affairs to the Committee on Budgets and the Committee on Budgetary Control in accordance with Rule 110(3) of its Rules of Procedure,
  - having regard to the joint deliberations of the Committee on Budgets and the Committee on Budgetary Control under Rule 58 of the Rules of Procedure,
  - having regard to Rules 110 and 59 of its Rules of Procedure,
  - having regard to the opinion of the Committee on Regional Development,
  - having regard to the letter from the Committee on Industry, Research and Energy,
  - having regard to the report of the Committee on Budgets and the Committee on Budgetary Control (A9-0180/2023),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward

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<sup>1</sup> OJ C 446/26, 24.11.2022, p. 26.

<sup>2</sup> OJ C 77, 28.3.2002, p. 1.

codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## Amendment 1

### Proposal for a regulation

#### Recital 1

*Text proposed by the Commission*

(1) A number of amendments are to be made to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>15</sup>. In the interests of clarity, that Regulation should be recast.

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<sup>15</sup> 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* (OJ L 193, 30.7.2018, p. 1).

*Amendment*

(1) A number of amendments are to be made to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>15</sup>. In the interests of clarity **and legal certainty**, that Regulation should be recast.

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<sup>15</sup> 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* (OJ L 193, 30.7.2018, p. 1).

## Amendment 2

### Proposal for a regulation

#### Recital 11

*Text proposed by the Commission*

(11) A reference to the general regime

*Amendment*

(11) A reference to the general regime

of conditionality for the protection of the Union budget laid down in Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council<sup>22</sup> should be inserted in this Regulation. Regulation (EU, Euratom) 2020/2092 is a cornerstone of the legal framework for the implementation of the Union budget.

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<sup>22</sup> Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433I , 22.12.2020, p. 1

of conditionality for the protection of the Union budget laid down in Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council<sup>22</sup> should be inserted in this Regulation. Regulation (EU, Euratom) 2020/2092 is a cornerstone of the legal framework for the implementation of the Union budget ***and plays a vital role in ensuring sound financial management and protecting the financial interests of the Union.***

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<sup>22</sup> Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L 433I , 22.12.2020, p. 1

### **Amendment 3**

#### **Proposal for a regulation**

#### **Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) It is essential in the implementation of the Union budget to ensure respect for the values on which the Union is founded and for the Charter of Fundamental Rights of the European Union, which includes important principles such as non-discrimination and equality between men and women. It is therefore necessary to provide for the measures to be taken where a breach of the Charter puts the legality of expenditure at risk. In that connection, it is possible to address complaints to the Commission about a breach of Union law by authorities in a Member State. The Commission should handle such complaints expeditiously.***

## Amendment 4

### Proposal for a regulation Recital 15

#### *Text proposed by the Commission*

(15) Following the adoption of the Multiannual Financial Framework for 2021 to 2027 and related basic acts thereto, certain rules related to budgetary principles, in particular as regards cancellation and carry-over, decommitments and making appropriations corresponding to decommitments available again, laid down in Regulation 2021/2116<sup>23</sup> of the European Parliament and of the Council, Regulation (EU, Euratom) 2020/2093, Regulation (EU) 2021/836 of the European Parliament and of the Council<sup>24</sup>, Regulation (EU) 2021/947 of the European Parliament and of the Council<sup>25</sup>, Regulation (EU) 2021/1529 of the European Parliament and of the Council<sup>26</sup>, Council Decision (EU) 2021/1764<sup>27</sup>, Council Regulation (Euratom) 2021/948<sup>28</sup> and Regulation (EU) No 2021/1060 of the European Parliament and Council<sup>29</sup>, should be **incorporated into** this Regulation.

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<sup>23</sup> Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013, OJ L 435, 6.12.2021, p. 187.

<sup>24</sup> Regulation (EU) 2021/836 of the European Parliament and of the Council of 20 May 2021 amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism, OJ L 185, 26.5.2021, p. 1.

<sup>25</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the

#### *Amendment*

(15) Following the adoption of the Multiannual Financial Framework for 2021 to 2027 and related basic acts thereto, certain rules related to budgetary principles, in particular as regards cancellation and carry-over, decommitments and making appropriations corresponding to decommitments available again, laid down in Regulation 2021/2116<sup>23</sup> of the European Parliament and of the Council, Regulation (EU, Euratom) 2020/2093, Regulation (EU) 2021/836 of the European Parliament and of the Council<sup>24</sup>, Regulation (EU) 2021/947 of the European Parliament and of the Council<sup>25</sup>, Regulation (EU) 2021/1529 of the European Parliament and of the Council<sup>26</sup>, Council Decision (EU) 2021/1764<sup>27</sup>, Council Regulation (Euratom) 2021/948<sup>28</sup> and Regulation (EU) No 2021/1060 of the European Parliament and Council<sup>29</sup>, should be **included in** this Regulation **and where appropriate generalised**.

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<sup>23</sup> Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013, OJ L 435, 6.12.2021, p. 187.

<sup>24</sup> Regulation (EU) 2021/836 of the European Parliament and of the Council of 20 May 2021 amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism, OJ L 185, 26.5.2021, p. 1.

<sup>25</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the



Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009, OJ L 209, 14.6.2021, p. 1–78

<sup>26</sup> Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III), OJ L 330, 20.9.2021, p. 1.

<sup>27</sup> Council Decision (EU) 2021/1764 of 5 October 2021 on the association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other (Decision on the Overseas Association, including Greenland), OJ L 355, 7.10.2021, p. 6.

<sup>28</sup> Council Regulation (Euratom) 2021/948 of 27 May 2021 establishing a European Instrument for International Nuclear Safety Cooperation complementing the Neighbourhood, Development and International Cooperation Instrument – Global Europe on the basis of the Treaty establishing the European Atomic Energy Community, and repealing Regulation (Euratom) No 237/2014, OJ L 209, 14.6.2021, p. 79.

<sup>29</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, OJ L 231, 30.6.2021, p. 159.

Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009, OJ L 209, 14.6.2021, p. 1–78

<sup>26</sup> Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III), OJ L 330, 20.9.2021, p. 1.

<sup>27</sup> Council Decision (EU) 2021/1764 of 5 October 2021 on the association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other (Decision on the Overseas Association, including Greenland), OJ L 355, 7.10.2021, p. 6.

<sup>28</sup> Council Regulation (Euratom) 2021/948 of 27 May 2021 establishing a European Instrument for International Nuclear Safety Cooperation complementing the Neighbourhood, Development and International Cooperation Instrument – Global Europe on the basis of the Treaty establishing the European Atomic Energy Community, and repealing Regulation (Euratom) No 237/2014, OJ L 209, 14.6.2021, p. 79.

<sup>29</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, OJ L 231, 30.6.2021, p. 159.

## *Justification*

*The revision of the Financial Regulation provides the occasion to generalise the rules found in sectoral legislation where it is deemed appropriate.*

### **Amendment 5** **Proposal for a regulation** **Recital 21**

#### *Text proposed by the Commission*

(21) In order to allow a rapid reaction in exceptional circumstances, the Commission should be able to accept in-kind donations, irrespective of their value, where such donations are made for the purposes of humanitarian aid, emergency support, civil protection or crisis management aid. In order to ensure appropriate safeguards, the Commission should only accept such donations where acceptance is in accordance with the principles of sound financial management and transparency, does not give rise to conflicts of interest and does not harm the image of the Union. The donor should not be, at the moment of acceptance, in one of the exclusion situations under the early-detection and exclusion system and should not be registered as excluded in the corresponding database.

#### *Amendment*

(21) In order to allow a rapid reaction in exceptional circumstances, the Commission should be able to accept in-kind donations, irrespective of their value, where such donations are made for the purposes of humanitarian aid, emergency support, civil protection or crisis management aid. In order to ensure appropriate safeguards, the Commission should only accept such donations where acceptance is in accordance with the principles of sound financial management and transparency, does not give rise to conflicts of interest and does not harm the image of the Union ***and does not harm or risk harming the security or public order of the Union or the Member States***. The donor should not be, at the moment of acceptance, in one of the exclusion situations under the early-detection and exclusion system and should not be registered as excluded in the corresponding database. ***In the interests of transparency, the Commission should inform the European Parliament and the Council where it accepts such donations.***

### **Amendment 6** **Proposal for a regulation** **Recital 23 a (new)**

#### *Text proposed by the Commission*

#### *Amendment*

***(23a) In that regard and in the light of the horizontal gender mainstreaming***

*goal, targets for monitoring climate spending and performance and expenditure contributing to halting and reversing the decline of biodiversity, specific performance indicators for the Union budget should be introduced to monitor the impact of Union spending on gender equality, as well as to track spending on climate change mitigation and adaptation and the protection of biodiversity. Those indicators should be concise and proportionate, avoiding overlapping, should be limited to a manageable number and should not result in excessive administrative burden. They should be based on an effective, transparent and comprehensive methodology and, where appropriate, widely recognised scientific evidence.*

**Amendment 7**  
**Proposal for a regulation**  
**Recital 24**

*Text proposed by the Commission*

(24) Considering the importance of addressing climate and environmental challenges and in order to ensure that budget implementation contributes to the achievement of the European Green Deal<sup>30</sup>, the concept of performance as regards the budget should be extended to include the implementation of programmes and activities in a sustainable way, which would not hinder the achievement of the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems.

*Amendment*

(24) Considering the importance of addressing climate and environmental challenges and in order to ensure that budget implementation contributes to the achievement of the European Green Deal<sup>30</sup> ***as well the Union's climate and energy targets and to the achievement of climate neutrality by 2050 latest***, the concept of performance as regards the budget should be extended to include the implementation of programmes and activities in a sustainable way, which would not hinder the achievement of the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems.

<sup>30</sup> The European Green deal, Communication from the Commission to the European Parliament, the European Council, the Council the European Economic and Social Committee and the Committee of the Regions, COM/2019/640 final.

<sup>30</sup> The European Green deal, Communication from the Commission to the European Parliament, the European Council, the Council the European Economic and Social Committee and the Committee of the Regions, COM/2019/640 final.

**Amendment 8**  
**Proposal for a regulation**  
**Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

***(24a) Gender mainstreaming should be better reflected in the drafting and implementation of the budget and a systematic and comprehensive collection of gender-disaggregated data in the context of all relevant EU policies and programmes is necessary in order to measure the impact on gender equality. The data to be fed into the single, integrated and interoperable information and monitoring system should include the gender of recipients and their beneficial owners that are natural persons, unless those persons refuse to provide those data. In addition, the rules on budget implementation should allow for the effective and efficient tracking of funds used in tackling climate change on both the climate mitigation and adaptation fronts, as well as for the accurate monitoring of expenditure contributing to halting and reversing the decline of biodiversity.***

**Amendment 9**  
**Proposal for a regulation**  
**Recital 24 b (new)**

*Text proposed by the Commission*

*Amendment*

***(24b) Following the adoption of the Multiannual Financial Framework 2021-2027, the principle of social conditionality***

*has been included in the Common Agricultural Policy 2021-2027. In order to ensure that the Union budget implementation contributes to the achievement of the objectives set out in Article 9 TFEU and the European Pillar of Social Rights, the concept of performance as regards the budget should be extended to include the implementation of programmes and activities in a socially sustainable and fair way.*

**Amendment 10**  
**Proposal for a regulation**  
**Recital 25**

*Text proposed by the Commission*

(25) In accordance with the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>31</sup>, Union legislation should be of high quality and should focus on areas where it has the greatest added value for citizens and is as efficient and effective as possible in delivering the common policy objectives of the Union. Making existing and new spending programmes and activities entailing significant spending subject to evaluation can help achieve those objectives.

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<sup>30</sup> OJ L 123, 12.5.2016, p. 1.

**Amendment 11**  
**Proposal for a regulation**  
**Recital 27**

*Text proposed by the Commission*

(27) In order to enhance the protection

*Amendment*

(25) In accordance with the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>31</sup>, Union legislation should be of high quality and should focus on areas where it has the greatest added value for citizens and is as efficient and effective as possible in delivering the common policy objectives of the Union. Making existing and new spending programmes and activities entailing significant spending subject to evaluation can help achieve those objectives. *The Commission should strive to undertake an ex-ante evaluation of programmes and activities in the form of an impact assessment, except in duly justified cases and in particular where urgent action is necessary.*

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<sup>30</sup> OJ L 123, 12.5.2016, p. 1.

(27) In order to enhance the protection

of the Union budget against fraud, corruption, conflicts of interest, double funding and other irregularities, standardised measures to collect, compare and aggregate information on the recipients of Union funding should be introduced. In particular, in order to effectively prevent, detect, investigate and correct frauds or remedy irregularities, it is necessary to be able to identify the natural persons that ultimately benefit, directly or indirectly, from Union funding and who ultimately profit from the misuse of EU funding. The electronic recording and storage of data on the recipients of Union funding, including their beneficial owners as defined in Article 3, point (6), of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>32</sup> **and the regular making of those data available in a single integrated IT system for data-mining and risk-scoring provided by the Commission**, should facilitate risk assessment for the purposes of selection, award, financial management, monitoring, investigation, control and audit and contribute to effective prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities. The Commission should be responsible for the development, management and supervision of **the single integrated IT system for data-mining and risk-scoring**. The Commission, the Member States, the persons or entities implementing the budget, the European Anti-Fraud Office ('OLAF') and other Union investigative and control bodies should have **the necessary** access to **those** data within the exercise of their respective competences. The rules related to the recording, storage, transfer and processing of data should comply with applicable data protection rules.

of the Union budget against fraud, corruption, conflicts of interest, double funding and other irregularities, standardised **financial and reimbursement requests and** measures to collect, compare and aggregate information on the recipients of Union funding should be introduced. In particular, in order to effectively prevent, detect, investigate and correct frauds or remedy irregularities, it is necessary to be able to identify the natural persons that ultimately benefit, directly or indirectly, from Union funding and who ultimately profit from the misuse of EU funding. **A single integrated and interoperable information and monitoring system provided by the Commission allowing for the electronic recording and storage of data on the recipients of Union funding, including their beneficial owners as defined in Article 3, point (6), of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>32</sup>, which addresses the situation where the beneficial owner is not identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), and allowing for the regular making of those data available for data-mining and risk-scoring should be designed and put in place to get a clear overview of the distribution and potential concentration of Union funds disbursed, including through a functionality that allows for the aggregation of these funds. That system should reduce the bureaucratic burden on the financial actors and other persons referred to in Article 61, on controllers and auditors, as well as on the recipients of Union funds, and** should facilitate risk assessment for the purposes of selection, award, financial management, monitoring, investigation, control and audit and contribute to effective prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities. The Commission should be responsible for the development, management and supervision of **that**



system. The Commission, the Member States, ***the European Parliament, the Council***, the persons or entities implementing the budget, the European Anti-Fraud Office ('OLAF') and other Union investigative and control bodies should have ***full and direct*** access to ***any relevant*** data within the exercise of their respective competences, ***taking into account the principles of necessity and proportionality. As regards the European Parliament and the Council, such access would facilitate their scrutiny of the implementation of the budget.*** The rules related to the recording, storage, transfer and processing of data should comply with applicable data protection rules.

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<sup>32</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 141 5.6.2015, p. 73).

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<sup>32</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 141 5.6.2015, p. 73).

**Amendment 12**  
**Proposal for a regulation**  
**Recital 27 a (new)**

*Text proposed by the Commission*

*Amendment*

***(27a) The single integrated and interoperable information and monitoring system referred to in Article 36(2) should be based on interoperability, whereby updated information on recipients of Union funds and on company ownership should be retrieved from and transferred into that system, in an automatic way, in real time where feasible, from transparency registers on beneficial owners, relevant national databases, internal systems of relevant national bodies and authorities, management and paying authorities and national public procurement and tender databases, thereby ensuring comprehensive and***

*complete data. Furthermore, data to be recorded in that system should be aligned with those to be published, so that persons and entities implementing Union funds need provide data only once, thereby reducing any administrative burden.*

**Amendment 13**  
**Proposal for a regulation**  
**Recital 28**

*Text proposed by the Commission*

(28) In accordance with the principle of transparency enshrined in Article 15 of the Treaty on the Functioning of the European Union (TFEU), Union institutions are to conduct their work as openly as possible. With regard to budget implementation, the application of that principle implies that citizens should know where, and for what purpose, funds are spent by the Union. Such information fosters democratic debate, contributes to the participation of citizens in the Union's decision-making process, reinforces institutional control and scrutiny over Union expenditure, and contributes to boosting its credibility. Communication should be more targeted and should aim to increase the visibility of the Union contribution for citizens. Such objectives should be achieved by the publication, preferably using modern communication tools, of relevant information concerning all recipients of funds financed from the budget which takes into account those recipients' legitimate interests of confidentiality and security and, as far as natural persons are concerned, their right to privacy and the protection of their personal data. Union institutions should therefore adopt a selective approach in the publication of information, in accordance with the principle of proportionality. Decisions to publish should be based on relevant criteria in order to provide meaningful

*Amendment*

(28) In accordance with the principle of transparency enshrined in Article 15 of the Treaty on the Functioning of the European Union (TFEU), Union institutions are to conduct their work as openly as possible, ***and Member States should do likewise in implementing the Union budget.*** With regard to budget implementation, the application of that principle implies that citizens, ***who benefit from the budget and ultimately contribute to it,*** should know where, and for what purpose, funds are spent by the Union. Such information fosters democratic debate, ***encourages the citizens' identification with and sense of community within the Union,*** contributes to the participation of citizens in the Union's decision-making process, reinforces institutional control and scrutiny over Union expenditure, and contributes to boosting its credibility. Communication should be more targeted and should aim to increase the visibility of the Union contribution for citizens. Such objectives should be achieved by the publication, preferably using modern communication tools, ***of relevant information concerning all funding opportunities, such as calls for tender in all forms of management on a dedicated website and*** of relevant information concerning all recipients of funds financed from the budget which takes into account those recipients' legitimate interests of confidentiality and security and, as far as natural persons are



information.

concerned, their right to privacy and the protection of their personal data. Union institutions should therefore adopt a selective approach in the publication of information, in accordance with the principle of proportionality. Decisions to publish should be based on relevant criteria in order to provide meaningful information.

**Amendment 14**  
**Proposal for a regulation**  
**Recital 29**

*Text proposed by the Commission*

(29) Without prejudice to the rules on the protection of personal data, the utmost transparency regarding information on recipients should be sought. The information on recipients of Union funds should be published on a dedicated website of Union institutions, such as the Financial Transparency System. Publication requirements should cover all methods of budget implementation, including by other Union institutions and bodies. To that end, ***Member States, persons and entities implementing the budget and other Union institutions and bodies should transmit to the Commission, at least on a yearly basis, information on their recipients of Union funding.*** That information should include at least the name, a unique identifier and the locality of the recipient, the amount committed and the purpose of the measure. That information should take into account relevant criteria such as the periodicity, the type and the importance of the measure.

*Amendment*

(29) Without prejudice to the rules on the protection of personal data, the utmost transparency regarding information on recipients should be sought. The information on recipients of Union funds should be published on a dedicated website of Union institutions, such as the Financial Transparency System. Publication requirements should cover all methods of budget implementation, including by other Union institutions and bodies. To that end ***and in the interests of reducing administrative burden, the Commission should use the data stored in the single interoperable system to feed the single website.*** That information should include at least the name, a unique identifier and the locality of the recipient, the ***gender of the recipient and their final beneficial owner, where provided and in the case of a natural person, the*** amount committed, ***whether the recipient receives state aid*** and the purpose of the measure. That information should take into account relevant criteria such as the periodicity, the type and the importance of the measure.

**Amendment 15**  
**Proposal for a regulation**  
**Recital 33**

*Text proposed by the Commission*

(33) For reasons of legal certainty and in accordance with the principle of proportionality, the situations in which publication should not take place should be specified. For example, information should not be published with regard to scholarships or other forms of direct support paid to natural persons most in need, to certain contracts with a very low value or to financial support below a certain threshold provided through financial instruments or budgetary guarantees, or in cases where disclosure risks threatening the rights and freedoms of the individuals concerned as protected by the Charter of Fundamental Rights of the European Union or causing harm to the commercial interests of the recipients. For grants, however, there should be no special exemption from the obligation to publish information on the basis of a specific threshold, in order to maintain the current practice and to allow for transparency.

*Amendment*

(33) For reasons of legal certainty and in accordance with the principle of proportionality, the situations in which publication should not take place should be specified. For example, information should not be published with regard to scholarships or other forms of direct support paid to natural persons most in need, to certain contracts with a very low value or to financial support below a certain threshold provided through financial instruments or budgetary guarantees, or in cases where disclosure risks threatening the rights and freedoms of the individuals concerned as protected by the Charter of Fundamental Rights of the European Union or causing **serious** harm to the commercial interests of the recipients. For grants, however, there should be no special exemption from the obligation to publish information on the basis of a specific threshold, in order to maintain the current practice and to allow for transparency.

**Amendment 16**

**Proposal for a regulation**  
**Recital 40**

*Text proposed by the Commission*

(40) In order to ensure synchronisation with the timeline for the adoption of the statement of estimates, the working document on the building **policy of the Commission** should be attached to the draft budget.

*Amendment*

(40) In order to ensure synchronisation with the timeline for the adoption of the statement of estimates, the working document on the building **policies of all Union institutions, bodies and agencies** should be attached to the draft budget.

*Justification*

*As stated in paragraph 3 of the initiative report adopted ahead of the publication of this proposal, this revision must seek to reinforce transparency, accountability and democratic scrutiny of the EU budget. On this ground there is no reason to limit this publication to European Commission.*

**Amendment 17**  
**Proposal for a regulation**  
**Recital 43**

*Text proposed by the Commission*

(43) In view of the increased volume of borrowing and lending operations carried out by the Commission on behalf of the Union to finance the recovery from the COVID-19 pandemic, transparency regarding those operations should be further enhanced. To address the increased complexity of those operations and in order to ensure better visibility of their content, a comprehensive overview of borrowing and lending operations carried out by the Commission should be added to the document annexed to the section of the budget relating to the Commission.

*Amendment*

(43) In view of the increased volume of borrowing and lending operations carried out by the Commission on behalf of the Union to finance the recovery from the COVID-19 pandemic, transparency regarding those operations should be further enhanced. To address the increased complexity of those operations and in order to ensure better visibility of their content, a comprehensive overview of borrowing and lending operations carried out by the Commission, ***including as a minimum detailed information on maturities, schedule of payments, interest due, the investor base, where applicable the dimension and costs of the common liquidity pool underpinning the diversified funding strategy, and on the role of own resources in the repayment of the debt, as well as the borrowing plan including revenue sources***, should be added to the document annexed to the section of the budget relating to the Commission. ***That document should lay out the underlying data and the methodology used by the Commission to estimate the interest due.***

**Amendment 18**  
**Proposal for a regulation**  
**Recital 103**

*Text proposed by the Commission*

(103) In order to enhance the protection of the Union financial interests the early-detection and exclusion system should be reinforced. It is important to avoid that a person or entity in an exclusion situation is able to apply to, or to be selected for implementing funds, or to receive such

*Amendment*

(103) In order to enhance the protection of the Union financial interests the early-detection and exclusion system should be reinforced. It is important to avoid that a person or entity in an exclusion situation is able to apply to, or to be selected for implementing funds, or to receive such

funds under a programme in shared management. Where there is a final judgment or a final administrative decision, the authorising officer responsible should be able to exclude a person or entity, provided that the latter is in an exclusion situation and deemed as not reliable by having engaged in certain **serious** misconducts referred to in Article 139(1). In the absence of a final judgment or a final administrative decision, the authorising officer responsible should be able to exclude, on the basis of a preliminary classification in law made by the panel referred to in Article 146, having regard to facts and findings established in the context of audits or investigations carried out by European Anti-fraud Office (OLAF), European Public Prosecutor Office (EPPO), the European Court of Auditors (ECA) or any other check, audit or control performed under the responsibility of the authorising officer. Such exclusion should be registered in the early-detection and exclusion system database established under Article 138(1). Member States' authorities should take it into account by rejecting such persons or entities from being selected to implement Union funds or from receiving such funds. Payment applications from Member States under shared management, including expenditure related to a person or entity that has been excluded, should not be reimbursed. Where funds are disbursed to Member States under performance-based frameworks, specific rules shall apply, as set out in sector-specific legislation.

funds under a programme **also** in shared management. Where there is a final judgment or a final administrative decision, the authorising officer responsible should be able to exclude a person or entity, provided that the latter is in an exclusion situation and deemed as not reliable by having engaged in certain misconducts referred to in Article 139(1). In the absence of a final judgment or a final administrative decision, the authorising officer responsible should be able to exclude, on the basis of a preliminary classification in law made by the panel referred to in Article 146, having regard to facts and findings established in the context of audits or investigations carried out by European Anti-fraud Office (OLAF), European Public Prosecutor Office (EPPO), the European Court of Auditors (ECA) or any other check, audit or control performed under the responsibility of the authorising officer. Such exclusion should be registered in the early-detection and exclusion system database established under Article 138(1). Member States' authorities should take it into account by rejecting such persons or entities from being selected to implement Union funds or from receiving such funds. Payment applications from Member States **also** under shared management, including expenditure related to a person or entity that has been excluded, should not be reimbursed. Where funds are disbursed to Member States under performance-based frameworks, specific rules shall apply, as set out in sector-specific legislation. ***In order to increase the effectiveness of the early-detection and exclusion system, the exclusion situations referred to in Article 139(1) should be reflected, by any technical means necessary and to the highest degree possible, in the risk indicators of the system referred to in Article 36(2). That system should only use risk indicators that are objective, necessary for risk assessment, as well as based on reliable and updated sources of***

**Amendment 19**  
**Proposal for a regulation**  
**Recital 104**

*Text proposed by the Commission*

(104) It is important to underline that the EDES system should only apply in respect of Union funds disbursed to the Member States under direct management, such as those under Regulation (EU) 2021/241 of the European Parliament and of the Council<sup>41</sup>, where Member States have the responsibility to take all the appropriate measures to protect the financial interests of the Union, to the extent that the Commission has relevant responsibilities under the respective legal framework and with due regard to the sui generis nature of the funds. Therefore, the responsibilities of the Commission should be limited to the obligation to refer a case to the panel for the purpose of excluding a person or entity if the authorising officer becomes aware of **serious** misconducts through final judgments and administrative decisions or facts and findings established in the context of audits or investigations carried out concerning those funds by the European Anti-fraud Office (OLAF), the European Public Prosecutor Office (EPPO), the European Court of Auditors (ECA) or any other check, audit, or control performed under the responsibility of the authorising officer. Without prejudice to these responsibilities of the Commission, the Member States remain responsible to verify the information on decisions of exclusion registered in the EDES database, to enforce such decisions and to ensure that no payment application is submitted related to a person or entity that is in such an exclusion situation.

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<sup>41</sup> Regulation (EU) 2021/241 of the

*Amendment*

(104) It is important to underline that the EDES system should only apply in respect of Union funds disbursed to the Member States under direct management, such as those under Regulation (EU) 2021/241 of the European Parliament and of the Council<sup>41</sup>, where Member States have the responsibility to take all the appropriate measures to protect the financial interests of the Union, to the extent that the Commission has relevant responsibilities under the respective legal framework and with due regard to the sui generis nature of the funds. Therefore, the responsibilities of the Commission should be limited to the obligation to refer a case to the panel for the purpose of excluding a person or entity if the authorising officer becomes aware of misconducts through final judgments and administrative decisions or facts and findings established in the context of audits or investigations carried out concerning those funds by the European Anti-fraud Office (OLAF), the European Public Prosecutor Office (EPPO), the European Court of Auditors (ECA) or any other check, audit, or control performed under the responsibility of the authorising officer. Without prejudice to these responsibilities of the Commission, the Member States remain responsible to verify the information on decisions of exclusion registered in the EDES database, to enforce such decisions and to ensure that no payment application is submitted related to a person or entity that is in such an exclusion situation.

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<sup>41</sup> Regulation (EU) 2021/241 of the

European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

## Amendment 20

### Proposal for a regulation Recital 134

#### *Text proposed by the Commission*

(134) In order to improve governance and quality of interoperable digital public services, the Union institutions, the executive agencies and the Union bodies, such as those referred to in Articles 70 and 71 should follow and apply to the greatest possible extent the European Interoperability Framework.

#### *Amendment*

(134) In order to improve governance and quality of interoperable digital public services, ***the Member States***, the Union institutions, the executive agencies and the Union bodies, such as those referred to in Articles 70 and 71 should follow and apply to the greatest possible extent the European Interoperability Framework.

## Amendment 21

### Proposal for a regulation Recital 140

#### *Text proposed by the Commission*

(140) In order to ensure efficient implementation of the Union budget, it is appropriate to further clarify the application of the principle of proportionality to indirect management. While the principle of proportionality cannot affect the nature of the obligations imposed by the relevant applicable legal framework, it should be systematically used in the cooperation with Union implementing partners, in order to strike the right balance between protection of the Union's financial interests and preserving the Union's ability to implement its policies. Certain adjustments and restructuring of the relevant provisions should be made. This should not be interpreted as limiting in practice the necessary rights and access required for the

#### *Amendment*

(140) In order to ensure efficient implementation of the Union budget, it is appropriate to further clarify the application of the principle of proportionality to indirect management. While the principle of proportionality cannot affect the nature of the obligations imposed by the relevant applicable legal framework, it should be systematically used in the cooperation with Union implementing partners, in order to strike the right balance between protection of the Union's financial interests and preserving the Union's ability to implement its policies. Certain adjustments and restructuring of the relevant provisions, ***including a harmonisation of the control procedures between those used by the European Court of Auditors on the one***



authorising officer responsible, for EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, for OLAF, for the Court of Auditors, and, where appropriate, for the relevant national authorities, to comprehensively exert their respective competences.

***hand and those used at the national and regional levels on the other hand*** should be made. This should not be interpreted as limiting in practice the necessary rights and access required for the authorising officer responsible, for EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, for OLAF, for the Court of Auditors, and, where appropriate, for the relevant national authorities, to comprehensively exert their respective competences.

## **Amendment 22**

### **Proposal for a regulation Recital 141 a (new)**

*Text proposed by the Commission*

*Amendment*

***(141a) Consistent with the Union's efforts to simplify legislation and to avoid overregulation and reduce administrative burdens, as set out in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making, additional administrative obligations (norms, guidelines and procedures set at national, regional or programme level) that go beyond the requirements set at Union level (so-called “gold plating”), should be avoided; auditors at national and Union level including the Commission and the European Court of Auditors should include in their work both the detection of such redundant administrative obligations and the reasons behind them, as well as recommendations on ways to alleviate and prevent such practices; in particular auditors of the Commission should share information about good practices across Member States that can be pointed out as potential solution to such findings.***

## *Justification*

*'Gold plating' by Member States, whereby additional administrative obligations are imposed over and above EU rules, should be avoided. This amendment is linked to the surrounding Recitals, which are part of the recast.*

### **Amendment 23** **Proposal for a regulation** **Recital 150**

#### *Text proposed by the Commission*

(150) In light of the Covid-19 pandemic, it is appropriate to modify the definition of crisis, which applies in particular to the common provisions and to procurement in the field of external actions and covers public and animal health, food safety emergencies and global health threats. In order to allow the flexibility needed to ensure a rapid response to unforeseen circumstances of extreme urgency resulting from a crisis, the contracting authority should be allowed to apply simplified procurement rules, such as use of negotiated procedure without prior publication of a contract notice applicable to crisis situations and acceptance of evidence on exclusion and selection criteria from the presumed successful tenderer after the award decision but in any case before the signature of the contract. The contracting authority should also have flexibility to exceptionally modify a contract or a framework contract, beyond the thresholds referred to in Article 176(3), without a procurement procedure in order to respond to a crisis. A declaration of crisis should be required in line with the relevant internal rules prior to having recourse to such simplified rules, except for procurement in the field of external action where such declaration is not required. In addition, the authorising officers responsible should justify case-by-case the extreme urgency resulting from the declared crisis.

#### *Amendment*

(150) In light of the Covid-19 pandemic **and the impact of Russia's war of aggression against Ukraine**, it is appropriate to modify the definition of crisis, which applies in particular to the common provisions and to procurement in the field of external actions and covers public and animal health, food **security and** safety emergencies and global health threats. In order to allow the flexibility needed to ensure a rapid response to unforeseen circumstances of extreme urgency resulting from a crisis, the contracting authority should be allowed to apply simplified procurement rules, such as use of negotiated procedure without prior publication of a contract notice applicable to crisis situations and acceptance of evidence on exclusion and selection criteria from the presumed successful tenderer after the award decision but in any case before the signature of the contract. The contracting authority should also have flexibility to exceptionally modify a contract or a framework contract, beyond the thresholds referred to in Article 176(3), without a procurement procedure in order to respond to a crisis. A declaration of crisis should be required in line with the relevant internal rules prior to having recourse to such simplified rules, except for procurement in the field of external action where such declaration is not required. In addition, the authorising officers responsible should justify case-by-



case the extreme urgency resulting from the declared crisis.

**Amendment 24**  
**Proposal for a regulation**  
**Recital 160**

*Text proposed by the Commission*

(160) It is appropriate that different cases usually referred to as situations of conflict of interests be identified and treated distinctly. The notion of a ‘conflict of interests’ should be solely used for cases where a person or entity with responsibilities for budget implementation, audit or control, or an official or an agent of a Union institution or national authorities at any level, is in such a situation. Attempts to unduly influence an award procedure or obtain confidential information should be treated as grave professional misconduct which can lead to the rejection from the award procedure and/or exclusion from Union funds. In addition, economic operators might be in a situation where they should not be selected to implement a contract because of a professional conflicting interest. For instance, a company should not evaluate a project in which it has participated or an auditor should not be in a position to audit accounts it has previously certified.

*Amendment*

(160) It is appropriate that different cases usually referred to as situations of conflict of interests be identified and treated distinctly. The notion of a ‘conflict of interests’ should be solely used for cases where a person or entity with responsibilities for budget implementation, audit or control, or an official or an agent of a Union institution or national authorities at any level, is in such a situation. ***The provisions on conflicts of interests should be applied in a way that ensures legal certainty, be based on a clear and proportionate assessment of the risks and allow for practical application by the competent authorities. The assessment of a conflict of interest should allow in particular the control of serious conflicts of interests that are linked to Union funding involving high-level officials. The Commission guidelines should provide clarity to applicants and decision-making bodies, avoid unnecessary administrative burden and respect the principle of proportionality. The special characteristics of Union programmes reliant on voluntary participation should be taken into account when assessing whether a situation may objectively be perceived as a conflict of interest. The authority assessing conflicts of interests should be able to conduct such evaluations with rules that are enforceable and comprehensible to tenderers.*** Attempts to unduly influence an award procedure or obtain confidential information should be treated as grave professional misconduct which can lead to the rejection from the award procedure

and/or exclusion from Union funds. In addition, economic operators might be in a situation where they should not be selected to implement a contract because of a professional conflicting interest. For instance, a company should not evaluate a project in which it has participated or an auditor should not be in a position to audit accounts it has previously certified.

**Amendment 25**  
**Proposal for a regulation**  
**Recital 165**

*Text proposed by the Commission*

(165) It is necessary to simplify the rules governing dynamic purchasing systems to enable contracting authorities to take full advantage of the possibilities afforded by that purchasing method. In particular, the systems should be operated in the form of a restricted procedure, thus allowing for any economic operator that submits a request to participate and meets the exclusion and selection criteria to take part in procurement procedures carried out through the dynamic purchasing system over its period of validity, which should not be limited to four years. Tenders may also be presented in the form of an electronic catalogue particularly for off-the-shelf products or services generally available on the market. Moreover, in order to reduce the administrative burden given the dynamic nature of the systems, the requirement to appoint an opening and evaluation committee should be waived for specific procurements under a dynamic purchasing system. Considering the progress in digitalisation of procurement procedures, it should be clarified that public openings for open procedures may be organised remotely via video conferences.

*Amendment*

(165) It is necessary to simplify the rules governing dynamic purchasing systems, ***reducing time-consuming procedures, including the resolution of appeals,*** to enable contracting authorities to take full advantage of the possibilities afforded by that purchasing method. In particular, the systems should be operated in the form of a restricted procedure, thus allowing for any economic operator that submits a request to participate and meets the exclusion and selection criteria to take part in procurement procedures carried out through the dynamic purchasing system over its period of validity, which should not be limited to four years. Tenders may also be presented in the form of an electronic catalogue particularly for off-the-shelf products or services generally available on the market. Moreover, in order to reduce the administrative burden given the dynamic nature of the systems, the requirement to appoint an opening and evaluation committee should be waived for specific procurements under a dynamic purchasing system. Considering the progress in digitalisation of procurement procedures, it should be clarified that public openings for open procedures may be organised remotely via video conferences.

## Amendment 26

### Proposal for a regulation Recital 194 a (new)

*Text proposed by the Commission*

*Amendment*

**(194a)** *By introducing a new category of a very low value grant of an amount of up to EUR 10 000, the lessons learned from providing small-scale support during the pandemic to small and medium-sized enterprises and individual applicants should be implemented. The new category would create efficiencies for the implementing partners and the Commission, while reducing bureaucracy for applicants.*

*Justification*

*The lessons learned from providing small-scale support during the pandemic to small and medium-sized enterprises and individual applicants should be implemented by introducing a new category of a very low value grant of an amount of up to EUR 10000 in order to improve efficiency and reduce bureaucracy. This is linked to the simplification and crisis management aims of the recast.*

## Amendment 27

### Proposal for a regulation Recital 219 a (new)

*Text proposed by the Commission*

*Amendment*

**(219a)** *When the Commission is empowered, in a relevant basic act, to borrow on behalf of the Union or Euratom for the purpose of on-lending the corresponding amounts to beneficiary Member States or third countries under the conditions applicable to the borrowings, if the cash flows between the borrowed funds and the loans are matched one-to-one, the Union must carry out market operations based on disbursement needs for each specific case of lending, which limits the possibility to*

*coherently plan various borrowing operations and to structure maturities to achieve the best costs.*

**Amendment 28**  
**Proposal for a regulation**  
**Recital 219 b (new)**

*Text proposed by the Commission*

*Amendment*

*(219b) Financing individual programmes of financial assistance through separate funding methods creates cost and complexity as different programmes of financial assistance compete for a limited number of funding opportunities. It fragments the supply of Union debt securities and reduces liquidity and investor interest in the separate programmes, even though all Union debt securities have the same high credit quality. Financial assistance should thus be organised under a single funding method that enhances the liquidity of Union bonds and the attractiveness and cost-effectiveness of Union issuance.*

**Amendment 29**  
**Proposal for a regulation**  
**Recital 219 c (new)**

*Text proposed by the Commission*

*Amendment*

*(219c) Recent experience with the funding needs for Ukraine has highlighted the disadvantages of a fragmented approach to the organisation of the Union's debt. In order to strengthen the Union's position as an issuer of euro-denominated debt, it is of paramount importance that all new issuance be organised through a single funding method.*

**Amendment 30**

**Proposal for a regulation**  
**Recital 219 d (new)**

*Text proposed by the Commission*

*Amendment*

***(219d) The model for a single funding method, and most elements of the infrastructure needed for its implementation, have already been established in the form of a diversified funding strategy under Council Decision (EU, Euratom) 2020/2053. That strategy has allowed the successful mobilisation of funds for grants and loans under Regulation (EU) 2021/241 of the European Parliament and of the Council and for a range of other Union programmes referred to in Council Regulation (EU) 2020/2094. To anticipate possible future borrowing and lending operations, it is appropriate to establish a diversified funding strategy as the single funding method for implementation of borrowing operations.***

**Amendment 31**  
**Proposal for a regulation**  
**Recital 219 e (new)**

*Text proposed by the Commission*

*Amendment*

***(219e) The use of a diversified funding strategy should allow the flexible implementation of the funding programme, while fully respecting the principles of budgetary neutrality and budgetary balance as set out in Article 310(1) of the Treaty on the Functioning of the European Union (TFEU). The costs of the funding programme should be fully borne by the beneficiaries based on a single cost allocation methodology that ensures the transparent and proportional allocation of costs. Repayment obligations should remain with the beneficiaries of the financial assistance, in compliance with Article 224(5), point (e).***

**Amendment 32**  
**Proposal for a regulation**  
**Recital 219 f (new)**

*Text proposed by the Commission*

*Amendment*

**(219f) The implementation of a diversified funding strategy requires a single set of rules to be followed in respect of all borrowing and lending programmes relying on it.**

**Amendment 33**  
**Proposal for a regulation**  
**Recital 219 g (new)**

*Text proposed by the Commission*

*Amendment*

**(219g) A diversified funding strategy should provide the Commission with more flexibility concerning the timing and the maturity of single funding transactions and allow regular and steady disbursements to different beneficiary countries. Such a strategy should be based on the pooling of funding instruments. This would give the Commission flexibility to organise payments to the beneficiaries independently of market conditions at the time of disbursement, while also reducing the risk that the Commission would have to raise fixed amounts in volatile or adverse conditions.**

**Amendment 34**  
**Proposal for a regulation**  
**Recital 219 h (new)**

*Text proposed by the Commission*

*Amendment*

**(219h) Giving the Commission that flexibility would require putting into place a common liquidity pool. Such a centralised liquidity function would render the Union's funding capacity more**

*resilient, and be able to withstand temporary mismatches between all inflows and outflows, based on a robust liquidity forecasting capacity.*

**Amendment 35**  
**Proposal for a regulation**  
**Recital 219 i (new)**

*Text proposed by the Commission*

*Amendment*

*(219i) The Commission should implement all necessary transactions aiming at a regular capital market presence, at achieving the best possible funding costs and at facilitating transactions in debt securities of the Union and Euratom.*

**Amendment 36**  
**Proposal for a regulation**  
**Recital 219 j (new)**

*Text proposed by the Commission*

*Amendment*

*(219j) In extending the diversified funding strategy to a wider range of programmes, it is therefore appropriate for the Commission to establish the necessary arrangements for its implementation. Those arrangements should comprise a governance framework, risk management procedures, and a cost allocation methodology, which should respect Article 224(5), point (e). To ensure transparency, the Commission should regularly and comprehensively inform the European Parliament and the Council about all aspects of its borrowing and debt management strategy.*

**Amendment 37**  
**Proposal for a regulation**  
**Recital 219 k (new)**



***(219k) In view of the potential risks arising when the Union budget is used as a guarantee for borrowing operations, and in order to increase scrutiny and democratic accountability, it is important that the European Parliament and the Council, as budgetary authority, approve the maximum amount that the Commission is authorised to borrow under the diversified funding strategy during each financial year, within the limits set by the basic act empowering the Commission to borrow the funds on behalf of the Union.***

**Amendment 38**  
**Proposal for a regulation**  
**Recital 246**

(246) The Union should be able to participate in global initiatives, when such participation contributes to the achievement of Union policy objectives. In order to provide a suitable legal framework for Union participation in global initiatives, Union contribution to such initiatives should be included as a new budget implementation instrument. The use of this new financial vehicle would be subject to conditions and limited to cases where other instruments provided in the Financial Regulation do not enable the achievement of the respective EU policy objectives with the same scale and impact.

(246) The Union should be able to participate in global initiatives, when such participation contributes to the achievement of Union policy objectives. In order to provide a suitable legal framework for Union participation in global initiatives, Union contribution to such initiatives should be included as a new budget implementation instrument. ***In the interests of transparency and effective decision making, any such Union contribution should be subject to a decision of the European Parliament and the Council on a proposal by the Commission.*** Furthermore, the use of this new financial vehicle would be subject to conditions and limited to cases where other instruments provided in the Financial Regulation do not enable the achievement of the respective EU policy objectives with the same scale and impact. ***That Commission proposal should set out in detail why this financial vehicle would be a more appropriate tool to achieve the relevant EU policy objectives than other instruments. The***



*Commission should join any governance board or equivalent steering committee of a global initiative in order to ensure the best representation of the Union's interest and facilitate access to performance and control data.*

**Amendment 39**  
**Proposal for a regulation**  
**Recital 248**

*Text proposed by the Commission*

(248) In order to provide a clear legal framework for the Union institutions to donate services, supplies or works, non-financial donations should be included as a new budget implementation instrument. This instrument should not be confused with the general framework of support provided by the Union to third countries which is of a broader nature but can include non-financial donations. In light of the COVID-19 pandemic, such an instrument should provide a stable legal basis in particular for future crisis and emergency situations and ensure that the Union institutions have the appropriate budget support tools to help Member States, other persons and entities when support is most needed. That instrument should be implemented under direct management. Related provisions, such as definitions, suspension, termination and reduction, and evaluation committee should be adjusted accordingly.

*Amendment*

(248) In order to provide a clear legal framework for the Union institutions to donate services, supplies or works, non-financial donations should be included as a new budget implementation instrument. This instrument should not be confused with the general framework of support provided by the Union to third countries which is of a broader nature but can include non-financial donations. In light of the COVID-19 pandemic ***and the impact of Russia's war of aggression in Ukraine***, such an instrument should provide a stable legal basis in particular for future crisis and emergency situations and ensure that the Union institutions have the appropriate budget support tools to help Member States, other persons and entities when support is most needed. That instrument should be implemented under direct management. Related provisions, such as definitions, suspension, termination and reduction, and evaluation committee should be adjusted accordingly. ***In the interests of sound financial management, supplies financed from administrative appropriations should not be donated before their depreciated value represents 80 % of the purchase price. However, that rule should not apply to perishable supplies such as foodstuffs, medicines and certain medical goods, including masks, which would not be suitable for donation once their value has depreciated.***

**Amendment 40**  
**Proposal for a regulation**  
**Recital 254**

*Text proposed by the Commission*

(254) In its Communication on the European Green Deal, the Commission encourages the renovation of buildings in order to reduce their emissions and make them more energy efficient. Taking into account the rapid evolution of the market for energy efficient buildings, there is an acute need for the Union institutions to incorporate the Green Deal commitments in their own building policy and to renovate their buildings. In addition, the recent development of working methods accelerated by the Covid-19 pandemic requires adapting the institutions' office stock in order to develop a dynamic office policy. As a consequence, financing of structural renovations by loans should be allowed. The interpretation of the concept of new building projects should be broadened and, in particular, include any project concerning structural renovation.

*Amendment*

(254) In its Communication on the European Green Deal, the Commission encourages the renovation of buildings in order to reduce their emissions and make them more energy efficient. Taking into account the rapid evolution of the market for energy efficient buildings, there is an acute need for the Union institutions to incorporate the Green Deal commitments in their own building policy and to renovate their buildings, ***prioritising the most energy-efficient investments***. In addition, the recent development of working methods accelerated by the Covid-19 pandemic requires adapting the institutions' office stock in order to develop a dynamic office policy. As a consequence, financing of structural renovations by loans should be allowed. The interpretation of the concept of new building projects should be broadened and, in particular, include any project concerning structural renovation.

**Amendment 41**  
**Proposal for a regulation**  
**Recital 256**

*Text proposed by the Commission*

(256) Some modifications regarding the transmission to the Commission of data on recipients for the purposes of publication, and regarding the electronic recording and storage of data on recipients and the use of the ***single integrated IT system for data-mining and risk-scoring*** to access and analyse those data should apply ***only to programmes adopted under and financed***

*Amendment*

(256) Some modifications regarding the transmission to the Commission of data on recipients for the purposes of publication, and regarding the electronic recording and storage of data on recipients and the use of the system ***referred to in Article 36(2)*** to access and analyse those data should apply ***as of 1 January 2026*** in order to ensure a smooth transition by allowing sufficient

*from the post-2027 multiannual financial framework* in order to ensure a smooth transition by allowing sufficient time for the necessary adaption of electronic data systems and of relevant agreements, as well as the provision of guidance and training.

time for the necessary adaption of electronic data systems and of relevant agreements, as well as the provision of guidance and training *for national, regional and local authorities*.

#### *Justification*

*Waiting for the adoption of the programmes under the post-2027 MFF in order to start using the new single integrated and interoperable information and monitoring system is disproportionately long. A date of application of 1 January 2026 should provide sufficient time for the development of the system and the adaptation of the various involved systems.*

#### **Amendment 42**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point 22 – point b**

###### *Text proposed by the Commission*

(b) a situation caused by natural disasters, man-made crisis such as wars and other conflicts or extraordinary circumstances having comparable effects related, inter alia, to climate change, public and animal health, food safety emergencies and global health threats such as pandemics, environmental degradation, privation of access to energy and natural resources or extreme poverty;

###### *Amendment*

(b) a situation caused by natural disasters, man-made crisis such as wars and other conflicts or extraordinary circumstances having comparable effects related, inter alia, to climate change, public and animal health, food ***security and food*** safety emergencies and global health threats such as pandemics, environmental degradation, privation of access to energy and natural resources or extreme poverty;

#### **Amendment 43**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point 31 a (new)**

###### *Text proposed by the Commission*

###### *Amendment*

***(31a) ‘foreign subsidy’ means a financial contribution provided by a third country, directly or indirectly, which confers a benefit on an economic operator engaging in an economic activity in the internal market and which is limited, in law or in fact, to one or more economic***

*operators or industries; for the purposes of this definition, a financial contribution shall be understood within the meaning of Article 3(2) of Regulation (EU) 2022/2560 of the European Parliament and of the Council;*

**Amendment 44**  
**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 48**

*Text proposed by the Commission*

(48) ‘non-governmental organisation’ means a voluntary, independent from government, non-profit organisation, which is not a political party or a trade union;

*Amendment*

(48) ‘non-governmental organisation’ means a voluntary, independent from government, non-profit organisation, which ***has some degree of formal existence, is transparent and accountable to its members or founders and*** is not a political party or a trade union;

**Amendment 45**  
**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 65 a (new)**

*Text proposed by the Commission*

*Amendment*

***(65a) ‘sub-beneficiary’ means a natural person or an entity with or without legal personality who receives Union funds from a beneficiary with a view to performing the tasks financed by a Union grant;***

**Amendment 46**  
**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 73 a (new)**

*Text proposed by the Commission*

*Amendment*

***(73a) ‘very low value grant’ means a grant lower than or equal to EUR 10 000;***

**Amendment 47**

**Proposal for a regulation**  
**Article 6 – title**

*Text proposed by the Commission*

Respect for budgetary principles and general regime of conditionality for the protection of the Union budget

*Amendment*

Respect for budgetary principles and general regime of conditionality for the protection of the Union budget ***and respect for the values on which the Union is founded and fundamental rights***

**Amendment 48**  
**Proposal for a regulation**  
**Article 6 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. The Commission and Member States shall, in the implementation of the Union budget, ensure respect for the values on which the Union is founded and fundamental rights, including non-discrimination, and compliance with the Charter of Fundamental Rights of the European Union.***

**Amendment 49**

**Proposal for a regulation**  
**Article 7 – paragraph 2 – subparagraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) appropriations made available again in accordance with Article ***15***;

(c) appropriations made available again in accordance with Article ***14***;

*Justification*

*Technical adaptation linked to the amendments to Articles 14 and 15 of the proposal.*

**Amendment 50**

**Proposal for a regulation**  
**Article 7 – paragraph 2 – subparagraph 2 – point e**

*Text proposed by the Commission*

(e) appropriations provided following the receipt of **revenue** assigned during the financial year or carried over from preceding financial years.

*Amendment*

(e) appropriations provided following the receipt of assigned **revenue** during the financial year or carried over from preceding financial years.

*Justification*

*Clarification of the terminology used in view of the changes put forward in Articles 21 and 22 of the proposal.*

**Amendment 51**

**Proposal for a regulation**

**Article 14 – paragraph 1**

*Text proposed by the Commission*

1. Where budgetary commitments are decommitted in any financial year after the year in which they were made as a result of the total or partial non-implementation of the actions for which they were earmarked, the appropriations corresponding to such decommitments shall be **cancelled, unless otherwise provided in Regulation (EU) No 1303/2013, Regulation (EU) No 514/2014, Regulation (EU) No 223/2014, Regulation (EU) 2021/1060 and Regulation (EU) 2021/2116 and notwithstanding Article 15 of this Regulation.**

*Amendment*

1. Where budgetary commitments are decommitted in any financial year after the year in which they were made as a result of the total or partial non-implementation of the actions for which they were earmarked, the appropriations corresponding to such decommitments shall be **made available again to the benefit of the budget line of origin, without prejudice to pre-agreed national envelopes, where applicable.**

**Amendment 52**

**Proposal for a regulation**

**Article 14 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**Notwithstanding the first subparagraph, where there is an increased risk of continued total and partial non-implementation of the actions for which the budgetary commitments were earmarked, those appropriations may be**

*made available to the benefit of the Single Margin Instrument or the Flexibility Instrument.*

**Amendment 53**

**Proposal for a regulation**

**Article 14 – paragraph 1 – subparagraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*Subparagraph 1a shall not apply to projects under the research programme or to actions under Regulation (EU) 2021/947, Regulation (EU) 2021/1529, Decision (EU) 2021/1764 and Council Regulation (Euratom) 2021/948.*

**Amendment 54**

**Proposal for a regulation**

**Article 15**

*Text proposed by the Commission*

*Amendment*

**Article 15**

*deleted*

*Making appropriations corresponding to decommitments available again*

*1. The appropriations corresponding to decommitments referred to in Regulation (EU) No 1303/2013, Regulation (EU) No 223/2014, Regulation (EU) No 514/2014, Regulation (EU) 2021/1060 and Regulation (EU) 2021/2116 may be made available again in the event of a manifest error attributable solely to the Commission.*

*To that end, the Commission shall examine decommitments made during the preceding financial year and shall 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.*

*2. In addition to the case referred to in paragraph 1 of this Article, the*

*appropriations corresponding to decommitments shall be made available again in the event of the decommitment of resources transferred back to the Fund from which they have been initially transferred in line with the provisions of Article 26 of Regulation (EU) 2021/1060 .*

*3. Commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non-implementation of corresponding research projects may also be made available again to the benefit of the research programme the projects belong to or its successor in the context of the budgetary procedure.*

*4. Commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non implementation of an action under Regulation (EU) 2021/947, Regulation (EU) 2021/1529, Decision (EU) 2021/1764 and Council Regulation (Euratom) 2021/948 shall be made available again to the benefit of the budget line of origin.*

## **Amendment 55**

### **Proposal for a regulation**

#### **Article 22 – paragraph 1 – subparagraph 1 – point c**

##### *Text proposed by the Commission*

(c) an *attached* annex, forming an integral part of the budget, setting out all the budget lines for which external assigned revenue is foreseen and providing information on the estimated amount of such revenue to be received.

##### *Amendment*

(c) ***in the statement of expenditure***, an annex, forming an integral part of the budget, setting out all the budget lines for which ***internal or*** external assigned revenue is foreseen and providing information on the estimated amount of such revenue to be received; ***for each budget line, that information shall be broken down into the specific categories of assigned revenue referred to in Article 21(2), (3) and (5).***



## **Amendment 56**

### **Proposal for a regulation**

#### **Article 22 – paragraph 2 – subparagraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) in the case provided for in Article 21(5), commitment and payment appropriations shall be made available in the context of the budgetary procedure.**

## **Amendment 57**

### **Proposal for a regulation**

#### **Article 25 – paragraph 3 – subparagraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) it does not harm or risk harming the security or public order of the Union or the Member States;**

## **Amendment 58**

### **Proposal for a regulation**

#### **Article 25 – paragraph 3 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**Where it accepts a donation pursuant to the first subparagraph, the Commission shall inform the European Parliament and the Council.**

## **Amendment 59**

### **Proposal for a regulation**

#### **Article 33 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) progress in the achievement of objectives shall be monitored with performance indicators;

(b) progress in the achievement of objectives, **including, where relevant, horizontal spending and mainstreaming targets**, shall be monitored with performance indicators;

## **Amendment 60**

**Proposal for a regulation**  
**Article 33 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) programmes and activities shall be implemented to achieve their set objectives respecting the values on which the Union is founded set out in Article 2 TEU;**

**Amendment 61**  
**Proposal for a regulation**  
**Article 33 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(d) programmes and activities **should** be implemented to achieve their set objectives without doing significant harm to the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems, as set out in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>51</sup>.

(d) programmes and activities **shall, where feasible and appropriate in accordance with the relevant sector-specific rules**, be implemented to achieve their set objectives without doing significant harm to the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems, as set out in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>51</sup>.

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<sup>51</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance), OJ L 198, 22.6.2020, p. 13.

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<sup>51</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance), OJ L 198, 22.6.2020, p. 13.

**Amendment 62**  
**Proposal for a regulation**  
**Article 33 – paragraph 2 – point d a (new)**

***(da) programmes and activities shall be implemented to achieve their set objectives respecting applicable working and employment conditions under relevant collective agreements, national and Union law as well as ILO conventions, and all other relevant applicable legislation regarding, but not limited to, social rights, minimum wages, occupational safety and health, work-life balance and organisation of working time.***

**Amendment 63**  
**Proposal for a regulation**  
**Article 33 – paragraph 3**

*Text proposed by the Commission*

3. Specific, measurable, attainable, relevant and time-bound objectives as referred to in paragraphs 1 and 2 and relevant, accepted, credible, easy **and** robust **indicators** shall be defined where relevant.

*Amendment*

3. Specific, measurable, attainable, relevant and time-bound objectives as referred to in paragraphs 1 and 2 and ***indicators that are*** relevant, accepted, credible, easy, ***concise***, robust ***and based on widely recognized scientific evidence and an effective, transparent and comprehensive methodology*** shall be defined where relevant. ***Those indicators shall include indicators to measure the impact of Union spending on gender equality and to track spending on climate change mitigation and adaptation and the protection of biodiversity.***

**Amendment 64**  
**Proposal for a regulation**  
**Article 36 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) prevention, detection, correction and follow-up of fraud , corruption, conflicts of interest, double funding and other irregularities , including through the electronic recording **and** storage of data on the recipients of Union funds including

*Amendment*

(d) prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities, including through ***a single, integrated and interoperable information and monitoring system***

their beneficial owners, *as* defined in Article 3, point (6), of Directive (EU) 2015/849, ***and through the use of a single integrated IT system*** for data-mining and risk-scoring ***provided by the Commission to access and*** analyse those data ;

***allowing for the access to and*** the electronic ***automatic retrieval***, recording, ***aggregation***, storage ***and transfer in real time*** of data on the recipients of Union funds including their beneficial owners, defined in Article 3, point (6), of Directive (EU) 2015/849, ***as well as*** for data-mining and risk-scoring ***to*** analyse those data ;

#### **Amendment 65**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 3 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) procedures for detecting and preventing conflicts of interests;***

#### **Amendment 66**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 6 – introductory part**

*Text proposed by the Commission*

*Amendment*

6. For the purposes of point (d) of paragraph 2, the following data shall be recorded and stored electronically in an open, interoperable and machine-readable format and ***regularly*** made available in the ***single integrated IT system for data-mining and risk-scoring*** provided by the Commission:

6. For the purposes of point (d) of paragraph 2, the following data shall be recorded and stored electronically in an open, interoperable and machine-readable format and made available in ***real time in the system referred to in paragraph 2*** provided by the Commission:

#### **Amendment 67**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 6 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the recipient's full legal name in the case of legal persons, the first and last name in the case of natural persons, their VAT identification number or tax identification number where available or another unique identifier at country level and the ***amount of*** funding. If a natural

(a) the recipient's full legal name in the case of legal persons, the first and last name in the case of natural persons, their VAT identification number or tax identification number where available or another unique identifier at country level, and the ***unique identifier of the Union***

person, also the date of birth;

funding **operation**. If a natural person, also the date of birth **and the gender, where provided**;

#### **Amendment 68**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 6 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) the amount of funding committed and, in the case of a commitment with multiple recipients, the breakdown of that amount per recipient where available;**

#### **Amendment 69**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 6 – point a b (new)**

*Text proposed by the Commission*

*Amendment*

**(ab) the locality of the recipient, namely:**

**(i) the address of the recipient where the recipient is a legal person;**

**(ii) the region on NUTS 2 level where the recipient is a natural person and is domiciled in the European Union or the country where the recipient is a natural person and is not domiciled in the European Union;**

#### **Amendment 70**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 6 – point a c (new)**

*Text proposed by the Commission*

*Amendment*

**(ac) the nature and purpose of the measure;**

#### **Amendment 71**

##### **Proposal for a regulation**

## Article 36 – paragraph 6 – point b

*Text proposed by the Commission*

(b) the first name(s), last name(s), date of birth, and VAT identification number(s) or tax identification number(s) where available or another unique identifier at country level of beneficial owner(s) of the recipients, where the recipients are not natural persons.

*Amendment*

(b) the first name(s), last name(s), date of birth, ***gender, where provided***, and VAT identification number(s) or tax identification number(s) where available or another unique identifier at country level of beneficial owner(s) of the recipients, where the recipients are not natural persons ***and whether the beneficial owner is a Member State***;

## Amendment 72

### Proposal for a regulation

#### Article 36 – paragraph 6 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) information on whether the recipient is a public or private law body or an entity with or without legal personality, or a natural person.***

## Amendment 73

### Proposal for a regulation

#### Article 36 – paragraph 7 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

The ***single integrated IT system for data-mining and risk-scoring*** shall be designed ***to*** facilitate risk assessment for the purposes of selection, award, financial management, monitoring, investigation, control and audit and contribute to effective prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities.

The system ***referred to in paragraph 2 of this Article*** shall:

***(a) be designed and put in place to provide a clear overview of the distribution and potential concentration of Union funds disbursed, including through a functionality allowing for the***

*aggregation of these funds and other relevant information in connection with the same recipients and their beneficial owners across different Union funding programmes, reduce the bureaucratic burden on the financial actors and other persons referred to in Article 61, on controllers and auditors, as well as on the recipients of Union funds, and facilitate risk assessment for the purposes of selection, award, financial management, monitoring, investigation, control and audit and contribute to effective prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities;*

*(b) be based on interoperability, whereby information updated in real time on recipients of Union funds and on company ownership may be retrieved from and transferred into this system, in an automatic way in real time, from transparency registers on beneficial owners, relevant national and European databases, internal systems of relevant national bodies and authorities, management and paying authorities and national public procurement and tender databases;*

*(c) only use risk indicators that are objective, proportionate, necessary for risk assessment, as well as based on reliable sources of data and information updated in real time;*

*(d) be designed for its use in line with general data protection principles, including data minimisation and storage limitation, applicable to the processing of personal data.*

*For the purpose of maintaining a high quality of the data-mining and risk analysis functions provided by the system referred to in paragraph 2 of this Article, the following non-exhaustive list of actions and measures may be implemented:*



- (a) *alignment of data fields with the relevant national ICT systems and databases;*
- (b) *integration of the relevant national ICT systems and databases with the system for an automatic exchange of information;*
- (c) *providing users with the possibility to tailor and group risk indicators and their weights to the needs and specificities of a Union fund, programme or country;*
- (d) *use of artificial intelligence for analysing and interpreting data;*
- (e) *providing users with multiple possibilities for using search options and filtering capabilities;*
- (f) *providing users with guidance on the interpretation and use of data and results;*
- (g) *training on how to navigate the system, assess risks and use them in verifications and audits.*

#### Amendment 74

#### Proposal for a regulation

#### Article 36 – paragraph 7 – subparagraph 2

##### *Text proposed by the Commission*

The use of and access to the data processed by the *single integrated IT system for data-mining and risk-scoring* shall comply with applicable data protection rules and shall be limited to the Commission or an executive agency as referred to in Article 69, the Member States implementing the budget pursuant to Article 62(1), first subparagraph, point (b), the Member States that receive and implement Union funds pursuant to budget implementation under Article 62(1), first subparagraph, point (a), the persons or entities implementing the budget pursuant to Article 62(1), first subparagraph, point (c), **OLAF**, the Court of Auditors, EPPO and other Union

##### *Amendment*

The use of and access to the data processed by the system *referred to in paragraph 2 of this Article* shall comply with applicable data protection rules, *respect the principles of necessity and proportionality* and shall be limited to the Commission or an executive agency as referred to in Article 69, the Member States implementing the budget pursuant to Article 62(1), first subparagraph, point (b), the Member States that receive and implement Union funds pursuant to budget implementation under Article 62(1), first subparagraph, point (a), the persons or entities implementing the budget pursuant to Article 62(1), first subparagraph, point (c), *the European*

investigative and control bodies, within the exercise of their respective competences.

***Parliament, the Council, as well as the Court of Auditors, OLAF, EPPO and other Union investigative and control bodies, who shall have full and direct access to any relevant data*** within the exercise of their respective competences.

#### **Amendment 75**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 7 – subparagraph 3**

###### *Text proposed by the Commission*

The Commission shall be the controller within the meaning of Article 3(8) of Regulation (EU) 2018/1725 and shall be responsible for the development, management and supervision of the ***single integrated IT system for data-mining and risk-scoring***, for ensuring the security, integrity and confidentiality of data, the authentication of the users and for protecting the IT system against mismanagement and misuse.

###### *Amendment*

The Commission shall be the controller within the meaning of Article 3(8) of Regulation (EU) 2018/1725 and shall be responsible for the development, management and supervision of the system ***referred to in paragraph 2 of this Article***, for ensuring the security, integrity, ***correctness, completeness, validity*** and confidentiality of data, the authentication of the users and for protecting the IT system against mismanagement and misuse.

#### **Amendment 76**

##### **Proposal for a regulation**

##### **Article 36 – paragraph 7 a (new)**

###### *Text proposed by the Commission*

###### *Amendment*

***7a. For the purposes of point (d) of paragraph 2 of this Article, Article 145(2) and Article 148, and in addition to any applicable sector-specific rule, Member States implementing the budget under point (b), first subparagraph, Article 62(1), shall transmit to the Commission information through the Irregularity Management System on facts and findings established in the context of final judgments or final administrative decisions, as well as facts established in the context of audits or investigations carried out by the EPPO, the Court of Auditors, OLAF or any check, audit,***

*control performed under the responsibility of the Commission, as to the presence of the exclusion situations referred to in Article 139(1). For the same purposes, Member States shall transmit all other complementary information requested by the Commission.*

**Amendment 77**

**Proposal for a regulation**

**Article 36 – paragraph 8 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*For the purposes of point (d) of paragraph 2 of this Article, Article 145(2) and Article 148 and in addition to any applicable sector-specific rule, Member States that receive and implement Union funds, pursuant to budget implementation under point (a), first subparagraph, Article 62(1), shall transmit information through the Irregularity Management System on facts and findings established in the context of final judgments or final administrative decisions, as well as facts established in the context of audits or investigations carried out by the EPPO, the Court of Auditors, OLAF or any check, audit, control performed under the responsibility of the Commission, as to the presence of the exclusion situations referred to in Article 139(1). For the same purposes, Member States shall transmit all other complementary information requested by the Commission.*

**Amendment 78**

**Proposal for a regulation**

**Article 36 – paragraph 8 – subparagraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*For the purposes of the application of the requirements of paragraphs 2, 3 and 6 of this Article, references to recipients shall be understood as final recipients,*

*contractors, subcontractors and sub-beneficiaries as referred to in sector-specific rules.*

**Amendment 79**  
**Proposal for a regulation**  
**Article 36 – paragraph 9**

*Text proposed by the Commission*

9. For the purposes of the application of the requirements of paragraphs 2, 3 and 6 of this Article by Member States implementing the budget under Article 62(1), first subparagraph, point (b), references to recipients shall be understood as references to beneficiaries *as defined* in sector-specific rules.

*Amendment*

9. For the purposes of the application of the requirements of paragraphs 2, 3 and 6 of this Article by Member States implementing the budget under Article 62(1), first subparagraph, point (b), references to recipients shall be understood as references to beneficiaries, *sub-beneficiaries, contractors and sub-contractors as referred to* in sector-specific rules.

**Amendment 80**  
**Proposal for a regulation**  
**Article 36 – paragraph 10 a (new)**

*Text proposed by the Commission*

*Amendment*

*10a. The Commission shall report annually, no later than 30 September, to the European Parliament and to the Council on the aggregated information and figures on the recipients of funds, contractors, sub-contractors and the beneficial owners, across different Union-funded projects and programmes implemented in the preceding financial year. That information shall, having due regard to the protection of personal data, be made available to any persons or organisations that can demonstrate a legitimate interest.*

**Amendment 81**  
**Proposal for a regulation**  
**Article 36 – paragraph 10 b (new)**

**10b. Data shall be stored for the period necessary and proportionate to fulfil the purpose determined in point (d) of paragraph 2. The maximum possible storage period shall not exceed 10 years from the last payment claim for the period submitted to the Commission.**

**Amendment 82**

**Proposal for a regulation**

**Article 38 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. The Commission shall make available on **its** website information on recipients of funds financed from the budget no later than 30 June of the year following the financial year in which the funds were legally committed , where the budget is implemented by it in accordance with Article 62(1), first subparagraph, point (a) , by Union institutions in accordance with Article 59(1), and by the Union bodies referred to in Articles 70 and 71 .

*Amendment*

1. The Commission shall make available on **a single** website information on recipients of funds financed from the budget no later than 30 June of the year following the financial year in which the funds were legally committed , where the budget is implemented by it in accordance with Article 62(1), first subparagraph, point (a) , by Union institutions in accordance with Article 59(1), and by the Union bodies referred to in Articles 70 and 71 .

**Amendment 83**

**Proposal for a regulation**

**Article 38 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

Where the budget is implemented in accordance with Article 62(1), first subparagraph, points (b) and (c), and with Member States in accordance to Article 62(1), first subparagraph, point (a), the Commission shall make available on **its** website information on recipients no later than 30 June of the year following the financial year in which the contract or agreement setting out the conditions of support was established. Where the budget

*Amendment*

Where the budget is implemented in accordance with Article 62(1), first subparagraph, points (b) and (c), and with Member States in accordance to Article 62(1), first subparagraph, point (a), the Commission shall make available on **the single website referred to in the first subparagraph of this paragraph** information on recipients no later than 30 June of the year following the financial year in which the contract or agreement

is implemented in accordance with Article 62(1), first subparagraph, point (b), references in this Article to recipients shall be understood as references to ***beneficiaries as defined*** in sector-specific rules.

setting out the conditions of support was established. Where the budget is implemented in accordance with Article 62(1), first subparagraph, point (b), references in this Article to recipients shall be understood as references to ***final recipients, contractors, subcontractors and sub-beneficiaries as referred to*** in sector-specific rules.

#### **Amendment 84**

##### **Proposal for a regulation**

##### **Article 38 – paragraph 2 – introductory part**

###### *Text proposed by the Commission*

2. Save in the cases referred to in paragraph 3, the following information shall be published in an open, interoperable and machine-readable format, which allows data to be sorted, searched, extracted, compared and ***reused***, having due regard for the requirements of confidentiality and security, in particular the protection of personal data:

###### *Amendment*

2. Save in the cases referred to in paragraph 3, the following information shall be published in an open, interoperable and machine-readable format, which allows data to be sorted, searched, extracted, compared and ***available for reuse via suitable and secure technical solutions, downloaded in individual datasets and, where available, as a bulk download***, having due regard for the requirements of confidentiality and security, in particular the protection of personal data:

#### **Amendment 85**

##### **Proposal for a regulation**

##### **Article 38 – paragraph 2 – point a**

###### *Text proposed by the Commission*

(a) whether the recipient is a natural or a legal person;

###### *Amendment*

(a) whether the ***final*** recipient is a natural or a legal person;

#### **Amendment 86**

##### **Proposal for a regulation**

##### **Article 38 – paragraph 2 – point b**

###### *Text proposed by the Commission*

(b) the recipient's full legal name in the

###### *Amendment*

(b) the ***final*** recipient's full legal name

case of a legal person and their VAT identification number or tax identification number where available or another unique identifier established at country level, the first and last name of the recipient in the case of a natural person ;

in the case of a legal person and their VAT identification number or tax identification number where available or another unique identifier established at country level, the first and last name of the recipient in the case of a natural person, ***as well as their gender, where provided;***

#### **Amendment 87**

##### **Proposal for a regulation**

##### **Article 38 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) the full name, address and gender, where provided, of the recipient's final beneficial owner as defined in Article 3, point (6), of Directive (EU) 2015/849 of the European Parliament and of the Council, where the recipient is a legal person;***

#### **Amendment 88**

##### **Proposal for a regulation**

##### **Article 38 – paragraph 2 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

***(ea) whether the recipient receives state aid.***

#### **Amendment 89**

##### **Proposal for a regulation**

##### **Article 38 – paragraph 3 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) very low value contracts awarded to experts selected pursuant to Article 242(2) as well as very low value contracts below the amount referred to in point 14.4 of Annex I;

(b) very low value contracts awarded to experts selected pursuant to Article 242(2) as well as very low value contracts below the amount referred to in point 14.4 of Annex I ***except when the aggregated amount of all the funds paid to a single recipient exceeds the amount referred to in point 14.4 of Annex I;***



## Amendment 90

### Proposal for a regulation

#### Article 38 – paragraph 3 – subparagraph 1 – point d

##### *Text proposed by the Commission*

(d) where disclosure risks threatening the rights and freedoms of the persons or entities concerned as protected by the Charter of Fundamental Rights of the European Union or harming the commercial interests of the recipients;

##### *Amendment*

(d) where disclosure risks threatening the rights and freedoms of the persons or entities concerned as protected by the Charter of Fundamental Rights of the European Union or **seriously** harming the commercial interests of the recipients;

## Amendment 91

### Proposal for a regulation

#### Article 38 – paragraph 4 – subparagraph 3

##### *Text proposed by the Commission*

Member States that receive and implement Union funds, pursuant to budget implementation under Article 62(1), first subparagraph, point (a), shall ensure ex post publication of information on their recipients, in **a** single website, in accordance with paragraphs 2 and 3 of this Article.

##### *Amendment*

Member States that receive and implement Union funds, pursuant to budget implementation under Article 62(1), first subparagraph, point (a), shall ensure ex post publication of information on their recipients, in **the** single website **referred to in paragraph 1 of this Article**, in accordance with paragraphs 2 and 3 of this Article.

## Amendment 92

### Proposal for a regulation

#### Article 38 – paragraph 5 – subparagraph 1

##### *Text proposed by the Commission*

The websites of Union institutions shall contain a reference to the **address of the** website where the information referred to in paragraph 1 can be found **if it is not published directly on a dedicated website of Union institutions**.

##### *Amendment*

The websites of Union institutions shall contain a reference to the **single** website **referred to in paragraph 1 of this Article** where the information referred to in paragraph 1 can be found.

## Amendment 93

### Proposal for a regulation

## Article 38 – paragraph 5 – subparagraph 2

### *Text proposed by the Commission*

The Commission shall make available, in an appropriate and timely manner, information about **a** single website, including a reference to its address, where the information as provided by the Member States, persons, entities or bodies referred to in paragraph 4 can be found.

### *Amendment*

The Commission shall make available, in an appropriate and timely manner, information about **the** single website ***referred to in paragraph 1 of this Article***, including a reference to its address, where the information as provided by the Member States, persons, entities or bodies referred to in paragraph 4 can be found.

## Amendment 94

### Proposal for a regulation

## Article 38 – paragraph 6 – subparagraph 1

### *Text proposed by the Commission*

For the purposes of the first and second subparagraphs of paragraph 1 of this Article and without prejudice to ***paragraph 4*** and to sector-specific rules, ***Union institutions implementing the budget pursuant to Article 59(1), Member States implementing the budget pursuant to Article 62(1), first subparagraph, point (b), Member States that receive and implement Union funds pursuant to budget implementation under Article 62(1), first subparagraph, point (a), persons or entities implementing the budget pursuant to Article 62(1), first subparagraph, point (c) and Union bodies referred to in Articles 70 and 71 shall transmit electronically to the Commission, in an open, interoperable and machine-readable format, at least once a year and at the latest by 31 March of the year following the financial year in which the funds were legally committed or in which the contract or agreement setting out the conditions of support was established, whichever is applicable, the data on their recipients referred to in paragraph 2 of this Article with the exception of the data referred to in the first subparagraph of***

### *Amendment*

For the purposes of the first and second subparagraphs of paragraph 1 of this Article and without prejudice to ***paragraphs 3 and 4 of this Article*** and to sector-specific rules, ***the Commission shall use the data stored in the system referred to in Article 36(2) to feed the single website referred to in paragraph 1 of this Article with the information*** referred to in paragraph 2 of this Article.

*paragraph 3 of this Article.*

**Amendment 95**

**Proposal for a regulation**

**Article 38 – paragraph 6 – subparagraph 2**

*Text proposed by the Commission*

In addition, the data ***to be transmitted*** shall also include the VAT identification number or tax identification number of natural persons where available or another unique identifier established at country level with a view to improve the quality of the data transmitted without it being used for publication.

*Amendment*

In addition, the data shall also include the VAT identification number or tax identification number of natural persons where available or another unique identifier established at country level with a view to improve the quality of the data transmitted without it being used for publication.

**Amendment 96**

**Proposal for a regulation**

**Article 38 – paragraph 7 – subparagraph 1**

*Text proposed by the Commission*

7. Where personal data are published, the information shall be removed ***two*** years after the end of the financial year in which the funds were legally committed.

*Amendment*

7. Where personal data are published, the information shall be removed ***five*** years after the end of the financial year in which the funds were legally committed.

**Amendment 97**

**Proposal for a regulation**

**Article 38 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 38a***

***Visibility of the budget***

***Without prejudice to specific provisions laid down in sector-specific rules, or in specific contracts, grant agreements, contribution agreements and financing agreements, all new communication efforts shall make the citizens' connection to the budget more visible by generally using the statements 'Funded by the people of the European Union' or 'Co-***

*funded by the people of the European Union' next to the emblem of the Union.*

## **Amendment 98**

### **Proposal for a regulation**

#### **Article 41 – paragraph 3 – subparagraph 1 – point d**

*Text proposed by the Commission*

(d) a working document on the planned implementation of appropriations for the financial year , information on the implementation of **the** assigned revenue in the preceding year, including information on the amounts carried over to the financial year and on commitments outstanding;

*Amendment*

(d) a working document on the planned implementation of appropriations for the financial year , information on the implementation of **internal and external** assigned revenue in the preceding year, including information on the amounts carried over to the financial year and on commitments outstanding;

## **Amendment 99**

### **Proposal for a regulation**

#### **Article 41 – paragraph 3 – subparagraph 1 – point e**

*Text proposed by the Commission*

(e) as regards appropriations for administration, a working document presenting administrative expenditure to be implemented by the Commission under its section of the budget and a working document on **the Commission's** building policy as referred to in Article 271(1) ;

*Amendment*

(e) as regards appropriations for administration, a working document presenting administrative expenditure to be implemented by the Commission under its section of the budget and a working document on **Union institutions', bodies' and agencies'** building policy as referred to in Article 271(1) ;

### *Justification*

*As stated in paragraph 3 of the initiative report adopted ahead of the publication of this proposal, this revision must seek to reinforce transparency, accountability and democratic scrutiny of the EU budget. On this ground there is no reason to limit this publication to European Commission.*

## **Amendment 100**

### **Proposal for a regulation**

#### **Article 52 – paragraph 1 – point d – point iii – indent 3**

*Text proposed by the Commission*

- a comprehensive overview of borrowing and lending operations;

*Amendment*

- a comprehensive overview of borrowing and lending operations; ***that overview shall provide inter alia detailed information on maturities, schedule of payments, interest due, the investor base, where applicable the dimension and costs of the common liquidity pool underpinning the diversified funding strategy, and on the role of own resources in the repayment of the debt, as well as the borrowing plan including revenue sources;***

**Amendment 101**

**Proposal for a regulation**

**Article 59 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Any revision of the service-level agreements referred to in paragraph 2, and the subsequent changes in the financial obligations of the Union institutions involved towards each other, shall be made before the Union institutions concerned submit their estimates of revenue and expenditure to the Commission, if the changes relate to appropriations of the year of those estimates.***

**Amendment 102**

**Proposal for a regulation**

**Article 59 – paragraph 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***3b. To the extent necessary for carrying out its investigative and prosecutorial tasks, the EPPO may conclude financing agreements with the competent national authorities of the Member States participating in the enhanced cooperation on the***

*establishment of the EPPO, with a view to covering the costs of operational expenditure within the meaning of Article 91 of Council Regulation (EU) 2017/1939.*

#### **Amendment 103**

##### **Proposal for a regulation**

##### **Article 59 – paragraph 3 c (new)**

*Text proposed by the Commission*

*Amendment*

**3c. To the extent necessary for carrying out its investigative and prosecutorial tasks, the EPPO may conclude service level agreements as referred to in paragraph 2, and, in duly justified cases, agreements and contracts with recipients without the application of the rules on procurement laid down in this Regulation, where such application is not possible.**

**For the purpose of the first subparagraph, the competent authorising officer, prior to any procedure entailing the commitment or payment of Union funds, shall sign a declaration justifying why the application of the rules on procurement laid down in this Regulation is not possible.**

#### **Amendment 104**

##### **Proposal for a regulation**

##### **Article 61 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Where there is a risk of a conflict of interests involving a member of staff of a national authority, the person in question shall refer the matter to his or her hierarchical superior. Where such a risk exists for staff covered by the Staff Regulations, the person in question shall refer the matter to the relevant authorising officer by delegation. The relevant hierarchical superior or the authorising

2. Where there is a risk of a conflict of interests involving a member of staff of a national authority, the person in question shall refer the matter to his or her hierarchical superior **or, where relevant, to the competent authority at national level. Where such a risk exists for a high office holder at national or Union level, the person in question shall refer the matter to the competent Union authority.** Where

officer by delegation shall confirm in writing whether a conflict of interests is found to exist. Where a conflict of interests is found to exist, the appointing authority or the relevant national authority shall ensure that the person in question ceases all activity in the matter. ***The relevant authorising officer by delegation or the relevant national authority*** shall ensure that any further appropriate action is taken in accordance with the applicable law , including, ***in the cases involving a member of staff of a national authority***, with the national law relating to conflict of interests .

such a risk exists for staff covered by the Staff Regulations, the person in question shall refer the matter to the relevant authorising officer by delegation. The relevant hierarchical superior or the authorising officer by delegation ***or the competent Union authority*** shall confirm in writing whether a conflict of interests is found to exist. Where a conflict of interests is found to exist, the appointing authority or the relevant national authority ***or the competent Union authority*** shall ensure that the person in question ceases all activity in the matter ***and*** shall ensure that any further appropriate action is taken in accordance with the applicable law, including, ***where applicable***, with the national law relating to conflict of interests.

**Amendment 105**  
**Proposal for a regulation**  
**Article 63 – paragraph 1**

*Text proposed by the Commission*

1. Where the Commission implements the budget under shared management, tasks relating to budget implementation shall be delegated to Member States. The Commission and Member States shall respect the principles of sound financial management, transparency and non-discrimination and shall ensure the visibility of the Union action when they manage Union funds. To that end, the Commission and Member States shall fulfil their respective control and audit obligations and assume the resulting responsibilities laid down in this Regulation. Complementary provisions shall be laid down in sector-specific rules.

*Amendment*

1. Where the Commission implements the budget under shared management, tasks relating to budget implementation shall be delegated to Member States. The Commission and Member States shall respect the principles of sound financial management, transparency and non-discrimination and shall ensure the visibility of the Union action when they manage Union funds. To that end, the Commission and Member States shall fulfil their respective control and audit obligations, ***including the obligation for Member States to record the relevant data in the system referred to in Article 36(2)***, and assume the resulting responsibilities laid down in this Regulation. Complementary provisions shall be laid down in sector-specific rules.

**Amendment 106**



**Proposal for a regulation**

**Article 63 – paragraph 4 – subparagraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) record the data in the system referred to in Article 36(2) before awarding Union funds;**

**Amendment 107**

**Proposal for a regulation**

**Article 63 – paragraph 8 – subparagraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

(c) interrupt payment deadlines or suspend payments where provided for in sector-specific rules.

(c) interrupt payment deadlines or suspend payments where provided for in sector-specific rules, **including limiting the interruption or suspension to the part of the expenditure for which relevant data in the system referred to in Article 36(2) are missing;**

**Amendment 108**

**Proposal for a regulation**

**Article 63 – paragraph 8 – subparagraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) interrupt payment deadlines or suspend payments where non-compliance with Article 6(2a) puts at risk the legality of expenditure.**

**Amendment 109**

**Proposal for a regulation**

**Article 109 – paragraph 4 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**Repayments under the first subparagraph, point (a), of this paragraph shall be made within 60 days of the cancellation or reduction of the fine, other penalty or sanction. Upon the expiry of that time**

***limit, the creditor shall be entitled to interest in accordance with the conditions laid down in Article 117(5).***

*Justification*

*Amendment adopted as part of Parliament's mandate for inter-institutional negotiations on the stand-alone proposal to revise the Financial Regulation as regards competition fines.*

**Amendment 110**

**Proposal for a regulation**

**Article 117 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***In contracts awarded exclusively in the interest of the Union delegations in third countries, a time limit for payment different from those laid down in the first subparagraph may be used in exceptional and duly justified circumstances, such as monopoly situations for services, supplies or utility services.***

**Amendment 111**

**Proposal for a regulation**

**Article 117 – paragraph 3 – subparagraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***Electronic invoices may be used to request payments stemming from a public contract.***

**Amendment 112**

**Proposal for a regulation**

**Article 126 – paragraph 1 – subparagraph 1 – point a – point i**

*Text proposed by the Commission*

*Amendment*

(i) the fulfilment of conditions set out in sector-specific rules or Commission decisions; or

(i) the fulfilment of conditions set out in sector-specific rules or Commission ***or Council*** decisions; or

### Amendment 113

#### Proposal for a regulation

#### Article 126 – paragraph 1 – subparagraph 1 – point a – point ii

##### *Text proposed by the Commission*

(ii) the achievement of results measured by reference to previously set milestones or through performance indicators;

##### *Amendment*

(ii) the achievement of ***tangible*** results measured by reference to previously set milestones ***and targets, including measurable and auditable implementation steps for their achievement,*** or through performance indicators;

### Amendment 114

#### Proposal for a regulation

#### Article 126 – paragraph 1 – subparagraph 2

##### *Text proposed by the Commission*

Union contributions under point (a) of the first subparagraph of this paragraph shall, in direct and indirect management, be established in accordance with Article 185, sector-specific rules or a Commission decision and, in shared management, in accordance with sector-specific rules. Union contributions under points (c), (d) and (e) of the first subparagraph of this paragraph shall, in direct and indirect management, be established in accordance with Article 185 or sector-specific rules and, in shared management, in accordance with sector-specific rules.

##### *Amendment*

Union contributions under point (a) of the first subparagraph of this paragraph shall, in direct and indirect management, be established in accordance with Article 185, sector-specific rules or a Commission ***or Council*** decision and, in shared management, in accordance with sector-specific rules. Union contributions under points (c), (d) and (e) of the first subparagraph of this paragraph shall, in direct and indirect management, be established in accordance with Article 185 or sector-specific rules and, in shared management, in accordance with sector-specific rules.

### Amendment 115

#### Proposal for a regulation

#### Article 126 – paragraph 1 – subparagraph 2 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

***Union contributions referred to in the first subparagraph shall not, except in duly justified cases, such as a crisis, and in accordance with sector-specific rules, substitute recurring national expenditure and shall respect, where applicable, the***

*principle of additionality of Union funding.*

## **Amendment 116**

### **Proposal for a regulation Article 128 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 128a**

##### **Administrative burden**

*Except in duly justified cases, Union institutions or other bodies mentioned in Article 62(2), points (b) and (c), shall refrain from imposing additional administrative burden on beneficiaries that goes beyond what is required by the applicable Union legislation.*

*The Commission shall report annually to the European Parliament and to the Council on efforts to reduce administrative burden in the implementation of the budget, taking due account of relevant audit reports drawing attention to unnecessary additional administrative burden.*

#### *Justification*

*'Gold plating' by Member States, whereby additional administrative obligations are imposed over and above EU rules, should be avoided. This amendment is linked to the Recitals surrounding the new proposed Recital 141a, which are part of the recast.*

## **Amendment 117**

### **Proposal for a regulation Article 131 – title**

*Text proposed by the Commission*

*Amendment*

***Partial*** applicability of the exclusion system to shared management

Applicability of the exclusion system to shared management

**Amendment 118**  
**Proposal for a regulation**  
**Article 133 – paragraph 2 – introductory part**

*Text proposed by the Commission*

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

*Amendment*

2. Where, after the award, the award procedure proves to have been subject to irregularities or fraud, the authorising officer responsible ***shall take one of the following actions:***

**Amendment 119**  
**Proposal for a regulation**  
**Article 133 – paragraph 3 – subparagraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) non-compliance with Article 6(2a) puts the legality of expenditure at risk;***

**Amendment 120**  
**Proposal for a regulation**  
**Article 138 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

In order to protect the financial interests of the Union, the Commission shall set up and operate an early-detection and exclusion system.

In order to protect the financial interests of the Union, the Commission shall set up and operate an early-detection and exclusion system, ***applying to all management systems.***

**Amendment 121**  
**Proposal for a regulation**  
**Article 138 – paragraph 2 – subparagraph 4 – point l**

*Text proposed by the Commission*

*Amendment*

(l) beneficial owners and affiliated entities of the person or entity referred to in ***point (j).***

(l) beneficial owners and ***any*** affiliated entities of the person or entity referred to in ***points (k) and (j).***

**Amendment 122**  
**Proposal for a regulation**

## Article 139 – paragraph 1 – point e – point iii

### *Text proposed by the Commission*

(iii) been discovered by an authorising officer, OLAF **or** the Court of Auditors following checks, audits or investigations;

### *Amendment*

(iii) been discovered by **the Commission**, an authorising officer, OLAF, the Court of Auditors, **the EPPO or a Member State audit institution**, following checks, audits or investigations;

## Amendment 123

### Proposal for a regulation

#### Article 139 – paragraph 1 – point g

### *Text proposed by the Commission*

(g) it has been established by a final judgment or final administrative decision that the person or entity has created an entity in a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business;

### *Amendment*

(g) it has been established by a final judgment or final administrative decision that the person or entity has created an entity in a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations **including those related to working rights, employment and labour conditions**, in the jurisdiction of its registered office, central administration or principal place of business;

## Amendment 124

### Proposal for a regulation

#### Article 139 – paragraph 2 – subparagraph 1

### *Text proposed by the Commission*

The authorising officer responsible shall exclude a person or entity referred to in Article 138(2)(i), (j), (k) and (l) where that person or entity is in one or more of the exclusion situations referred to in **point (iv) of Article 139(1)(c) or points (d) of Article 139(1)**. In the absence of a final judgment or a final administrative decision, the decision shall be taken on the basis of a preliminary classification in law of a conduct as referred to in those points, having regard to the established facts and findings under Article 139, paragraph 3, fourth subparagraph, points (a) and (d),

### *Amendment*

The authorising officer responsible shall exclude a person or entity referred to in Article 138(2)(i), (j), (k) and (l) where that person or entity is in one or more of the exclusion situations referred to in Article 139(1). In the absence of a final judgment or a final administrative decision, the decision shall be taken on the basis of a preliminary classification in law of a conduct as referred to in those points, having regard to the established facts and findings under Article 139, paragraph 3, fourth subparagraph, points (a) and (d), contained in the recommendation of the

contained in the recommendation of the panel referred to in Article 146.

panel referred to in Article 146.

#### **Amendment 125**

##### **Proposal for a regulation**

##### **Article 139 – paragraph 9 – subparagraph 1 – point a**

###### *Text proposed by the Commission*

(a) the person or entity has taken remedial measures as specified in paragraph 7 of this Article, to an extent that is sufficient to demonstrate its reliability. This point shall not apply in the case referred to in point (d) of paragraph 1 of this Article;

###### *Amendment*

(a) the person or entity has taken remedial measures as specified in paragraph **10** of this Article, to an extent that is sufficient to demonstrate its reliability. This point shall not apply in the case referred to in point (d) of paragraph 1 of this Article;

#### **Amendment 126**

##### **Proposal for a regulation**

##### **Article 139 – paragraph 10 – subparagraph 1 – introductory part**

###### *Text proposed by the Commission*

The remedial measures referred to in point (a) of the first subparagraph of paragraph **6** shall include, in particular:

###### *Amendment*

The remedial measures referred to in point (a) of the first subparagraph of paragraph **9** shall include, in particular:

#### **Amendment 127**

##### **Proposal for a regulation**

##### **Article 139 – paragraph 10 – subparagraph 2**

###### *Text proposed by the Commission*

In order to comply with the requirements of paragraph **6** of this Article, the person or entity shall submit remedial measures that have been assessed by an external independent auditor or be considered sufficient by a decision of a national or Union authority. This is without prejudice to the assessment of the panel referred to in Article 146.

###### *Amendment*

In order to comply with the requirements of paragraph **9** of this Article, the person or entity shall submit remedial measures that have been assessed by an external independent auditor or be considered sufficient by a decision of a national or Union authority. This is without prejudice to the assessment of the panel referred to in Article 146.

#### **Amendment 128**



## **Proposal for a regulation**

### **Article 142 – paragraph 1 – subparagraph 1 – point b – point i**

*Text proposed by the Commission*

(i) five years for the cases referred to in Article 139(1), points (d) and (i) ;

*Amendment*

(i) five years for the cases referred to in Article 139(1), points **(c)(iv)**, (d) and (i);

## **Amendment 129**

### **Proposal for a regulation**

#### **Article 142 – paragraph 1 – subparagraph 1 – point b – point ii**

*Text proposed by the Commission*

(ii) three years for the cases referred to in points **(c)** and (e) to (h) of Article 139(1).

*Amendment*

(ii) three years for the cases referred to in points **(c)(i), (ii), (iii), (v) and (vi)** and (e) to (h) of Article 139(1);

## **Amendment 130**

### **Proposal for a regulation**

#### **Article 142 – paragraph 1 – subparagraph 1 – point b – point ii a (new)**

*Text proposed by the Commission*

*Amendment*

***(iia) ten years where a person or entity referred to in Article 138(2) is excluded under several of the grounds listed in Article 139(1)(c)(iv), (d) and (i) or under one of those grounds more than once.***

## **Amendment 131**

### **Proposal for a regulation**

#### **Article 143 – paragraph 1 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

In order to, where necessary, reinforce the deterrent effect of the exclusion and/or financial penalty, the Commission shall, subject to a decision of the authorising officer responsible, publish on its website the following information related to the exclusion and, where applicable, the financial penalty in the cases referred to in points (c) to **(h)** of Article 139(1):

In order to, where necessary, reinforce the deterrent effect of the exclusion and/or financial penalty, the Commission shall, subject to a decision of the authorising officer responsible, publish on its website the following information related to the exclusion and, where applicable, the financial penalty in the cases referred to in points (c) to **(i)** of Article 139(1):

## Amendment 132

### Proposal for a regulation

#### Article 144 – paragraph 1 – subparagraph 1 – point d

*Text proposed by the Commission*

(d) has conflicting interests which may negatively affect the performance of the contract in accordance with point 20.6 of Annex I.

*Amendment*

(d) has **professional** conflicting interests which may negatively affect the performance of the contract in accordance with point 20.6 of Annex I.

## Amendment 133

### Proposal for a regulation

#### Article 144 – paragraph 1 – subparagraph 1 – point d a (new)

*Text proposed by the Commission*

*Amendment*

***(da) is subject to a decision of the authorising officer responsible prohibiting the award of the contract due to a foreign subsidy distorting the internal market; the authorising officer responsible shall act in accordance with the internal rules of the Union institution concerned.***

## Amendment 134

### Proposal for a regulation

#### Article 151 a (new)

*Text proposed by the Commission*

*Amendment*

#### ***Article 151a***

***Financing not linked to costs under direct management with Member States as beneficiaries of grants, non-repayable financial support or loans***

***1. Where a Union programme or facility adopted as of the date of application of this Regulation is implemented in direct management with Member States as beneficiaries of grants, non-repayable financial support or loans provided in the form indicated in Article***

*126(1)(a)(ii), the Commission shall, following the approval of the milestones, targets or performance indicators in accordance with the relevant basic act, conclude an agreement with the Member State concerned constituting an individual legal commitment within the meaning of this Regulation.*

*2. The agreement referred to in paragraph 1 shall provide for the obligations of the Member State:*

*(a) to implement the measures agreed in compliance with applicable rules, in particular regarding the prevention, detection and correction of fraud, corruption, conflicts of interest, and double-funding, and to recover amounts wrongly paid or incorrectly used;*

*(b) to ensure that the financing provided has been properly used in accordance with all applicable rules;*

*(c) to have an effective and efficient internal control system;*

*(d) to accompany a request for payment by:*

*(i) a management declaration that the relevant milestones, targets or performance indicators have been met with the support of the funds, that the information submitted with the request for payment is complete, accurate and reliable and that the control systems put in place give the necessary assurances that the funds were or will be managed in accordance with all applicable rules, in particular rules on avoidance of conflicts of interests, fraud prevention, corruption and double funding from the Union programme or facility and other Union programmes in accordance with the principle of sound financial management;*

*(ii) a summary of the audits carried out, including weaknesses identified and any corrective actions taken;*

*(iii) a list of all measures for the*

*implementation of the Union programme or facility including a description of projects with the total amount of additional national funding, where applicable, of those measures and projects and indicating the amount of funds paid under the programme or facility and under other Union funds, including resources transferred from other Union programmes under shared or indirect management;*

*(iv) a list of any projects for which resources were transferred from another Union programme under shared or indirect management to a Union programme or facility falling within the scope of this article;*

*(e) for the purpose of audit, control and discharge,*

*(i) to record the data in the single interoperable system referred to in Article 36(2),*

*(ii) to maintain, and ensure access by the competent Union authorities including the discharge authority to:*

*- detailed records on the implementation measures adopted for the achievement of the milestones, targets or performance indicators, including information on national award procedures and contracts with intermediaries and recipients, indicating if applicable the total amount of any national co-financing, other national contributions, or other contributions under the Union programme or facility or under other Union funds; and*

*- evidence showing the correlation between the grants, non-repayable financial support or loans received and the costs incurred for the achievement of milestones, targets or performance indicators;*

*(f) to impose obligations on all final recipients of funds paid for the measures for the implementation of milestones,*

*targets or performance indicators included in the relevant plan, or to all other persons or entities involved in their implementation, to expressly authorise the Commission, OLAF, the Court of Auditors and, where applicable, EPPO to exert their rights as provided for in Article 129(1) and to impose similar obligations on all final recipients of funds disbursed.*

*Such agreements may also set out further details with respect to implementing Article 36(1) to (7).*

*4. Articles 33, 36, 38, 130 and 134 shall apply mutatis mutandis to the Union programme or facility described in this Article.*

*5. Where provided for in the basic act establishing the programme or facility, the agreement referred to in paragraph 1 shall also provide for the right of the Commission to suspend payment or reduce proportionately the support under the Union programme or facility and recover any amount due to the Union budget or to ask for early repayment of the loan, in cases of fraud, corruption, and conflicts of interests affecting the financial interests of the Union that have not been corrected by the Member State, or a serious breach of an obligation resulting from that agreement.*

## **Amendment 135**

### **Proposal for a regulation**

#### **Article 153 – paragraph 5 – subparagraph 2**

##### *Text proposed by the Commission*

For contracts awarded by the Union delegations or awarded exclusively in the interest of Union delegations in third countries, the contracting authority may restrict the submission by letter to only one of the means indicated above.

##### *Amendment*

For contracts awarded by the Union delegations or awarded exclusively in the interest of Union delegations in third countries, the contracting authority may restrict the submission by letter to only one of the means indicated above. *Where the contracting authority makes use of this*

***provision, it shall document the reasons for the restriction.***

*Justification*

*While the intention of the Commission with this new provision is understandable, it runs the risk of restricting competition, especially if participants are not allowed to submit their application documents by post or by courier service. To ensure that the decision remains justified and comprehensible for all applicants, the contracting authority should document its reasons for the decision.*

**Amendment 136**

**Proposal for a regulation**

**Article 169 – paragraph 2 – subparagraph 6**

*Text proposed by the Commission*

In a situation of extreme urgency resulting from a crisis, new contracting authorities may be added after the launch of the procurement procedure and before contract signature, subject to the conditions set out in Article 164(6).

*Amendment*

In a situation of extreme urgency resulting from a crisis, new contracting authorities may be added after the launch of the procurement procedure and before contract signature, subject to the conditions set out in Article 164(6) ***and provided that the modification does not alter the subject matter of the contract or the framework contract.***

**Amendment 137**

**Proposal for a regulation**

**Article 169 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Where appropriate, two or more Member States may mandate a Union institution, Union body referred to in Articles 70 and 71 or executive agency referred to in Article 69 ('mandated contracting authority') to act as a central purchasing body to procure on behalf of the Member States or in their own name, under the following conditions:***

***(a) The mandated contracting authority shall assess the utility, necessity and proportionality of the request of two***

*or more Member States;*

*(b) Where the mandated contracting authority intends not to follow the request, it shall inform the Member States concerned and shall give reasons for its refusal;*

*(c) Where it agrees to procure on behalf of the Member States, the mandated contracting authority shall draw up the proposal for a mandate agreement to be signed by the participating Member States. Such agreement shall include the practical arrangements for the involvement of the participating Member States, the conditions and time frames for possible opt-in and opt-out, and, where appropriate, rules for the allocations of the quantities between the participating Member States;*

*(d) The mandated contracting authority shall conduct the procurement procedure following its own rules.*

## **Amendment 138**

### **Proposal for a regulation**

#### **Article 176 – paragraph 3 – subparagraph 1 – point c – point i**

*Text proposed by the Commission*

(i) the thresholds referred to in Article 179(1), and in point 38 of Annex I in the field of external actions, applicable at the time of the modification; and

*Amendment*

(i) the thresholds referred to in Article 179(1), and in point 39 of Annex I in the field of external actions, applicable at the time of the modification; and

*Justification*

*Technical correction.*

## **Amendment 139**

### **Proposal for a regulation**

#### **Article 179 – paragraph 1 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***The provisions of Article 153(5), Article 179(1), Article 180(3) as well as Point 11.1(m), Point 14 and Point 18.1 of the Annex, which refer to procurement by Union Delegations in third countries, shall also apply to European Parliament Liaison Offices and other equivalent European Parliament offices in third countries.***

*Justification*

*The same provisions applicable to the procurement of Union Delegations should also apply*

#### **Amendment 140**

##### **Proposal for a regulation**

##### **Article 196 – paragraph 3 – point e**

*Text proposed by the Commission*

*Amendment*

(e) low value grants.

(e) low value grants ***and very low value grants.***

*Justification*

*The lessons learned from providing small-scale support during the pandemic to small and medium-sized enterprises and individual applicants should be implemented by introducing a new category of a very low value grant of an amount of up to EUR 5000 in order to improve efficiency and reducing bureaucracy. This is linked to the simplification and crisis management aims of the recast.*

#### **Amendment 141**

##### **Proposal for a regulation**

##### **Article 200 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(c a) applicants for very low value grants shall provide simplified documentation, which includes the information referred to in point (a), proof***



*of existence, bank details, and may benefit from a simplified application form, whose content is to be defined by the authorising officer; by derogation, applicants shall not be requested to provide the information as requested in points (b) and (c);*

#### *Justification*

*The lessons learned from providing small-scale support during the pandemic to small and medium-sized enterprises and individual applicants should be implemented by introducing a new category of a very low value grant of an amount of up to EUR 5000 in order to improve efficiency and reducing bureaucracy. This is linked to the simplification and crisis management aims of the recast.*

### **Amendment 142**

#### **Proposal for a regulation Article 217 – title**

*Text proposed by the Commission*

*Amendment*

***Effective*** provisioning ***rate***

***Management of the common*** provisioning  
***fund***

#### *Justification*

*The CPF is organised in compartments, and it can happen that there are at the same time over- and under-provisioned compartments, so the Commission may have to simultaneously request replenishment of one and repay a surplus from another back to the budget. It would be more efficient to allow transfer of surplus provisions from fully constituted over-provisioned compartments to compartments facing challenges. This in turn makes the concept of effective provisioning rate obsolete. The amendments to this Article are linked to admissible amendments to Articles 22, 52 and 224a.*

### **Amendment 143**

#### **Proposal for a regulation Article 217 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

***1. The provisioning of budgetary  
guarantees and financial assistance to***

***deleted***

*third countries in the common provisioning fund shall be based on an effective provisioning rate. That rate shall provide a level of protection against the financial liabilities of the Union equivalent to the level that would be provided by the respective provisioning rates if the resources were held and managed separately.*

#### *Justification*

*The CPF is organised in compartments, and it can happen that there are at the same time over- and under-provisioned compartments, so the Commission may have to simultaneously request replenishment of one and repay a surplus from another back to the budget. It would be more efficient to allow transfer of surplus provisions from fully constituted over-provisioned compartments to compartments facing challenges. This in turn makes the concept of effective provisioning rate obsolete. The amendments to this Article are linked to admissible amendments to Articles 22, 52 and 224a.*

#### **Amendment 144**

##### **Proposal for a regulation Article 217 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2.**     *The effective provisioning rate applicable shall be a percentage of each initial provisioning rate determined in accordance with the second subparagraph of Article 215(2). It shall apply only to the amount of resources in the common provisioning fund foreseen for the payment of guarantee calls over a one year period. It shall provide for a ratio, in the form of a percentage, between the amount of cash and cash equivalents in the common provisioning fund required to honour guarantee calls and the total amount of cash and cash equivalents that would be required in each guarantee fund to honour guarantee calls, if the resources were held and managed separately, where both amounts represent an equivalent liquidity risk. That ratio shall not fall below 95 %. The calculation of the*

*deleted*

*effective provisioning rate shall take into account:*

*(a) the forecast of inflows and outflows in the common provisioning fund, having regard to the initial phase of constitution of global provisioning in accordance with the second subparagraph of Article 215(2);*

*(b) the risk correlation among the budgetary guarantees and the financial assistance to third countries;*

*(c) the market conditions.*

*The Commission shall by 1 July 2020 adopt delegated acts in accordance with Article 274 to supplement this Regulation with detailed conditions for the calculation of the effective provisioning rate, including a methodology for that calculation.*

*The Commission is empowered to adopt delegated acts in accordance with Article 274 to amend the minimum ratio referred to in the first subparagraph of this paragraph in the light of the experience gained with the operation of the common provisioning fund while maintaining a prudent approach in line with the principle of sound financial management. The minimum ratio shall not be set at a level lower than 85 %.*

#### *Justification*

*The CPF is organised in compartments, and it can happen that there are at the same time over- and under-provisioned compartments, so the Commission may have to simultaneously request replenishment of one and repay a surplus from another back to the budget. It would be more efficient to allow transfer of surplus provisions from fully constituted over-provisioned compartments to compartments facing challenges. This in turn makes the concept of effective provisioning rate obsolete. The amendments to this Article are linked to admissible amendments to Articles 22, 52 and 224a.*

#### **Amendment 145**

##### **Proposal for a regulation Article 217 – paragraph 3**

**3.      *The effective provisioning rate shall be calculated annually by the financial manager of the resources of the common provisioning fund and shall be the reference for the Commission's calculation of the contributions from the budget pursuant to point (a) of Article 215(4) and, subsequently, point (b) of paragraph 4 of this Article.***      ***deleted***

*Justification*

*The CPF is organised in compartments, and it can happen that there are at the same time over- and under-provisioned compartments, so the Commission may have to simultaneously request replenishment of one and repay a surplus from another back to the budget. It would be more efficient to allow transfer of surplus provisions from fully constituted over-provisioned compartments to compartments facing challenges. This in turn makes the concept of effective provisioning rate obsolete. The amendments to this Article are linked to admissible amendments to Articles 22, 52 and 224a.*

**Amendment 146**

**Proposal for a regulation**

**Article 217 – paragraph 4 – introductory part**

**4.      *Following the calculation of the annual effective provisioning rate in accordance with paragraphs 1 and 2 of this Article, the following operations in the context of the budgetary procedure shall be made and presented in the working document referred to in point (h) of Article 41(5):***

**4.      *After the constitution of the common provisioning and after the end of the eligibility period referred to in Article 215(6), the following operations in the context of the budgetary procedure shall be made and presented in the working document referred to in point (h) of Article 41(5):***

*Justification*

*The CPF is organised in compartments, and it can happen that there are at the same time over- and under-provisioned compartments, so the Commission may have to simultaneously request replenishment of one and repay a surplus from another back to the budget. It would be more efficient to allow transfer of surplus provisions from fully constituted over-provisioned compartments to compartments facing challenges. This in turn makes the concept of effective provisioning rate obsolete. The amendments to this Article are linked to*

*admissible amendments to Articles 22, 52 and 224a.*

#### **Amendment 147**

##### **Proposal for a regulation**

##### **Article 217 – paragraph 4 – point a**

*Text proposed by the Commission*

(a) any surplus of provisions for a budgetary guarantee or a financial assistance to a third country shall be returned to the budget;

*Amendment*

(a) any surplus of provisions for a budgetary guarantee or a financial assistance to a third country ***may be used in accordance with Article 215(5) including for another budgetary guarantee and financial assistance, and for that purpose it shall be held in the common provisioning fund for five years before any remaining amount is*** returned to the budget;

#### *Justification*

*The CPF is organised in compartments, and it can happen that there are at the same time over- and under-provisioned compartments, so the Commission may have to simultaneously request replenishment of one and repay a surplus from another back to the budget. It would be more efficient to allow transfer of surplus provisions from fully constituted over-provisioned compartments to compartments facing challenges. This in turn makes the concept of effective provisioning rate obsolete. The amendments to this Article are linked to admissible amendments to Articles 22, 52 and 224a.*

#### **Amendment 148**

##### **Proposal for a regulation**

##### **Article 224 – paragraph 2**

*Text proposed by the Commission*

**2. The borrowing and lending shall not involve the Union in the transformation of maturities, or expose it to any interest risk or to any other commercial risk.**

*Amendment*

***deleted***

#### **Amendment 149**

##### **Proposal for a regulation**

## Article 224 – paragraph 7

*Text proposed by the Commission*

*Amendment*

**7. Funds raised but not yet disbursed cannot be used for any other goal than to provide financial assistance to the corresponding beneficiary country. Pursuant to Article 86(1) and (2), the accounting officer shall set up the procedures for the safekeeping of the funds.**

**deleted**

## Amendment 150

### Proposal for a regulation

#### Article 224 a (new)

*Text proposed by the Commission*

*Amendment*

#### **Article 224a**

##### **Diversified funding strategy**

- 1. Where the Commission is empowered, in relevant basic acts, to borrow funds on behalf of the Union on the capital markets or from financial institutions, the Commission shall implement a diversified funding strategy comprising borrowing and debt management operations. The diversified funding strategy shall be implemented through all necessary transactions aiming at a regular capital market presence, shall be based on pooling of funding instruments and shall make use of a common liquidity pool.**
- 2. The Commission shall establish the necessary arrangements for the implementation of the diversified funding strategy. The Commission shall regularly and comprehensively inform the European Parliament and the Council about all aspects of its borrowing and debt management strategy.**
- 3. Without prejudice to the basic acts empowering the Commission to borrow funds on behalf of the Union, the**

***European Parliament and the Council shall approve, in the context of the budgetary procedure, the maximum amount that the Commission is authorised to borrow under the diversified funding strategy during that financial year.***

## **Amendment 151**

### **Proposal for a regulation**

#### **Article 238 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

***The Commission shall consult the European Parliament and the Council on its intention to establish a Union trust fund for emergency and post-emergency actions.***

***deleted***

#### *Justification*

*As stated in Parliament's resolution of 24 November 2021, Parliament should have an appropriate role in the setting up, supervision and scrutiny of trust funds, including for emergency and post-emergency actions. The amendments to this Article give Parliament and Council the power to approve any trust fund, and are linked to admissible amendments to increase democratic accountability of the budget, inter alia to Articles 52 and 224a.*

## **Amendment 152**

### **Proposal for a regulation**

#### **Article 238 – paragraph 1 – subparagraph 4**

*Text proposed by the Commission*

*Amendment*

The establishment of a Union trust fund ***for thematic actions*** shall be subject to the approval of the European Parliament and of the Council.

The establishment of a Union trust fund shall be subject to the approval of the European Parliament and of the Council.

#### *Justification*

*As stated in Parliament's resolution of 24 November 2021, Parliament should have an appropriate role in the setting up, supervision and scrutiny of trust funds, including for emergency and post-emergency actions. The amendments to this Article give Parliament and Council the power to approve any trust fund, and are linked to admissible amendments to*

*increase democratic accountability of the budget, inter alia to Articles 52 and 224a.*

## **Amendment 153**

### **Proposal for a regulation**

#### **Article 238 – paragraph 1 – subparagraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***A Union trust fund for emergency and post-emergency action shall be deemed to be approved by the European Parliament and the Council unless the European Parliament or the Council decide not to approve it within two months of the date of publication of the draft decision referred to in the fifth subparagraph of this paragraph.***

*Justification*

*For trust funds for emergency and post-emergency action, it is appropriate that a time limit is set for the approval by Parliament and Council, so as to preserve the possibility to act in an emergency. This kind of trust funds should be deemed approved unless Parliament or Council object within that time limit. The amendments to this Article are linked to admissible amendments to increase democratic accountability of the budget, inter alia to Articles 52 and 224a.*

## **Amendment 154**

### **Proposal for a regulation**

#### **Article 238 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The Commission shall submit its draft decisions concerning the financing of a Union trust fund to the competent committee where provided for in the basic act under which the Union contribution to the Union trust fund is provided. The competent committee shall not be invited to pronounce itself on the aspects which have already been submitted to the European Parliament and to the Council for **consultation or for** approval under the

2. The Commission shall submit its draft decisions concerning the financing of a Union trust fund to the competent committee where provided for in the basic act under which the Union contribution to the Union trust fund is provided. The competent committee shall not be invited to pronounce itself on the aspects which have already been submitted to the European Parliament and to the Council for approval under the third, fourth and fifth



third, fourth and fifth subparagraphs of paragraph 1 respectively.

subparagraphs of paragraph 1 respectively.

### *Justification*

*As stated in Parliament's resolution of 24 November 2021, Parliament should have an appropriate role in the setting up, supervision and scrutiny of trust funds, including for emergency and post-emergency actions. The amendments to this Article give Parliament and Council the power to approve any trust fund, and are linked to admissible amendments to increase democratic accountability of the budget, inter alia to Articles 52 and 224a.*

### **Amendment 155** **Proposal for a regulation** **Article 240 – paragraph 1**

#### *Text proposed by the Commission*

(1) The Union may make contributions in the form of financing not linked to costs to multi-donor, pooled funded global initiatives when these support the achievement of Union policy objectives and where budget implementation instruments provided for in other Titles of this Regulation would not be sufficient to achieve such Union policy objectives.

#### *Amendment*

(1) ***With a view to coordinating actions with multiple partners to address effectively global challenges with the appropriate scale,*** the Union may, ***on a proposal by the Commission,*** make contributions in the form of financing not linked to costs to multi-donor, pooled funded global initiatives when these support the achievement of Union policy objectives and where budget implementation instruments provided for in other Titles of this Regulation would not be sufficient to achieve such Union policy objectives.

### **Amendment 156** **Proposal for a regulation** **Article 240 – paragraph 1 a (new)**

#### *Text proposed by the Commission*

#### *Amendment*

***(1a) Such contributions shall be subject to a decision by the European Parliament and the Council.***

***Except in urgent circumstances, the European Parliament and the Council, the latter acting by qualified majority, shall deliberate upon a proposal for a contribution, as referred to in paragraph***

*1, within eight weeks of its receipt by both institutions. In urgent circumstances, the European Parliament and the Council shall deliberate within four weeks of receipt of the proposal.*

*A contribution proposal shall be approved or considered to be approved, if, within the eight-week period, 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) neither the European Parliament nor the Council takes a decision to amend or refuse the proposal.*

#### **Amendment 157**

##### **Proposal for a regulation**

##### **Article 240 – paragraph 2 – subparagraph 1 – point iii**

###### *Text proposed by the Commission*

(iii) there is adequate reporting on the results achieved by the initiative, including through relevant indicators;

###### *Amendment*

(iii) there is adequate reporting on the results achieved by the initiative, including through relevant **output and impact** indicators;

#### **Amendment 158**

##### **Proposal for a regulation**

##### **Article 240 – paragraph 2 – subparagraph 1 – point iv**

###### *Text proposed by the Commission*

(iv) the initiative operates under rules ensuring sound financial management, transparency, non discrimination and equal treatment in the use of Union funds in accordance with the principle of proportionality;

###### *Amendment*

(iv) the initiative operates under rules ensuring sound financial management, transparency, non discrimination and equal treatment in the use of Union funds in accordance with the principle of proportionality **that provide a level of protection comparable to other budget implementation instruments provided for in other Titles of this Regulation;**

## Amendment 159

### Proposal for a regulation

#### Article 240 – paragraph 2 – subparagraph 1 – point v

*Text proposed by the Commission*

(v) there are appropriate systems to prevent and combat irregularities and fraud as well as to report on their functioning at regular intervals, and there are appropriate rules for recoveries of funds by the initiative, including their use for the same initiative.

*Amendment*

(v) there are appropriate systems to prevent and combat irregularities and fraud as well as to report on their functioning at regular intervals, ***including internal and external auditing systems***, and there are appropriate rules for recoveries of funds by the initiative, including their use for the same initiative;

## Amendment 160

### Proposal for a regulation

#### Article 240 – paragraph 2 – subparagraph 1 – point v a (new)

*Text proposed by the Commission*

*Amendment*

***(va) the Union's participation brings visibility for the Union.***

## Amendment 161

### Proposal for a regulation

#### Article 240 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

In the event of suspected cases of serious irregularities such as fraud, corruption or conflict of interests, the authorising officer responsible, the EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, OLAF and the Court of Auditors shall ***make use of the rules of the initiative to request additional*** information and carry out joint audit, control, or investigative missions with the relevant body under the initiative, in line with Article 129.

In the event of suspected cases of serious irregularities such as fraud, corruption or conflict of interests, the authorising officer responsible, the EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, OLAF, ***audit authorities of the Commission***, and the Court of Auditors shall ***be granted access to all relevant*** information and carry out joint audit, control, or investigative missions with the relevant body under the initiative, in line with Article 129.

## Amendment 162

### Proposal for a regulation

#### Article 244 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***In the case of non-perishable supplies financed from administrative appropriations and in compliance with the accounting rules and standards referred to in Article 80, Union institutions and bodies may not provide non-financial donations before the value of the depreciated supply represents 80 % of the purchase price.***

## Amendment 163

### Proposal for a regulation

#### Article 260 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The examination by the Court of Auditors of whether all revenue has been received and all expenditure incurred in a lawful and proper manner shall have regard to the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and all other relevant acts adopted pursuant to the Treaties. That examination may take account of the multiannual character of programmes and related supervisory and control systems.

1. The examination by the Court of Auditors of whether all revenue has been received and all expenditure incurred in a lawful and proper manner, ***including in relation to assigned revenue and the related items of expenditure***, shall have regard to the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and all other relevant acts adopted pursuant to the Treaties. That examination may take account of the multiannual character of programmes and related supervisory and control systems.

#### *Justification*

*It should be clearly stated that the examination by the Court of Auditors must also include assigned revenue. This amendment is needed for coherence with admissible amendments to Article 22.*

## Amendment 164

### Proposal for a regulation

## Article 265 – paragraph 3

*Text proposed by the Commission*

3. If the European Parliament postpones the decision giving a discharge, the Commission shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

*Amendment*

3. If the European Parliament postpones the decision giving a discharge, the Commission ***and the other Union institutions and Union bodies provided for in Articles 70 and 71*** shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

## Amendment 165

### Proposal for a regulation

#### Article 265 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. The provisions governing the procedure for granting discharge to the Commission in accordance with Article 319 TFEU, in respect of the implementation of the budget, shall apply to the procedure for granting discharge to other Union institutions and Union bodies referred to in Articles 70 and 71.***

## Amendment 166

### Proposal for a regulation

#### Article 266 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The discharge decision shall cover the accounts of all the Union's revenue and expenditure, the resulting balance ***and*** the assets and liabilities of the Union shown in the balance sheet.

1. The discharge decision shall cover the accounts of all the Union's revenue and expenditure, ***including assigned revenue and the related specific items of expenditure***, the resulting balance, the assets and liabilities, ***including those arising from borrowing and lending operations***, of the Union shown in the balance sheet.

## Amendment 167

### Proposal for a regulation

## Article 267 – paragraph 2

### *Text proposed by the Commission*

2. At the request of the European Parliament or of the Council, Union institutions and Union bodies referred to in Articles 70 and 71 shall report on the measures taken in the light of those observations and comments, and, in particular, on the instructions they have given to any of their departments which are responsible for budget implementation. Member States shall cooperate with the Commission by informing it of the measures they have taken to act on those observations so that the Commission may take them into account when drawing up its own report. The reports from Union institutions and Union bodies referred to in Articles 70 and 71 shall also be transmitted to the Court of Auditors.

### *Amendment*

2. At the request of the European Parliament or of the Council, Union institutions and Union bodies referred to in Articles 70 and 71 shall report on the measures taken in the light of those observations and comments, and, in particular, on the instructions they have given to any of their departments which are responsible for budget implementation ***before 1 October of year n+2***. Member States shall cooperate with the Commission by informing it of the measures they have taken to act on those observations so that the Commission may take them into account when drawing up its own report. The reports from Union institutions and Union bodies referred to in Articles 70 and 71 shall also be transmitted to the Court of Auditors.

## Amendment 168

### Proposal for a regulation

#### Article 271 – paragraph 1 – subparagraph 1 – point a

### *Text proposed by the Commission*

(a) for each building, the expenditure and surface area covered by the appropriations of the corresponding budget lines. The expenditure shall include the costs of the fitting-out of buildings but not the other charges;

### *Amendment*

(a) for each building, the expenditure and surface area, ***broken down by office space and other spaces***, covered by the appropriations of the corresponding budget lines. The expenditure shall include the costs of the fitting-out of buildings but not the other charges;

## Amendment 169

### Proposal for a regulation

#### Article 271 – paragraph 1 – subparagraph 1 – point b

### *Text proposed by the Commission*

(b) the expected evolution of the global programming of surface area and locations for the coming years with a description of

### *Amendment*

(b) the expected evolution of the global programming of surface area, ***taking account of trends in teleworking***, and

the building projects in planning phase which are already identified;

locations for the coming years with a description of the building projects in planning phase which are already identified ***and an assessment of the evolution of the real estate market surrounding the location of the project that leads to additional cost;***

**Amendment 170**  
**Proposal for a regulation**  
**Article 271 – paragraph 2**

*Text proposed by the Commission*

2. For any building project likely to have significant financial implications for the budget, the Union institution concerned shall inform the European Parliament and the Council as early as possible, and in any case 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, about the building surface area required and the provisional planning.

*Amendment*

2. For any building project likely to have significant financial implications for the budget, the Union institution concerned shall inform the European Parliament and the Council as early as possible, and in any case 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, about the building surface area required, ***and the reasons for which it is required,*** and the provisional planning.

**Amendment 171**  
**Proposal for a regulation**  
**Article 271 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

For any building project likely to have significant financial implications for the budget, the Union institution concerned shall present the building project, in particular its detailed estimated costs and its financing including any possible use of internal assigned revenue referred to in point (e) of Article 21(3), as well as a list of draft contracts intended to be used, to the European Parliament and to the Council and shall request their approval before contracts are concluded. At the request of the Union institution concerned, documents submitted relating to the

*Amendment*

For any building project likely to have significant financial implications for the budget, the Union institution concerned shall present the building project, in particular its detailed estimated costs, ***specifying in particular those relating to any works required to improve energy efficiency,*** and its financing including any possible use of internal assigned revenue referred to in point (e) of Article 21(3), as well as a list of draft contracts intended to be used, to the European Parliament and to the Council and shall request their approval before contracts are concluded. At the

building project shall be treated confidentially.

request of the Union institution concerned, documents submitted relating to the building project shall be treated confidentially.

**Amendment 172**  
**Proposal for a regulation**  
**Article 275 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2a. The requirement set out in Article 22(2)(ca) for commitment and payment appropriations, in the case provided for in Article 21(5), to be made available in the context of the budgetary procedure shall apply only in respect of basic acts adopted as of the date of application of this Regulation.**

**Amendment 173**  
**Proposal for a regulation**  
**Article 275 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Without prejudice to sector-specific rules and to a voluntary application, the obligations set out in Article 36, point (d) of paragraph 2, paragraphs 6, 7 and 8, concerning the **electronic recording and storage of data on the recipients of funds and their beneficial owners and the use of the single integrated IT system for data-mining and risk-scoring** shall apply only **to programmes adopted under and financed from the post-2027 multiannual financial framework.**

3. Without prejudice to sector-specific rules and to a voluntary application, the obligations set out in Article 36, point (d) of paragraph 2, paragraphs 6, 7 and 8, concerning the system **referred to in Article 36(2)** shall apply only **as of 1 January 2026.**

*Justification*

*Waiting for the adoption of the programmes under the post-2027 MFF in order to start using the new single integrated and interoperable information and monitoring system is disproportionately long. A date of application of 1 January 2026 should provide sufficient time for the development of the system and the adaptation of the various involved systems.*



## Amendment 174

### Proposal for a regulation Article 275 – paragraph 4

*Text proposed by the Commission*

4. The obligations set out in Article 38, third subparagraph of paragraph 4 and in paragraph 6, shall apply only ***to programmes adopted under and financed from the post-2027 multiannual financial framework.***

*Amendment*

4. The obligations set out in Article 38, third subparagraph of paragraph 4 and in paragraph 6, shall apply only ***from 1 January 2026.***

*Justification*

*Waiting for the adoption of the programmes under the post-2027 MFF in order to start using the new single integrated and interoperable information and monitoring system is disproportionately long. A date of application of 1 January 2026 should provide sufficient time for the development of the system and the adaptation of the various involved systems.*

## Amendment 175

### Proposal for a regulation Annex I – Part 1 – Section 2 – point 6 – point 6.2

*Text proposed by the Commission*

6.2. In a competitive procedure with negotiation, a competitive dialogue, an innovation partnership and a negotiated procedure for low value contracts in accordance with point 14.3, the minimum number of candidates shall be three.

*Amendment*

6.2. In a competitive procedure with negotiation, a competitive dialogue, an innovation partnership, ***a prospection of the local market in accordance with point (g) of the second subparagraph of point 11.1*** and a negotiated procedure for low value contracts in accordance with point 14.3, the minimum number of candidates shall be three.

## Amendment 176

### Proposal for a regulation Annex I – Part 1 – Section 2 – point 6 – point 6.3 – point b

*Text proposed by the Commission*

*Amendment*

(b) negotiated procedures without prior publication in accordance with point 11, except for design contests in accordance with point (d) of the second subparagraph of point 11.1 .

(b) negotiated procedures without prior publication in accordance with point 11, except for design contests in accordance with point (d) of the second subparagraph of point 11.1. ***and prospections of the local market in accordance with point (g) of the second subparagraph of point 11.1.***

## Amendment 177

### Proposal for a regulation

#### Annex I – Part 1 – Section 2 – point 6 – point 6.6

##### *Text proposed by the Commission*

6.6. For contracts awarded in accordance with ***point*** (d) of the second subparagraph of point 11.1 and points 14.2 and 14.3, the contracting authority shall invite at least all economic operators who have expressed interest following ex ante publicity as set out in point 3.1 or a design contest.

##### *Amendment*

6.6. For contracts awarded in accordance with ***points*** (d) ***and (g)*** of the second subparagraph of point 11.1 and points 14.2 and 14.3, the contracting authority shall invite at least all economic operators who have expressed interest following ex ante publicity as set out in point 3.1 or ***prospection of the local market or*** a design contest.

## Amendment 178

### Proposal for a regulation

#### Annex I – Part 1 – Section 2 – point 16 – point 16.3 – point g a (new)

##### *Text proposed by the Commission*

##### *Amendment*

***(ga) the requirement established in Article 28 of Regulation (EU) 2022/2560 to notify to the contracting authority all foreign financial contributions received in the three years prior to the notification or confirm in a declaration that they did not receive any foreign financial contributions in the last three years. For the purposes of this point, a notifiable foreign financial contribution in a public procurement procedure shall be deemed to arise where:***

***(a) the estimated value of the public procurement or of the contract net of***

***VAT, is equal to or greater than EUR 250 million; and***

***(b) the economic operator, including its subsidiary companies without commercial autonomy, its holding companies, and, where applicable, its main subcontractors and suppliers involved in the same tender in the public procurement procedure was granted aggregate financial contributions in the three years prior to notification or, if applicable, the updated notification, equal to or greater than EUR 4 million per third country. In particular, the procedures and rules laid down in Regulation (EU) 2022/2560 shall apply mutatis mutandis for the assessment, review and investigations of such notified foreign financial contribution unless otherwise provided for in this Regulation.***

#### *Justification*

*It is necessary to align the Financial Regulation with the recently adopted Regulation (EU) 2022/2560 on foreign subsidies distorting the internal market. This amendment is in line with the aim of the recast, see for instance Recitals 5 and 15.*

## EXPLANATORY STATEMENT

The Financial Regulation has a particularly important role for EU finances and the functioning of the Union in general. It is meant to be the ‘single rulebook’ laying down the principles and general financial rules for establishing and implementing the EU budget and controlling EU finances. Its current version entered into force in 2018 after a major revision.

With the entry into force of the 2021-27 multiannual financial framework (MFF), the Financial Regulation needs to be aligned to the MFF so that all general financial rules are included in the single rulebook. On 24 November 2021, Parliament adopted a resolution on the revision of the Financial Regulation in view of the entry into force of the 2021-2027 multiannual financial framework, laying down its views on what such a revision should address.

On 16 May 2022, the Commission published its proposal for the revision, in the form of a recast. The proposal is targeted to the MFF alignment and to specific improvements and simplifications that mostly build on the lessons learned from the COVID-19 pandemic and focus on crisis management, the protection of EU financial interests, and simplification.

The rapporteurs welcome the Commission proposal as a step in the right direction towards a better management of EU finances. However, they believe that the proposal falls far short of what is necessary and possible to achieve in order to ensure better democratic accountability for a modern EU budget, via increased parliamentary oversight, digitalisation, and mainstreaming of important EU policies, as clearly set out in Parliament’s resolution of 24 November 2021.

The rapporteurs propose therefore a number of amendments that, while keeping the revision targeted to its main objectives, improve the Commission proposal in several aspects in line with the views expressed by Parliament. The main amendments proposed are briefly described below.

- **External assigned revenue.** Parliament has repeatedly expressed concern that the number and scope of off-budget instruments have grown significantly in the past decade, with NextGenerationEU (NGEU) taking this practice to the next level. These developments put at risk central budgetary principles and pose a serious challenge to Parliament’s ability to fulfil its decision-making, scrutiny and discharge functions and, more generally, to the transparency of the EU budget. In a joint declaration included in the MFF package, the three Institutions agreed that the provisions on the external assigned revenue would be assessed and, as appropriate, revised.

The rapporteurs welcome that the Commission proposed to have an annex, forming an integral part of the budget, setting out the budget lines for which assigned revenue is foreseen and the estimated amount. They propose that the information included in that annex be broken down into the specific categories of assigned revenue. In addition, the future activation of assigned revenue provided for in a basic act (as was for instance the case for NGEU) should in general be subject to a decision of the budgetary authority. Finally, it should be made explicit that the audits of the Court of Auditors and Parliament’s discharge decision include assigned revenue.

- **Borrowing and lending.** The above-mentioned joint declaration by the three Institutions also included a commitment to assess, and as appropriate revise, the provisions on reporting on borrowing and lending operations. Parliament has long called for the full ‘budgetisation’ of these operations, and asked to be able to scrutinise and authorise them.

The Commission proposal only includes the codification of existing practices, by means of a comprehensive overview of borrowing and lending operations to be annexed to the draft budget. For a start, the rapporteurs propose to specify the minimum content of that document better, and to make sure that it also includes the underlying data and explains the methodology used by the Commission to estimate the interest due.

More importantly, the recently adopted Regulation 2022/2434 of 6 December 2022 amended the Financial Regulation by introducing a diversified funding strategy as a general borrowing method, based on a flexible pooling of funding instruments, so that the Commission can borrow for different initiatives into the same ‘pot’ at the best market conditions. The adopted changes must be reflected in the recast, and provide in addition the occasion to introduce a much needed form of oversight of the Commission’s borrowing and lending operations, in the form of a yearly ‘debt ceiling’ that the budgetary authority can set (and if necessary revise) in the context of the annual budgetary procedure.

- **Union values.** The rapporteurs welcome the inclusion in the proposal of the compliance with the Rule of law Conditionality Regulation (EU, Euratom) 2020/2092 as a general principle. They propose to include the respect of fundamental rights as a general principle as well.
- **Tracking and mainstreaming of EU policies.** The rapporteurs propose to clarify the application of the do no significant harm principle proposed by the Commission. In addition, they propose that the principle of social conditionality be applied horizontally to EU funding, following its inclusion in the new CAP 2021-27, and that concise and proportionate performance indicators are introduced to monitor the impact of Union spending on gender equality, as well as to track spending on climate change mitigation and adaptation and the protection of biodiversity, all without imposing excessive administrative burden.
- **Decommitments.** The rapporteurs propose that the re-use of decommitted appropriations as a result of full or partial non-implementation of projects should be extended to include all appropriations. By analogy with what is already the case in external action pursuant to the NDICI Regulation, decommitments should be automatically kept in the budget.
- **Trust funds.** The rapporteurs introduce amendments to guarantee an appropriate role of Parliament in the setting up, supervision and scrutiny of trust funds. Parliament and Council should be empowered to approve trust funds for emergency and post-emergency actions as they do for trust funds for thematic actions, but within a short defined timeframe to preserve the emergency character of the actions.
- **Tracking EU funds via digital tools.** Parliament has repeatedly stressed the importance of knowing how EU funds are spent and who truly benefits from them in order to protect the financial interests of the EU and to detect fraud, corruption and conflicts of interest, and

expressed concern that data for identifying economic operators and their beneficial owners is not easily accessible.

The rapporteurs welcome the Commission proposal to improve the Arachne IT system for data-mining and risk-scoring, to make it compulsory and to extend it to direct management, as a much needed first step. They propose to go much further with the compulsory centralisation of information within a single integrated interoperable reporting and monitoring system to be set up by the Commission, allowing for the electronic recording and storage of data on the recipients of Union funding, also in an aggregated format, including their beneficial owners and allowing for the regular making of those data available for data-mining and risk-scoring.

The rapporteurs' proposed amendments set out several details of the new system, as regards inter alia interoperability and real-time automatic exchange of data with relevant systems and databases, and setting out precise actions and measures to achieve the necessary high quality of data. Moreover, the indicators used by the system should be reliable, objective and limited to what is necessary for risk assessment, and be reflected to the highest degree possible in the exclusion criteria of the EDES system in order to improve the efficiency of EDES.

Finally, the rapporteurs believe that the transition period proposed by the Commission before the use of the new system is made mandatory is disproportionately long and propose to bring the date of application of the system forward, while still providing sufficient time for the development and adoption of the system.

Other amendments are proposed, inter alia to align the Financial Regulation to the recently adopted Regulation (EU) 2022/2560 on foreign subsidies distorting the internal market, to streamline the management of the common provisioning fund, to improve oversight on forms of Union contribution with financing not linked to costs, to introduce a provision to avoid 'gold-plating' resulting into excessive administrative burden, and to improve the provisions in relation to the EPPO, Union delegation in third countries and Parliament's liaison offices, and building projects financed through loans. The amendment adopted as part of Parliament's mandate for inter-institutional negotiations on the stand-alone proposal to revise the Financial Regulation as regards competition fines is also included for coherence.

The rapporteurs believe that the amendments proposed are key to a fruitful revision of this central legislative tool that increases transparency, accountability and democratic scrutiny and improves the implementation of the EU budget.

Amendments to parts of the proposal which remain unchanged ('white parts') were necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments.

In line with Rule 110(3) of EP Rules of Procedure, there is an inextricable link between the amendments adopted in BUDG/CONT in this procedure.

09.03.2023

**LETTER OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY**

Mr Johan Van Overtveldt  
Chair  
Committee on Budgets  
BRUSSELS

Ms Monika Hohlmeier  
Chair  
Committee on Budgetary Control  
BRUSSELS

Subject: Opinion on Financial rules applicable to the general budget of the Union (recast)  
(COM(2022)0223 – C9-0179-2022 – 2022/0162(COD))

Dear Mr Chair,

Under the procedure referred to above, the Committee on Industry, Research and Energy has been asked to submit an opinion to your committee and to the Committee on Budgetary Control. At its meeting of 13 July 2022, the committee decided to send the opinion in the form of a letter. It considered the matter at its meeting of 9 March 2023 and adopted the opinion at that meeting.

The opinion consists of the following amendments, which, in accordance with the usual treatment of opinions under Rule 56, I kindly ask you to put to the vote during the vote on the report in your committee:

## ITRE 1

### Article 14 – paragraph 1

Where budgetary commitments are decommitted in any financial year after the year in which they were made as a result of the total or partial non-implementation of the actions for which they were earmarked, the appropriations corresponding to such decommitments shall be ***made available again to the benefit of the budget line of origin.***

#### *Justification*

*The consequence of the amendment returning the decommitments to the benefit of the budget lines of origin, would address directly the problems with research decommitments.*

## ITRE 2

### Article 15

***deleted***

#### *Justification*

*A technical deletion necessary in view of the amendment to Art. 14*

## ITRE 3

### Article 33 – paragraph 2 – point d

(d) programmes and activities ***shall, where feasible and appropriate, in accordance with the relevant sector-specific rules,*** be implemented to achieve their set objectives without doing significant harm to the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems, as set out in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>1</sup>.

#### *Justification*

*The amendment alters the Commission proposal on including the Do No Significant Harm principle in the FR. It creates the possibility to specify the application of the principle in sectoral legislation. This would allow ITRE to determine the scope and manner of application appropriate for, for example, the research programme. ITRE has commented on this scope and manner of application already in the past, for example in paragraph 41 of the EIC*

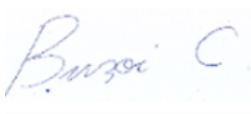
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<sup>1</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance), OJ L 198, 22.6.2020, p. 13.



*Implementation INI.*

Yours sincerely,

A handwritten signature in blue ink, reading "Buşoi C.", on a light blue rectangular background.

Cristian-Silviu Buşoi

## OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT

for the Committee on Budgets and the Committee on Budgetary Control

on the proposal for a regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (recast)  
(COM(2022/0223) – C9-0179/2022 – 2022/0162(COD))

Rapporteur for opinion: Daniel Buda

### AMENDMENTS

The Committee on Regional Development calls on the Committee on Budgets and the Committee on Budgetary Control, as the committees responsible, to take into account the following amendments:

#### Amendment 1

##### Proposal for a regulation

##### Recital 1

*Text proposed by the Commission*

(1) A number of amendments are to be made to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>15</sup>. In the interests of clarity, that Regulation should be recast.

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<sup>15</sup> 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

*Amendment*

(1) A number of amendments are to be made to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>15</sup>. In the interests of clarity ***and legal certainty***, that Regulation should be recast.

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<sup>15</sup> 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** (OJ L 193, 30.7.2018, p. 1).

Decision **No 541/2014/EU** and repealing Regulation (EU, Euratom) **No 966/2012** (OJ L 193, 30.7.2018, p. 1).

## Amendment 2

### Proposal for a regulation

#### Recital 9

##### *Text proposed by the Commission*

(9) It is necessary to better reflect the specific nature and functioning of the provisioning of financial liabilities and of the budgetary guarantees. Certain definitions and rules on budgetary guarantees, budgetary commitments, legal commitments, payment appropriations, recipients and publication of information on recipients should therefore be adjusted. A definition of the constitution phase of the provisioning of financial liabilities should be added. Additionally, definitions should be updated to reflect in particular amendments to procurement rules and the introduction of rules on non-financial donations.

## Amendment 3

### Proposal for a regulation

#### Recital 21

##### *Text proposed by the Commission*

(21) In order to allow a rapid reaction in exceptional circumstances, the Commission should be able to accept in-kind donations, irrespective of their value, where such donations are made for the purposes of humanitarian aid, emergency support, civil protection or crisis management aid. In order to ensure appropriate safeguards, the Commission should only accept such donations where acceptance is in accordance with the principles of sound financial management and transparency, does not give rise to

##### *Amendment*

(9) It is necessary to better reflect the specific nature and functioning of the provisioning of financial liabilities and of the budgetary guarantees. Certain definitions and rules on budgetary guarantees, budgetary commitments, legal commitments, payment appropriations, recipients and publication of information on recipients should therefore be adjusted **and aligned**. A definition of the constitution phase of the provisioning of financial liabilities should be added. Additionally, definitions should be updated to reflect in particular amendments to procurement rules and the introduction of rules on non-financial donations.

##### *Amendment*

(21) In order to allow a rapid reaction in exceptional circumstances, the Commission should be able to accept in-kind donations **in a transparent manner**, irrespective of their value, where such donations are made for the purposes of humanitarian aid, emergency support, civil protection or crisis management aid. In order to ensure appropriate safeguards, the Commission should only accept such donations where acceptance is in accordance with the principles of sound financial management and transparency,

conflicts of interest and does not harm the image of the Union. The donor should not be, at the moment of acceptance, in one of the exclusion situations under the early-detection and exclusion system and should not be registered as excluded in the corresponding database.

does not give rise to conflicts of interest and does not harm the image of the Union. The donor should not be, at the moment of acceptance, in one of the exclusion situations under the early-detection and exclusion system and should not be registered as excluded in the corresponding database.

#### **Amendment 4**

##### **Proposal for a regulation Recital 24**

###### *Text proposed by the Commission*

(24) Considering the importance of addressing climate and environmental challenges and in order to ensure that budget implementation contributes to the achievement of the European Green Deal<sup>30</sup>, the concept of performance as regards the budget should be extended to include the implementation of programmes and activities in a sustainable way, which would not hinder the achievement of the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems.

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<sup>30</sup> The European Green deal, Communication from the Commission to the European Parliament, the European Council, the Council the European Economic and Social Committee and the Committee of the Regions, COM/2019/640 final.

###### *Amendment*

(24) Considering the importance of addressing climate and environmental challenges and in order to ensure that budget implementation contributes to the achievement of the European Green Deal<sup>30</sup>, the concept of performance as regards the budget should, ***for the sake of completeness***, be extended to include the implementation of programmes and activities in a sustainable way, which would not hinder the achievement of the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems.

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<sup>30</sup> The European Green Deal, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, COM/2019/640 final.

#### **Amendment 5**

##### **Proposal for a regulation**

## Recital 27

### *Text proposed by the Commission*

(27) In order to enhance the protection of the Union budget against fraud, corruption, conflicts of interest, double funding and other irregularities, standardised measures to collect, compare and aggregate information on the recipients of Union funding should be introduced. In particular, in order to effectively prevent, detect, investigate and correct frauds or remedy irregularities, it is necessary to be able to identify the natural persons that ultimately benefit, directly or indirectly, from Union funding and who ultimately profit from the misuse of EU funding. The electronic recording and storage of data on the recipients of Union funding, including their beneficial owners as defined in Article 3, point (6), of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>32</sup> and the regular making of those data available in a single integrated IT system for data-mining and risk-scoring provided by the Commission, should facilitate risk assessment for the purposes of selection, award, financial management, monitoring, investigation, control and audit and contribute to effective prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities. The Commission should be responsible for the development, management and supervision of the single integrated IT system for data-mining and risk-scoring. The Commission, the Member States, the persons or entities implementing the budget, the European Anti-Fraud Office ('OLAF') and other Union investigative and control bodies should have the necessary access to those data within the exercise of their respective competences. The rules related to the recording, storage, transfer and processing of data should comply with applicable ***data protection rules***.

### *Amendment*

(27) In order to enhance the protection of the Union budget against fraud, corruption, conflicts of interest, double funding and other irregularities, standardised ***financial and reimbursement requests and*** measures to collect, compare and aggregate information on the recipients of Union funding should be introduced. In particular, in order to effectively prevent, detect, investigate and correct frauds or remedy irregularities, it is necessary to be able to identify the natural persons that ultimately benefit, directly or indirectly, from Union funding and who ultimately profit from the misuse of EU funding. The electronic recording and storage of data on the recipients of Union funding, including their beneficial owners as defined in Article 3, point (6), of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>32</sup> and ***their main contractors***, the regular making of those data available in a single integrated IT system for data-mining and risk-scoring provided by the Commission, should facilitate risk assessment for the purposes of selection, award, financial management, monitoring, investigation, control and audit and contribute to effective prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities. ***The electronic storage of data and access to an integrated IT system would increase transparency at Union level, as well as public confidence in the way in which Union funds are being spent.*** The Commission should be responsible for the development, management and supervision of the single integrated IT system for data-mining and risk-scoring. The Commission, the Member States, the persons or entities implementing the budget, the European Anti-Fraud Office ('OLAF') and other Union investigative and control bodies

should have the necessary access to those data within the exercise of their respective competences. The rules related to the recording, storage, transfer and processing of data should comply with applicable ***rules on the protection of data, know-how and trade secrets.***

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<sup>32</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 141 5.6.2015, p. 73).

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<sup>32</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 141 5.6.2015, p. 73).

## Amendment 6

### Proposal for a regulation Recital 29

#### *Text proposed by the Commission*

(29) Without prejudice to the rules on the protection of personal data, the utmost transparency regarding information on recipients should be sought. The information on recipients of Union funds should be published on a dedicated website of Union institutions, such as the Financial Transparency System. Publication requirements should cover all methods of budget implementation, including by other Union institutions and bodies. To that end, Member States, persons and entities implementing the budget and other Union institutions and bodies should transmit to the Commission, at least on a yearly basis, information on their recipients of Union funding. That information should include at least the name, a unique identifier and the locality of the recipient, the amount committed ***and*** the purpose of the measure. That information should take into account relevant criteria such as the periodicity, the type and the importance of the measure.

#### *Amendment*

(29) Without prejudice to the rules on the protection of personal data, the utmost transparency regarding information on recipients should be sought. The information on recipients of Union funds should be published on a dedicated website of Union institutions, such as the Financial Transparency System. Publication requirements should cover all methods of budget implementation, including by other Union institutions and bodies. To that end, Member States, persons and entities implementing the budget and other Union institutions and bodies should transmit to the Commission, at least on a yearly basis, information on their recipients of Union funding. That information should include at least the name, a unique identifier and the locality of the recipient, the amount committed, the purpose of the measure, ***the main contractor, the date of the signing of the contract and, where applicable the date of the last reimbursement request.*** That information should take into account relevant criteria such as the periodicity, the

type and the importance of the measure.

## Amendment 7

### Proposal for a regulation

#### Recital 103

##### *Text proposed by the Commission*

(103) In order to enhance the protection of the Union financial interests the early-detection and exclusion system should be reinforced. It is important to avoid that a person or entity in an exclusion situation is able to apply to, or to be selected for implementing funds, or to receive such funds under a programme in shared management. Where there is a final judgment or a final administrative decision, the authorising officer responsible should be able to exclude a person or entity, provided that the latter is in an exclusion situation and deemed as not reliable by having engaged in certain serious misconducts referred to in Article 139(1). In the absence of a final judgment or a final administrative decision, the authorising officer responsible should be able to exclude, on the basis of a preliminary classification in law made by the panel referred to in Article 146, having regard to facts and findings established in the context of audits or investigations carried out by European Anti-fraud Office (OLAF), European Public Prosecutor Office (EPPO), the European Court of Auditors (ECA) or any other check, audit or control performed under the responsibility of the authorising officer. Such exclusion should be registered in the early-detection and exclusion system database established under Article 138(1). Member States' authorities should take it into account by rejecting such persons or entities from being selected to implement Union funds or from receiving such funds. Payment applications from Member States under shared management, including

##### *Amendment*

(103) In order to enhance the protection of the Union financial interests the early-detection and exclusion system should be reinforced. It is important to avoid that a person or entity in an exclusion situation is able to apply to, or to be selected for implementing funds, or to receive such funds ***under a programme in direct, indirect or shared management, or to be contractor*** under a programme in shared management. Where there is a final judgment or a final administrative decision, the authorising officer responsible should be able to exclude a person or entity, provided that the latter is in an exclusion situation and deemed as not reliable by having engaged in certain serious misconducts referred to in Article 139(1). In the absence of a final judgment or a final administrative decision, the authorising officer responsible should be able to exclude, on the basis of a preliminary classification in law made by the panel referred to in Article 146, having regard to facts and findings established in the context of audits or investigations carried out by European Anti-fraud Office (OLAF), European Public Prosecutor Office (EPPO), the European Court of Auditors (ECA) or any other check, audit or control performed under the responsibility of the authorising officer. Such exclusion should be registered in the early-detection and exclusion system database established under Article 138(1). Member States' authorities should take it into account by rejecting such persons or entities from being selected to implement Union funds or from receiving such funds.



expenditure related to a person or entity that has been excluded, should not be reimbursed. Where funds are disbursed to Member States under performance-based frameworks, specific rules shall apply, as set out in sector-specific legislation.

Payment applications from Member States under shared management, including expenditure related to a person or entity that has been excluded, should not be reimbursed. Where funds are disbursed to Member States under performance-based frameworks, specific rules shall apply, as set out in sector-specific legislation.

## Amendment 8

### Proposal for a regulation Recital 115

#### *Text proposed by the Commission*

(115) In order to further enhance the protection of the Union's financial interests, it should be possible for the authorising officer to exclude or impose a financial penalty on beneficial owners and affiliated entities of the excluded entity that were involved in the misconduct of the excluded entity. The possibility to exclude beneficial owners and affiliated entities is intended to prevent that a person or entity that has been excluded from being selected to implement Union's funds could continue to participate in procurement and award procedures, through a new company or existing affiliated entities.

#### *Amendment*

(115) In order to further enhance the protection of the Union's financial interests, it should be possible for the authorising officer to exclude or impose a financial penalty on beneficial owners and affiliated entities, ***including the main contractors***, of the excluded entity that were involved in the misconduct of the excluded entity. The possibility to exclude beneficial owners and affiliated entities is intended to prevent that a person or entity that has been excluded from being selected to implement Union's funds could continue to participate in procurement and award procedures, through a new company or existing affiliated entities.

## Amendment 9

### Proposal for a regulation Recital 134

#### *Text proposed by the Commission*

(134) In order to improve governance and quality of interoperable digital public services, the Union institutions, the executive agencies and the Union bodies, such as those referred to in Articles 70 and 71 should follow and apply to the greatest possible extent the European

#### *Amendment*

(134) In order to improve governance and quality of interoperable digital public services, ***the Member States***, the Union institutions, the executive agencies and the Union bodies, such as those referred to in Articles 70 and 71 should follow and apply to the greatest possible extent the European



## Amendment 10

### Proposal for a regulation

#### Recital 140

##### *Text proposed by the Commission*

(140) In order to ensure efficient implementation of the Union budget, it is appropriate to further clarify the application of the principle of proportionality to indirect management. While the principle of proportionality cannot affect the nature of the obligations imposed by the relevant applicable legal framework, it should be systematically used in the cooperation with Union implementing partners, in order to strike the right balance between protection of the Union's financial interests and preserving the Union's ability to implement its policies. Certain adjustments and restructuring of the relevant provisions should be made. This should not be interpreted as limiting in practice the necessary rights and access required for the authorising officer responsible, for EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, for OLAF, for the Court of Auditors, and, where appropriate, for the relevant national authorities, to comprehensively exert their respective competences.

##### *Amendment*

(140) In order to ensure efficient implementation of the Union budget, it is appropriate to further clarify the application of the principle of proportionality to indirect management. While the principle of proportionality cannot affect the nature of the obligations imposed by the relevant applicable legal framework, it should be systematically used in the cooperation with Union implementing partners, in order to strike the right balance between protection of the Union's financial interests and preserving the Union's ability to implement its policies. Certain adjustments and restructuring of the relevant provisions, ***including a harmonisation of the control procedures between the Court of Auditors on the one hand and the national and regional levels on the other hand*** should be made. This should not be interpreted as limiting in practice the necessary rights and access required for the authorising officer responsible, for EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, for OLAF, for the Court of Auditors, and, where appropriate, for the relevant national authorities, to comprehensively exert their respective competences.

## Amendment 11

### Proposal for a regulation

#### Recital 150

*Text proposed by the Commission*

(150) In light of the Covid-19 pandemic, it is appropriate to modify the definition of crisis, which applies in particular to the common provisions and to procurement in the field of external actions and covers public and animal health, food safety emergencies and global health threats. In order to allow the flexibility needed to ensure a rapid response to unforeseen circumstances of extreme urgency resulting from a crisis, the contracting authority should be allowed to apply simplified procurement rules, such as use of negotiated procedure without prior publication of a contract notice applicable to crisis situations and acceptance of evidence on exclusion and selection criteria from the presumed successful tenderer after the award decision but in any case before the signature of the contract. The contracting authority should also have flexibility to exceptionally modify a contract or a framework contract, beyond the thresholds referred to in Article 176(3), without a procurement procedure in order to respond to a crisis. A declaration of crisis should be required in line with the relevant internal rules prior to having recourse to such simplified rules, except for procurement in the field of external action where such declaration is not required. In addition, the authorising officers responsible should justify case-by-case the extreme urgency resulting from the declared crisis.

*Amendment*

(150) In light of the Covid-19 pandemic **and the impact of Russian military aggression against on Ukraine**, it is appropriate to modify the definition of crisis, which applies in particular to the common provisions and to procurement in the field of external actions and covers public and animal health, food safety emergencies and global health threats. In order to allow the flexibility needed to ensure a rapid response to unforeseen circumstances of extreme urgency resulting from a crisis, the contracting authority should be allowed to apply simplified procurement rules, such as use of negotiated procedure without prior publication of a contract notice applicable to crisis situations and acceptance of evidence on exclusion and selection criteria from the presumed successful tenderer after the award decision but in any case before the signature of the contract. The contracting authority should also have flexibility to exceptionally modify a contract or a framework contract, beyond the thresholds referred to in Article 176(3), without a procurement procedure in order to respond to a crisis. A declaration of crisis should be required in line with the relevant internal rules prior to having recourse to such simplified rules, except for procurement in the field of external action where such declaration is not required. In addition, the authorising officers responsible should justify case-by-case the extreme urgency resulting from the declared crisis.

**Amendment 12**

**Proposal for a regulation**  
**Recital 158**

*Text proposed by the Commission*

(158) In line with the objectives of the

*Amendment*

(158) In line with the objectives of the

Communication on the European Green Deal, progress towards implementation of greening aspects should be ensured by including, when relevant, for the calls for tenders, green selection or award criteria, which will incentivise the economic operators to offer more sustainable options.

Communication on the European Green Deal, progress towards implementation of greening aspects should be ensured by including, when relevant, for the calls for tenders, green selection or award criteria, which will incentivise the economic operators to offer more sustainable options. ***Moreover, cohesion policy is an important tool in combating climate change and supporting the objectives of the Paris Agreement.***

### Amendment 13

#### Proposal for a regulation Recital 161

##### *Text proposed by the Commission*

(161) In order to ensure the absence of professional conflicting interests that may affect or risk affecting the capacity to perform the contract in an independent, impartial and objective manner, it is necessary to clarify the obligations of the contracting authority and of the candidates or tenderers. On the one hand, the candidates, tenderers, and, where appropriate, entities on whose capacity they rely as well as envisaged subcontractors should declare the absence of such conflicting interests, and to provide related information where requested. On the other hand, the contracting authority should assess the existence of such professional conflicting interests when declared or on the basis of additional information. Where such professional conflicting interests are established, this should lead to rejection from the award.

##### *Amendment*

(161) In order to ensure the absence of professional conflicting interests that may affect or risk affecting the capacity to perform the contract in an independent, impartial and objective manner, it is necessary to clarify the obligations of the contracting authority and of the candidates or tenderers. On the one hand, the candidates, tenderers, and, where appropriate, entities on whose capacity they rely as well as envisaged subcontractors should declare the absence of such conflicting interests, and to provide related information where requested. On the other hand, the contracting authority should assess the existence of such professional conflicting interests when declared or on the basis of additional information ***without interfering or delaying the evaluation of the project.*** Where such professional conflicting interests are established, this should lead to rejection from the award.

### Amendment 14

#### Proposal for a regulation Recital 165

*Text proposed by the Commission*

(165) It is necessary to simplify the rules governing dynamic purchasing systems to enable contracting authorities to take full advantage of the possibilities afforded by that purchasing method. In particular, the systems should be operated in the form of a restricted procedure, thus allowing for any economic operator that submits a request to participate and meets the exclusion and selection criteria to take part in procurement procedures carried out through the dynamic purchasing system over its period of validity, which should not be limited to four years. Tenders may also be presented in the form of an electronic catalogue particularly for off-the-shelf products or services generally available on the market. Moreover, in order to reduce the administrative burden given the dynamic nature of the systems, the requirement to appoint an opening and evaluation committee should be waived for specific procurements under a dynamic purchasing system. Considering the progress in digitalisation of procurement procedures, it should be clarified that public openings for open procedures may be organised remotely via video conferences.

*Amendment*

(165) It is necessary to simplify the rules governing dynamic purchasing systems ***reducing the time consuming procedures, including the resolving of the appeals,*** to enable contracting authorities to take full advantage of the possibilities afforded by that purchasing method. In particular, the systems should be operated in the form of a restricted procedure, thus allowing for any economic operator that submits a request to participate and meets the exclusion and selection criteria to take part in procurement procedures carried out through the dynamic purchasing system over its period of validity, which should not be limited to four years. Tenders may also be presented in the form of an electronic catalogue particularly for off-the-shelf products or services generally available on the market. Moreover, in order to reduce the administrative burden given the dynamic nature of the systems, the requirement to appoint an opening and evaluation committee should be waived for specific procurements under a dynamic purchasing system. Considering the progress in digitalisation of procurement procedures, it should be clarified that public openings for open procedures may be organised remotely via video conferences.

**Amendment 15**

**Proposal for a regulation  
Recital 178**

*Text proposed by the Commission*

(178) Experience gained has shown that it is necessary to clarify in which cases a modification is considered altering the subject matter of the contract.

*Amendment*

(178) Experience gained has shown that it is necessary to clarify in which cases a modification is considered altering the subject matter of the contract ***and the selection criteria.***

## Amendment 16

### Proposal for a regulation Recital 248

#### *Text proposed by the Commission*

(248) In order to provide a clear legal framework for the Union institutions to donate services, supplies or works, non-financial donations should be included as a new budget implementation instrument. This instrument should not be confused with the general framework of support provided by the Union to third countries which is of a broader nature but can include non-financial donations. In light of the COVID-19 pandemic, such an instrument should provide a stable legal basis in particular for future crisis and emergency situations and ensure that the Union institutions have the appropriate budget support tools to help Member States, other persons and entities when support is most needed. That instrument should be implemented under direct management. Related provisions, such as definitions, suspension, termination and reduction, and evaluation committee should be adjusted accordingly.

#### *Amendment*

(248) In order to provide a clear **and transparent** legal framework for the Union institutions to donate services, supplies or works, non-financial donations should be included as a new budget implementation instrument. This instrument should not be confused with the general framework of support provided by the Union to third countries which is of a broader nature but can include non-financial donations. In light of the COVID-19 pandemic **and the impact of Russian military aggression against Ukraine**, such an instrument should provide a stable legal basis in particular for future crisis and emergency situations and ensure that the Union institutions have the appropriate budget support tools to help Member States, other persons and entities when support is most needed. That instrument should be implemented under direct management. Related provisions, such as definitions, suspension, termination and reduction, and evaluation committee should be adjusted accordingly.

## Amendment 17

### Proposal for a regulation Recital 256

#### *Text proposed by the Commission*

(256) Some modifications regarding the transmission to the Commission of data on recipients for the purposes of publication, and regarding the electronic recording and storage of data on recipients and the use of the single integrated IT system for data-mining and risk-scoring to access and analyse those data should apply only to

#### *Amendment*

(256) Some modifications regarding the transmission to the Commission of data on recipients for the purposes of publication, and regarding the electronic recording and storage of data on recipients and the use of the single integrated IT system for data-mining and risk-scoring to access and analyse those data should apply only to

programmes adopted under and financed from the post-2027 multiannual financial framework in order to ensure a smooth transition by allowing sufficient time for the necessary adaption of electronic data systems and of relevant agreements, as well as the provision of guidance and training.

programmes adopted under and financed from the post-2027 multiannual financial framework in order to ensure a smooth transition by allowing sufficient time for the necessary adaption of electronic data systems and of relevant agreements, as well as the provision of guidance and training ***for national, regional and local authorities.***

## Amendment 18

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 1

*Text proposed by the Commission*

(1) ‘applicant’ means a natural person or an entity with or without legal personality who has submitted an application in a grant award procedure , in a non-financial donation award procedure or in a contest for prizes;

*Amendment*

(1) ‘applicant’ means a natural person or an entity with or without legal personality who has submitted an application in a grant award procedure , in ***an award procedure for a loan guaranteed by the Union,*** in a non-financial donation award procedure or in a contest for prizes;

## Amendment 19

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 5

*Text proposed by the Commission*

(5) ‘beneficiary’ means a natural person or an entity with or without legal personality with whom a grant agreement has been signed;

*Amendment*

(5) ‘beneficiary’ means a natural person or an entity with or without legal personality with whom a grant agreement, ***a loan agreement, non-financial donation agreement*** has been signed, ***or a prize has been awarded;***

## Amendment 20

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 20

*Text proposed by the Commission*

(20) ‘control’ means any measure taken to provide reasonable assurance regarding the effectiveness, efficiency and economy of operations, the reliability of reporting, the safeguarding of assets and information, the prevention and detection and correction of fraud and irregularities and their follow-up, and the adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned. Controls may involve various checks, as well as the implementation of any policies and procedures to achieve the objectives referred to in the first sentence;

*Amendment*

(20) ‘control’ means any measure taken to provide reasonable assurance regarding the effectiveness, efficiency and economy of operations, the reliability of reporting, the safeguarding of assets and information, the prevention and detection and correction of fraud and irregularities and their follow-up, and the adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned. Controls may involve various checks, ***including the coherence and the maintaining of the eligibility criteria throughout the implementation period***, as well as the implementation of any policies and procedures to achieve the objectives referred to in the first sentence;

**Amendment 21**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 22 – point b**

*Text proposed by the Commission*

(b) a situation caused by natural disasters, man-made crisis such as wars and other conflicts or extraordinary circumstances having comparable effects related, inter alia, to climate change, public ***and*** animal health, food safety emergencies and global health threats such as pandemics, environmental degradation, privation of access to energy and natural resources or extreme poverty;

*Amendment*

(b) a situation caused by natural disasters, man-made crisis such as wars and other conflicts or extraordinary circumstances having comparable effects related, inter alia, to climate change, ***migratory flows causing instability in certain regions***, public, animal ***and plant*** health, food safety emergencies and global health threats such as pandemics, environmental degradation, privation of access to energy and natural resources or extreme poverty;

**Amendment 22**

**Proposal for a regulation**

**Article 6 – paragraph 1**



*Text proposed by the Commission*

1. The budget shall be established and implemented in accordance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management and transparency as set out in this Regulation.

*Amendment*

1. The budget shall be established and implemented in accordance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management, ***respect for rule of law and fundamental rights*** and transparency as set out in this Regulation.

*Justification*

*The addition of the respect for rule of law and fundamental rights among the principles is needed for reasons relating to the internal logic of the text and it is strictly linked to the modification proposed on art. 6, paragraph 2.*

**Amendment 23**

**Proposal for a regulation  
Article 6 – paragraph 2**

*Text proposed by the Commission*

2. The establishment and implementation of the budget shall also comply with the provisions of Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget.

*Amendment*

2. The establishment and implementation of the budget shall also comply with the provisions of Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget ***and rules to combat corruption and mismanagement.***

**Amendment 24**

**Proposal for a regulation  
Article 33 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) programmes and activities should be implemented to achieve their set objectives without doing significant harm to the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources,

*Amendment*

(d) programmes and activities should be implemented to achieve their set objectives without doing significant harm to the environmental objectives of climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources,



the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems, as set out in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>51</sup> .

the transition to a circular economy, pollution prevention and control and the protection and restoration of biodiversity and ecosystems, as set out in Article 9 of Regulation (EU) 2020/852 of the European Parliament and of the Council<sup>51</sup> ***except for crisis situations as defined in Art. 2 point (22) of this Regulation when priority will be assigned to solving the crisis situation considering the impact on human life.***

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<sup>51</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance), OJ L 198, 22.6.2020, p. 13.

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<sup>51</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (Text with EEA relevance), OJ L 198, 22.6.2020, p. 13.

## Amendment 25

### Proposal for a regulation

#### Article 36 – paragraph 2 – point d

##### *Text proposed by the Commission*

(d) prevention, detection, correction and follow-up of fraud , corruption, conflicts of interest, double funding and other irregularities , including through the electronic recording and storage of data on the recipients of Union funds including their beneficial owners, as defined in Article 3, point (6), of Directive (EU) 2015/849 , and through the use of a single integrated IT system for data-mining and risk-scoring provided by the Commission to access and analyse those data ;

##### *Amendment*

(d) prevention, detection, correction and follow-up of fraud , corruption, conflicts of interest, double funding and other irregularities , including through the electronic recording and storage of data on the recipients of Union funds including their beneficial owners ***and main contractors*** , as defined in Article 3, point (6), of Directive (EU) 2015/849 , and through the use of a single integrated IT system for data-mining and risk-scoring provided by the Commission to access and analyse those data ;

## Amendment 26

### Proposal for a regulation

#### Article 36 – paragraph 3 – point c

*Text proposed by the Commission*

(c) adequate audit trails and data integrity in data systems including electronic ones ;

*Amendment*

(c) adequate ***and harmonized sectorial audit trails*** audit trails and data integrity in data systems including electronic ones ;

**Amendment 27**

**Proposal for a regulation**

**Article 36 – paragraph 6 – point a**

*Text proposed by the Commission*

(a) the recipient's full legal name in the case of legal persons, the first and last name in the case of natural persons, their VAT identification number or tax identification number where available or another unique identifier at country level and the amount of funding. If a natural person, also the date of birth;

*Amendment*

(a) the recipient's ***and the main contractor's*** full legal name in the case of legal persons, the first and last name in the case of natural persons, their VAT identification number or tax identification number where available or another unique identifier at country level and the amount of funding. If a natural person, also the date of birth;

**Amendment 28**

**Proposal for a regulation**

**Article 36 – paragraph 7 – subparagraph 1**

*Text proposed by the Commission*

The single integrated IT system for data-mining and risk-scoring shall be designed to facilitate risk assessment for the purposes of selection, award, financial management, monitoring, investigation, control and audit and contribute to effective prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities.

*Amendment*

The single integrated IT system for data-mining and risk-scoring shall be designed to facilitate risk assessment for the purposes of selection, award, financial management, monitoring, investigation, control and audit and contribute to effective prevention, detection, correction and follow-up of fraud, corruption, conflicts of interest, double funding and other irregularities ***in order to protect Union's financial interests.***

**Amendment 29**

**Proposal for a regulation**

**Article 36 – paragraph 7 – subparagraph 2**

*Text proposed by the Commission*

The use of and access to the data processed by the single integrated IT system for data-mining and risk-scoring shall comply with applicable data protection rules and shall be limited to the Commission or an executive agency as referred to in Article 69, the Member States implementing the budget pursuant to Article 62(1), first subparagraph, point (b), the Member States that receive and implement Union funds pursuant to budget implementation under Article 62(1), first subparagraph, point (a), the persons or entities implementing the budget pursuant to Article 62(1), first subparagraph, point (c), OLAF, the Court of Auditors, EPPO and other Union investigative and control bodies, within the exercise of their respective competences.

*Amendment*

The use of and access to the data processed by the single integrated IT system for data-mining and risk-scoring shall comply with applicable data protection rules and ***rules on the protection of know-how and commercial interests and*** shall be limited to the Commission or an executive agency as referred to in Article 69, the Member States implementing the budget pursuant to Article 62(1), first subparagraph, point (b), the Member States that receive and implement Union funds pursuant to budget implementation under Article 62(1), first subparagraph, point (a), the persons or entities implementing the budget pursuant to Article 62(1), first subparagraph, point (c), OLAF, the Court of Auditors, EPPO and other Union investigative and control bodies, within the exercise of their respective competences.

**Amendment 30**

**Proposal for a regulation  
Article 56 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 56 a***

***Budget implementation in accordance with the principle of respect for rule of law and fundamental rights***

***1. The Commission shall implement the revenue and expenditure of the budget in accordance with the principle of respect for rule of law and fundamental rights, which is an essential precondition for sound financial management and effective EU funding.***

***2. The Commission shall implement the revenue and expenditure of the budget in accordance with Regulation (EU, Euratom) 2020/2092 and ensure the***

*full compliance with Article 2 TEU.*

**3. The Member States shall cooperate with the Commission so that the appropriations are used in accordance with the principle of respect for rule of law and fundamental rights.**

*Justification*

*This new article on budget implementation in accordance with the principle of respect for rule of law and fundamental rights is needed for reasons relating to the internal logic of the text and it is strictly linked to the modification proposed on art. 6, paragraph 2.*

**Amendment 31**

**Proposal for a regulation**

**Article 63 – paragraph 5 – point b**

*Text proposed by the Commission*

(b) an annual **summary of the final** audit **reports and of controls carried out**, including an analysis of the nature and **extent** of errors and weaknesses identified in systems, as well as corrective action taken or planned.

*Amendment*

(b) an annual **control report by the** audit **authority of the Member State setting out the principal audit findings and conclusions**, including an analysis of the nature and **circumstances** of errors and weaknesses identified in systems, as well as corrective action taken or planned.

*Justification*

*The purpose of this addition is to bring more closely into line the provisions of Article 63(5)(b) of the Financial Regulation and those of Article 77(3)(b) of Regulation (EU) No 1060/2021 laying down common provisions for the programming period 2021-2027, clearly obviating the need to draw up two separate documents for the programming period 2021-2027: the annual summary drawn up by the managing authority and the annual control report drawn up by the audit authority.*

**Amendment 32**

**Proposal for a regulation**

**Article 168 – paragraph 5 – point b**

*Text proposed by the Commission*

(b) the procedures involving a call for

*Amendment*

(b) the procedures involving a call for

expression of interest for contracts with a value below the thresholds referred to in Article 179(1), to preselect candidates to be invited to submit tenders in response to future restricted invitations to tender, or to collect a list of vendors to be invited to submit requests to participate or submit tenders;

expression of interest for contracts with a value below the thresholds referred to in Article 179(1) **and Article 182 (1)**, to preselect candidates to be invited to submit tenders in response to future restricted invitations to tender, or to collect a list of vendors to be invited to submit requests to participate or submit tenders;

#### *Justification*

*Addition of Article 182(1) setting thresholds for external actions. Procedures involving calls for expression of interest are applicable to external actions, under point 13.1 of Annex I, which relates to both limit categories - referred to in Article 179 (1) (new) and Article 182 (1) (new).*

### **Amendment 33**

#### **Proposal for a regulation**

#### **Article 212 – paragraph 5 – subparagraph 2**

##### *Text proposed by the Commission*

The Commission shall remain responsible for ensuring that the implementation framework for financial instruments and budgetary guarantees complies with the principle of sound financial management and supports the attainment of defined and time-bound policy objectives, measurable in terms of outputs and/or results. The Commission shall be accountable for the implementation of financial instruments and budgetary guarantees without prejudice to the entrusted entities' legal and contractual responsibility in accordance with the applicable law and Article 130.

##### *Amendment*

The Commission shall remain responsible for ensuring that the implementation framework for financial instruments and budgetary guarantees complies with the principle of sound financial management and supports the attainment of defined and time-bound policy objectives, measurable in terms of outputs and/or results. The Commission shall ***ensure that Union funds are used in an efficient, transparent and appropriate manner, keeping administrative and financial burdens to a minimum, in particular for local and regional authorities. The Commission shall*** be accountable for the implementation of financial instruments and budgetary guarantees without prejudice to the entrusted entities' legal and contractual responsibility in accordance with the applicable law and Article 130.

### **Amendment 34**

**Proposal for a regulation**

**Annex I – Part 2 – point 34 – point 34.2 – paragraph 2**

*Text proposed by the Commission*

Where the total value of all the contracts to be awarded is equal to or greater than the thresholds referred to in Article 179(1), Article 167(1) and Articles 168 and 169 shall apply to each of the contracts.

*Amendment*

Where the total value of all the contracts to be awarded is equal to or greater than the thresholds referred to in Article 179(1) **and pursuant to Article 182(1)**, Article 167(1) and Articles 168 and 169 shall apply to each of the contracts.

*Justification*

*Point 34 is not mentioned under point 37 (new) as exempt from external actions. We accordingly propose the inclusion of reference to the new Article 182(1), which sets out the thresholds for external actions.*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Financial rules applicable to the general budget of the Union (recast)
<b>References</b>	COM(2022)0223 – C9-0179/2022 – 2022/0162(COD)
<b>Committees responsible</b> Date announced in plenary	BUDG                      CONT
<b>Opinion by</b> Date announced in plenary	REGI 12.9.2022
<b>Rapporteur for the opinion</b> Date appointed	Daniel Buda 15.6.2022
<b>Rule 58 – Joint committee procedure</b> Date announced in plenary	6.10.2022
<b>Discussed in committee</b>	6.10.2022
<b>Date adopted</b>	30.11.2022
<b>Result of final vote</b>	+ :                      29 - :                      0 0 :                      2
<b>Members present for the final vote</b>	Matteo Adinolfi, François Alfonsi, Stéphane Bijoux, Franc Bogovič, Vlad-Marius Botoș, Christian Doleschal, Matthias Ecke, Chiara Gemma, Krzysztof Hetman, Ondřej Knotek, Nora Mebarek, Alin Mituța, Dan-Ștefan Motreanu, Denis Nesci, Andrey Novakov, Younous Omarjee, Alessandro Panza, Marcos Ros Sempere, Susana Solís Pérez, Irène Tolleret, Monika Vana
<b>Substitutes present for the final vote</b>	Álvaro Amaro, Karolin Braunsberger-Reinhold, Daniel Buda, Isabel Carvalhais, Elena Lizzi, Bronis Ropé, Vera Tax, Stefania Zambelli
<b>Substitutes under Rule 209(7) present for the final vote</b>	Vasile Blaga, Carlo Fidanza

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

29	+
ID	Matteo Adinolfi, Elena Lizzi, Alessandro Panza, Stefania Zambelli
NI	Chiara Gemma
PPE	Álvaro Amaro, Vasile Blaga, Franc Bogovič, Karolin Braunsberger-Reinhold, Daniel Buda, Christian Doleschal, Krzysztof Hetman, Dan-Ștefan Motreanu, Andrey Novakov
RENEW	Stéphane Bijoux, Vlad-Marius Botoș, Ondřej Knotek, Alin Mituța, Susana Solís Pérez, Irène Tolleret
S&D	Isabel Carvalhais, Matthias Ecke, Nora Mebarek, Marcos Ros Sempere, Vera Tax
THE LEFT	Younous Omarjee
VERTS/ALE	François Alfonsi, Bronis Ropė, Monika Vana

0	-

2	0
ECR	Carlo Fidanza, Denis Nesci

Key to symbols:

+ : in favour

- : against

0 : abstention



25.4.2023

## LETTER OF THE COMMITTEE ON LEGAL AFFAIRS

Ms Monika Hohlmeier  
Chair  
Committee on Budgetary control  
BRUSSELS

Mr Johan Van Overtveldt  
Chair  
Committee on Budgets  
BRUSSELS

Subject: Opinion on a proposal for a regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (recast) (COM(2022)0223 – C9-0179/2022 – 2022/0162(COD))

Dear Chairs,

The Committee on Legal Affairs has examined the proposal referred to above pursuant to Rule 110 on recasting of Parliament's Rules of Procedure.

Paragraph 3 of that Rule reads as follows:

*“If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible for the subject matter thereof.*

*In such a case, over and above the conditions laid down in Rules 180 and 181, amendments shall be admissible within the committee responsible for the subject-matter only if they concern those parts of the proposal which contain changes.*

*However, amendments to parts of the proposal which remain unchanged may, by way of exception and on a case-by-case basis, be accepted by the Chair of the committee responsible for the subject matter if he or she considers that this is necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments. Such reasons must be stated in a written justification to the amendments.”*

Following the here attached opinion of the Consultative Working Party of the Legal Services of the Parliament, the Council and the Commission, which has examined the recast proposal, and in keeping with the recommendations of the Rapporteur, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such and that, as regards the codification of the unchanged provisions of the

earlier act with those substantive amendments, the proposal contains a straightforward codification of the existing text, without any change in its substance.

As regards the amendments originating from a later act, that is Regulation (EU, Euratom) 2022/2434<sup>1</sup>, which was proposed and adopted after the proposal for the recast of Regulation (EU, Euratom) 2018/1046<sup>2</sup> was submitted, the Committee on Legal Affairs considers that those amendments should also be incorporated into the final text of the recast version of Regulation (EU, Euratom) 2018/1046.

In conclusion, at its meeting of 25 April 2023, the Committee on Legal Affairs unanimously<sup>3</sup> decided to recommend that the Committee on Budgets and the Committee on Budgetary Control, as the committees responsible, proceed to examine the above proposal in accordance with Rule 110.

Yours sincerely,

Adrián Vázquez Lázara

Encl.: Opinion of the Consultative Working Party.

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<sup>1</sup> Regulation (EU, Euratom) 2022/2434 of the European Parliament and of the Council of 6 December 2022 amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method (OJ L 319, 13.12.2022, p. 1).

<sup>2</sup> 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 (OJ L 193, 30.7.2018, p. 1).

<sup>3</sup> The following were present for the final vote: Sergey Lagodinsky (Vice-Chair), Marion Walsmann (Vice-Chair), Lara Wolters (Vice-Chair), Raffaele Stancanelli (Vice-Chair), Pascal Arimont, Manon Aubry, Gunnar Beck, Daniel Buda, Ibán García Del Blanco, Ilana Cicurel, Pascal Durand, Angel Dzhambazki, Agnes Jangerius (for Tiemo Wölken pursuant to Rule 209(7)), Virginie Joron, Heidi Hautala, Pierre Karleskind, Maria-Manuel Leitão-Marques, Gilles Lebreton, Antonius Manders, Karen Melchior, Maite Pagazaurtundúa (for Adrián Vázquez Lázara pursuant to Rule 209(7)), Sabrina Pignedoli, Jiří Pospíšil, Axel Voss and Javier Zarzalejos.



CONSULTATIVE WORKING PARTY  
OF THE LEGAL SERVICES

Brussels, 11 April 2023

## OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT  
THE COUNCIL  
THE COMMISSION**

**Proposal for a regulation of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union  
COM(2022)0223 of 16.5.2022 – 2022/0162(COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 19 January, 25 January and 2 February 2023 for the purpose of examining the aforementioned proposal submitted by the Commission.

At those meetings<sup>4</sup>, an examination of the proposal for a Regulation of the European Parliament and of the Council recasting 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 resulted in the Consultative Working Party's establishing, by common accord, as follows.

1. The following should have been marked with the grey-shaded type generally used for identifying substantive amendments:

- the deletion of recital 181 of Regulation (EU, Euratom) 2018/1046;
- in Article 14(1), the replacement of the words '*without prejudice to*' with the word '*notwithstanding*';
- in Article 32(2), first subparagraph, the adding of the words '*under Article 9(1), point (b), of Regulation (EU, Euratom) 2020/2093*';
- in Article 32(2), third subparagraph, the adding of the words '*for assistance under Article 9(1), point (b), of Regulation (EU, Euratom) 2020/2093*';
- in Article 38(2)(b), the adding of the words '*first and last*';

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<sup>4</sup> The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.

- in Article 49(1), second subparagraph, the replacement of the reference made to ‘*point (c) of the first subparagraph of Article 30(1)*’ with a reference to ‘*Article 30(2), point (a)*’;
  - in Article 62(1), first subparagraph, point (a), the replacement of the article number ‘153’ with ‘157’;
  - in Article 62(1), first subparagraph, point (c), introductory wording, the replacement of the article number ‘149’ with ‘153’;
  - in Article 93(4), first subparagraph, introductory wording, the replacement of the reference made to ‘*Article 143(2)*’ with a reference to ‘*Article 146(2), subparagraph 1, points (a) and (b)*’;
  - in Article 113(4), first subparagraph, the deletion of the words ‘*either*’ and ‘*or*’;
  - in Article 138(4), second subparagraph, the adding of the indication ‘*and (8)*’;
  - in Article 139(1), point (c)(iv), the deletion of the word ‘*procedure*’;
  - in Article 139(4), point (f)(ii), the adding of the word ‘*or*’;
  - in Article 162(2), the replacement of the reference made to ‘*Article 155(5)*’ with a reference to ‘*Article 159(8)*’;
  - in Article 200(1), point (d), the replacement of the reference made to ‘*point (c) of the first subparagraph of Article 62(1)*’ with a reference to ‘*Article 62(1), first subparagraph, point (b)*’;
  - in Article 253(1), point (d), the replacement of the reference made to ‘*Article 118(4)*’ with a reference to ‘*Article 119(8)*’;
  - in Article 275(1), the deletion of the third sentence of Article 279(1) of Regulation (EU, Euratom) 2018/1046;
  - in Article 278, second paragraph, the replacement of the date ‘*2 August 2018*’ with the indication ‘*[...]*’;
  - in the introductory wording of point 20.2 of Annex I, the adding of the words ‘*in particular*’.
2. In Article 41(2), first subparagraph, the reference made to ‘*the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management*’ should have been replaced with a reference to ‘*the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources*’. The corresponding footnote no. 69 should read ‘*OJ L 4331, 22.12.2020, p. 28*’.
3. In Article 139(1), point (d)(iv), the words ‘*in Article 4 of that Decision*’ should have been replaced by the words ‘*in Article 14 of that Directive*’.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such.

The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that, at the time when proposal COM(2022) 223 final was submitted by the Commission to the European Parliament and to the Council, that proposal contained a straightforward codification of the existing legal text, without any change in its substance. However, after the submission of proposal COM(2022)

223 final, the Commission also submitted proposal COM(2022) 596 final and, as a result of the relevant legislative procedure, Regulation (EU, Euratom) 2022/2434 of the European Parliament and of the Council of 6 December 2022 amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method was adopted and published in the Official Journal. The amendments originating from Regulation (EU, Euratom) 2022/2434 should therefore be incorporated in the final text of the recast version of Regulation (EU, Euratom) 2018/1046.

F. DREXLER  
Jurisconsult

J.B. LAIGNELOT  
acting Director-General

D. CALLEJA CRESPO  
Director-General

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Financial rules applicable to the general budget of the Union (recast)			
<b>References</b>	COM(2022)0223 – C9-0179/2022 – 2022/0162(COD)			
<b>Date submitted to Parliament</b>	16.5.2022			
<b>Committees responsible</b> Date announced in plenary	BUDG                      CONT			
<b>Committees asked for opinions</b> Date announced in plenary	AFET 12.9.2022	DEVE 12.9.2022	ENVI 12.9.2022	ITRE 12.9.2022
	TRAN 12.9.2022	REGI 12.9.2022	AGRI 12.9.2022	PECH 12.9.2022
	JURI 12.9.2022	LIBE 12.9.2022		
<b>Not delivering opinions</b> Date of decision	AFET 13.7.2022	DEVE 14.6.2022	ENVI 13.6.2022	TRAN 15.6.2022
	AGRI 14.6.2022	PECH 10.10.2022	JURI 31.1.2023	LIBE 27.10.2022
<b>Rapporteurs</b> Date appointed	Nils Ušakovs 23.9.2022	Monika Hohlmeier 23.9.2022		
<b>Rule 58 – Joint committee procedure</b> Date announced in plenary	6.10.2022			
<b>Discussed in committee</b>	9.2.2023                      1.3.2023			
<b>Date adopted</b>	27.4.2023			
<b>Result of final vote</b>	+:                      43 –:                      3 0:                      4			
<b>Members present for the final vote</b>	Rasmus Andresen, Pietro Bartolo, Ryszard Czarnecki, Andor Deli, Pascal Durand, José Manuel Fernandes, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Eider Gardiazabal Rubial, Matteo Gazzini, Alexandra Geese, Vlad Gheorghe, Valérie Hayer, Eero Heinäluoma, Monika Hohlmeier, Jean-François Jalkh, Moritz Körner, Joachim Kuhs, Pierre Larroustou, Janusz Lewandowski, Claudiu Manda, Margarida Marques, Alin Mituța, Siegfried Mureșan, Andrey Novakov, Dimitrios Papadimoulis, Bogdan Rzońca, Eleni Stavrou, Nils Torvalds, Rainer Wieland			
<b>Substitutes present for the final vote</b>	Anna-Michelle Asimakopoulou, Herbert Dorfmann, Jens Geier, Maria Grapini, Francisco Guerreiro, Hannes Heide, Eva Maria Poptcheva, Simone Schmiedtbauer, Ramona Strugariu, Michal Wiezik			
<b>Substitutes under Rule 209(7) present for the final vote</b>	Clara Aguilera, Margrete Auken, Maria da Graça Carvalho, Beatrice Covassi, Anna Júlia Donáth, Lena Düpont, Estrella Durá Ferrandis, Maria Veronica Rossi, Tomáš Zdechovský			
<b>Date tabled</b>	4.5.2023			

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

43	+
PPE	Anna-Michelle Asimakopoulou, Maria da Graça Carvalho, Herbert Dorfmann, Lena Düpont, José Manuel Fernandes, Monika Hohlmeier, Janusz Lewandowski, Siegfried Mureşan, Andrey Novakov, Simone Schmiedtbauer, Eleni Stavrou, Rainer Wieland, Tomáš Zdechovský
Renew	Anna Júlia Donáth, Vlad Gheorghe, Valérie Hayer, Moritz Körner, Alin Mituţa, Eva Maria Poptcheva, Ramona Strugariu, Nils Torvalds, Michal Wiezik
S&D	Clara Aguilera, Pietro Bartolo, Beatrice Covassi, Estrella Durá Ferrandis, Pascal Durand, Isabel García Muñoz, Eider Gardiazabal Rubial, Jens Geier, Maria Grapini, Hannes Heide, Eero Heinäluoma, Pierre Larroustourou, Claudiu Manda, Margarida Marques
The Left	Luke Ming Flanagan, Dimitrios Papadimoulis
Verts/ALE	Rasmus Andresen, Margrete Auken, Daniel Freund, Alexandra Geese, Francisco Guerreiro

3	-
ECR	Ryszard Czarnecki, Bogdan Rzońca
NI	Andor Deli

4	0
ID	Matteo Gazzini, Jean-François Jalkh, Joachim Kuhs, Maria Veronica Rossi

Key to symbols:

+ : in favour

- : against

0 : abstention