



2016/0282(COD)

18.4.2017

OPINION

of the Committee on Foreign Affairs

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 and amending Regulation (EC) No 2012/2002, Regulations (EU) No 1296/2013, (EU) 1301/2013, (EU) No 1303/2013, EU No 1304/2013, (EU) No 1305/2013, (EU) No 1306/2013, (EU) No 1307/2013, (EU) No 1308/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, (EU) No 652/2014 of the European Parliament and of the Council and Decision No 541/2014/EU of the European Parliament and of the Council (COM(2016)0605 – C8-0372/2016 – 2016/0282(COD))

Rapporteur: Andi Cristea

PA_Legam

SHORT JUSTIFICATION

The rapporteur welcomes the overall focus of the revision of the Financial Regulation on more coherence and simplification of financial rules and on increasing flexibility of budget management. This is of particular importance for the efficiency of Union action in external relations.

It is however necessary to clarify the provisions on the "flexibility cushion" within external financing instruments in order to make sure that the possibility of carry-over of unallocated funds increases the capacity to respond to unforeseen developments without constituting a means to divert funds from the specific objectives of each instrument.

The rapporteur further believes that parliamentary scrutiny and transparency of the Union trust funds needs to be reinforced, especially for non-emergency actions and including through systematic representation of Parliament in their boards.

The provisions on procurement in the field of external actions should also be modified to take better account of certain specific features of actions under the Common Foreign and Security Policy.

AMENDMENTS

The Committee on Foreign Affairs 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 4

Text proposed by the Commission

(4) ***Up to 10% of the*** funds of the Instrument for Pre-accession Assistance (IPA II), the European Neighbourhood Instrument and the financing instrument for development cooperation (DCI) ***may be kept unallocated at the beginning*** of the ***financial year to allow additional funding*** to respond to major unforeseen needs, new crises situations or significant political shifts in ***third*** countries, ***in addition to the amounts already programmed***. These unallocated funds, if not committed during the year, should be carried over by a Decision of the Commission.

Amendment

(4) ***The possibility to carry over remaining unallocated*** funds of the Instrument for Pre-accession Assistance (IPA II), the European Neighbourhood Instrument and the financing instrument for development cooperation (DCI) ***should be introduced, within a limit of 10% of the initial appropriations of each instrument, in order to increase capacity*** to respond to major unforeseen needs, new crises situations or significant political shifts in ***the*** countries ***concerned by those instruments and avoid pressure to commit unallocated funds towards the end of the year***. These unallocated funds, if not

committed during the year, should be carried over by a Decision of the Commission, ***whilst ensuring that they are spent in accordance with the specific objectives of their initial instrument and governed by the rules and bodies relating to that instrument.***

Justification

The recital should be in line with Article 12(2)(e) which only concerns carry-over rules. It should be guaranteed that no unallocated funds carried over can be diverted from the specific objectives of the respective instrument.

Amendment 2

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) The principle of transparency, enshrined in Article 15 TFEU which requires the institutions to work as openly as possible, implies, in the area of the implementation of the budget, that citizens are able to 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 ***and*** reinforces institutional control and scrutiny over Union expenditure. Such objectives should be achieved by the publication, preferably using modern communication tools, of relevant information concerning all recipients of Union funds which takes into account such all 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. 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

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information.

publish should be based on relevant criteria in order to provide meaningful information.

Amendment 3

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) The name and the locality of the recipient and the amount and the purpose of the funds should not be published if it risks endangering the integrity of the recipient as protected by the Charter of Fundamental Rights of the European Union or would harm the legitimate commercial interests of the recipient.

Amendment

(22) The name and the locality of the recipient and the amount and the purpose of the funds should not be published if it risks endangering the integrity of the recipient as protected, *in particular*, by the Charter of Fundamental Rights of the European Union or would harm the legitimate commercial interests of the recipient.

Amendment 4

Proposal for a regulation Recital 47

Text proposed by the Commission

(47) *For the sake of* legal security, the rules regarding the delays when a debit note is to be sent should be defined.

Amendment

(47) *In order to guarantee* legal security *and transparency*, the rules regarding the delays when a debit note is to be sent should be defined.

Amendment 5

Proposal for a regulation Recital 105

Text proposed by the Commission

(105) It is appropriate that different cases usually referred to as situations of conflict of interest be identified and treated distinctly. The notion of a ‘conflict of interest’ should be solely used for cases where an entity or person with

Amendment

(105) It is appropriate that different cases usually referred to as situations of conflict of interest be identified and treated distinctly. The notion of a ‘conflict of interest’ should be solely used for cases where an entity or person with

responsibilities for budget implementation, audit or control or an official or an agent of a Union institution is in such a situation. In cases where an economic operator attempts to unduly influence a procedure or obtain confidential information, this should be treated as grave professional misconduct. In addition, economic operators may 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.

responsibilities for budget implementation, audit or control or an official or an agent of a Union institution is in such a situation. In cases where an economic operator attempts to unduly influence a procedure or obtain confidential information, this should be treated as grave professional misconduct ***as a result of which that operator can be excluded from the procedure***. In addition, economic operators may 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 6

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point e

Text proposed by the Commission

(e) appropriations ***kept unallocated at the beginning of the financial year*** relating to the funds referred to in Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II), Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (ENI) and Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (DCI), within a limit of 10% of the initial appropriations of each instrument.

Amendment

(e) appropriations relating to the funds referred to in Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II), Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (ENI) and Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (DCI) ***which were kept unallocated in order to allow for more flexibility in responding to unforeseen needs and which were not committed during the financial year***, within a limit of 10% of the initial appropriations of each instrument. ***Those appropriations shall be spent in accordance with the specific objectives of***

their initial instrument and shall be subject to the rules and the bodies relating to that instrument.

Justification

It should be guaranteed that no unallocated funds carried over can be diverted from the specific objectives of the respective instrument.

Amendment 7

**Proposal for a regulation
Article 39 – paragraph 6**

Text proposed by the Commission

6. Where the Commission makes use of Union Trust Funds, it shall attach to the draft budget a working document on the activities supported by Union Trust Funds, on their implementation ***and performance***.

Amendment

6. Where the Commission makes use of Union Trust Funds, it shall attach to the draft budget a ***detailed*** working document on the activities supported by Union Trust Funds, on their implementation, ***performance and management cost***.

Amendment 8

**Proposal for a regulation
Article 58 – paragraph 2 – subparagraph 1**

Text proposed by the Commission

However, the Commission may delegate its powers of budget implementation concerning the operational appropriations of its own section to the Heads of Union delegations and, in order to ensure business continuity during their absence, to ***the deputy Heads of Delegations***. When Heads of Union delegations act as sub-delegated authorising officers of the Commission ***and their deputies in the absence*** of the ***latter***, they shall apply the Commission rules for the implementation of the budget and shall be subject to the same duties, obligations and accountability as any other sub-delegated authorising officer of the Commission.

Amendment

However, the Commission may delegate its powers of budget implementation concerning the operational appropriations of its own section to the Heads of Union delegations and, ***limited to the operational appropriations for preparatory measures in the field of Title V of the TEU pursuant to point (c) of Article 56(2) of this Regulation, to the Civilian Operations Commander, and***, in order to ensure business continuity during their absence, to ***their deputies***. When Heads of Union delegations ***and the Civilian Operations Commander and in their absence their deputies*** act as sub-delegated authorising officers of the Commission, they shall apply the Commission rules for the

implementation of the budget and shall be subject to the same duties, obligations and accountability as any other sub-delegated authorising officer of the Commission.

Justification

Subdelegation to the Civilian Operations Commander, analogous to the existing subdelegation to Heads of Union Delegations and narrowly limited to the preparatory measures under CFSP, would help streamline procedures for civilian crisis management and enable a more rapid reaction to crises.

Amendment 9

Proposal for a regulation

Article 58 – paragraph 2 – subparagraph 3

Text proposed by the Commission

For the purposes of the first subparagraph, the High Representative shall take the measures necessary to facilitate cooperation between Union delegations and Commission departments.

Amendment

For the purposes of the first subparagraph, the High Representative shall take the measures necessary to facilitate cooperation between Union delegations and ***the Civilian Operations Commander on the one side and*** Commission departments ***on the other side***.

Amendment 10

Proposal for a regulation

Article 227 – paragraph 1

Text proposed by the Commission

1. For emergency, post-emergency *or* thematic actions, ***the Commission may create, after informing the European Parliament and the Council,*** trust funds under an agreement concluded with other donors. The constitutive act of each trust fund shall define the objectives of the trust fund. The Commission decision establishing the trust fund shall include a description of the fund's objectives, the justification for its creation in accordance with paragraph 3, an indication of its duration and the preliminary agreements

Amendment

1. ***The Commission is empowered to adopt delegated acts in accordance with Article 261 to provide for the creation of trust funds*** for emergency, post-emergency or thematic actions. ***Where, in the case of emergency actions, imperative grounds of urgency so require, the procedure provided for in Article 261a shall apply to delegated acts adopted pursuant to this Article. Such*** trust funds ***shall be created*** under an agreement concluded with other donors. The constitutive act of each trust fund shall define the objectives of the trust

with other donors.

fund. The Commission decision establishing the trust fund shall include a description of the fund's objectives, the justification for its creation in accordance with paragraph 3, an indication of its duration and the preliminary agreements with other donors.

Amendment 11

Proposal for a regulation Article 227 – paragraph 3 – point a

Text proposed by the Commission

(a) there is added value to the Union intervention: trust funds shall only be created and implemented at Union level where their objectives, in particular by reason of their scale or potential effects, may be better achieved at Union level than at national level;

Amendment

(a) there is added value to the Union intervention: trust funds shall only be created and implemented at Union level where their objectives, in particular by reason of their scale or potential effects, may be better achieved at Union level than at national level ***and cannot be achieved to the same extent through any other existing financial instrument***;

Amendment 12

Proposal for a regulation Article 227 – paragraph 4

Text proposed by the Commission

4. A board chaired by the Commission shall be established for each Union trust fund to ensure the fair representation of the donors, and of the non-contributing Member States as observers, and to decide upon the use of the funds. The rules for composition of the board and its internal rules shall be laid down in the constitutive act of the trust fund adopted by the Commission and adhered to by the donors. Those rules shall include the requirement to have the positive vote of the Commission for the final decision on the use of the funds.

Amendment

4. A board chaired by the Commission shall be established for each Union trust fund to ensure the fair representation of the donors, and of the non-contributing Member States ***as well as the European Parliament*** as observers, and to decide upon the use of the funds. The rules for composition of the board and its internal rules shall be laid down in the constitutive act of the trust fund adopted by the Commission and adhered to by the donors. Those rules shall include the requirement to have the positive vote of the Commission for the final decision on the

use of the funds.

Amendment 13

Proposal for a regulation Article 228 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Union trust funds shall be implemented in accordance with the principles of sound financial management, transparency, proportionality, non-discrimination and equal treatment, ***ensuring full respect of the budgetary scrutiny and control mechanism of the European Parliament***, and in accordance with the specific objectives defined in each constitutive act.

Amendment 14

Proposal for a regulation Article 228 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Any Union contribution shall be used in accordance with the objectives set out in the basic act under which the Union contribution to the Union trust fund is provided.

Amendment 15

Proposal for a regulation Article 228 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The Commission shall publish a detailed report on the activities supported by Union trust funds, as well as on their implementation and performance, by means of a working document attached to the draft budget every year in accordance

with Article 39(6).

Amendment 16

Proposal for a regulation Article 229 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the third country complies with the fundamental principles of the Universal Declaration of Human Rights;

Amendment 17

Proposal for a regulation Article 229 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the third country has provided for anti-corruption laws.

Amendment 18

Proposal for a regulation Article 261 a (new)

Text proposed by the Commission

Amendment

Article 261 a

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 261(6). In such a case, the Commission shall repeal the act

immediately following the notification of the decision to object by the European Parliament or by the Council.

Amendment 19

Proposal for a regulation

Annex I – chapter 3 – point 39.1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) where the Decision establishing a civilian crisis management mission under the Common Foreign and Security Policy provides for that possibility for reasons of operational urgency.

Justification

The possibility to use the negotiated procedure for civilian crisis management should be allowed whenever the urgency of the situation so requires, to be determined on an ad hoc basis in the Decision establishing the crisis management mission.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Financial rules applicable to the general budget of the Union	
References	COM(2016)0605 – C8-0372/2016 – 2016/0282(COD)	
Committees responsible Date announced in plenary	BUDG 21.11.2016	CONT 21.11.2016
Opinion by Date announced in plenary	AFET 21.11.2016	
Rapporteur Date appointed	Andi Cristea 12.1.2017	
Rule 55 – Joint committee procedure Date announced in plenary	19.1.2017	
Discussed in committee	28.2.2017	
Date adopted	11.4.2017	
Result of final vote	+: 42	–: 1
	0: 15	
Members present for the final vote	Lars Adaktusson, Francisco Assis, Amjad Bashir, Bas Belder, Mario Borghezio, Fabio Massimo Castaldo, Lorenzo Cesa, Javier Couso Permuy, Andi Cristea, Arnaud Danjean, Georgios Epitideios, Knut Fleckenstein, Eugen Freund, Michael Gahler, Sandra Kalniete, Karol Karski, Tunne Kelam, Janusz Korwin-Mikke, Eduard Kukan, Arne Lietz, Barbara Lochbihler, Sabine Lösing, Ulrike Lunacek, Andrejs Mamikins, Ramona Nicole Mănescu, Alex Mayer, David McAllister, Francisco José Millán Mon, Javier Nart, Pier Antonio Panzeri, Demetris Papadakis, Ioan Mircea Pașcu, Alojz Peterle, Tonino Picula, Kati Piri, Julia Pitera, Cristian Dan Preda, Jozo Radoš, Jordi Solé, Jaromír Štětina, Dubravka Šuica, Charles Tannock, László Tőkés, Ivo Vajgl, Elena Valenciano, Geoffrey Van Orden, Anders Primdahl Vistisen, Boris Zala	
Substitutes present for the final vote	María Teresa Giménez Barbat, Andrzej Grzyb, Antonio López-Istúriz White, Norica Nicolai, Urmas Paet, José Ignacio Salafranca Sánchez-Neyra, Marietje Schaake, Helmut Scholz, Marie-Christine Vergiat	
Substitutes under Rule 200(2) present for the final vote	Josef Weidenholzer	

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

42	+
ALDE	María Teresa Giménez Barbat, Javier Nart, Norica Nicolai, Urmas Paet, Jozo Radoš, Marietje Schaake, Ivo Vajgl
EFDD	Fabio Massimo Castaldo
PPE	Lars Adaktusson, Lorenzo Cesa, Arnaud Danjean, Michael Gahler, Andrzej Grzyb, Sandra Kalniete, Tunne Kelam, Eduard Kukan, Antonio López-Istúriz White, Ramona Nicole Mănescu, David McAllister, Francisco José Millán Mon, Alojz Peterle, Julia Pitera, Cristian Dan Preda, José Ignacio Salafranca Sánchez-Neyra, Jaromír Štětina, Dubravka Šuica, László Tőkés
S&D	Francisco Assis, Andi Cristea, Knut Fleckenstein, Eugen Freund, Arne Lietz, Andrejs Mamikins, Alex Mayer, Pier Antonio Panzeri, Demetris Papadakis, Ioan Mircea Pașcu, Tonino Picula, Kati Piri, Elena Valenciano, Josef Weidenholzer, Boris Zala

1	-
NI	Georgios Epitideios

15	0
ECR	Amjad Bashir, Bas Belder, Karol Karski, Charles Tannock, Geoffrey Van Orden, Anders Primdahl Vistisen
ENF	Mario Borghezio
GUE/NGL	Javier Couso Permuy, Sabine Lösing, Helmut Scholz, Marie-Christine Vergiat, Janusz Korwin-Mikke, Barbara Lochbihler, Ulrike Lunacek, Jordi Solé

Key to symbols:

+ : in favour

- : against

0 : abstention