

**REGULATION BC-1-2019
OF THE BUDGET COMMITTEE
OF THE EUROPEAN UNION
INTELLECTUAL
PROPERTY OFFICE
of 10 July 2019
laying down the financial provisions
applicable to the Office
(‘Financial Regulation’)**

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**REGULATION BC-1-2019 OF THE BUDGET COMMITTEE OF THE
EUROPEAN UNION INTELLECTUAL PROPERTY OFFICE
of 6 June 2019
laying down the financial provisions applicable to the Office
(‘Financial Regulation’)**

THE BUDGET COMMITTEE,

Having regard to Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark ⁽¹⁾ (EUTMR), and in particular to Article 177 thereof,

Having regard to the opinion of the European Court of Auditors,

Having regard to the opinion of the Commission,

Whereas:

- (1) The EUTM Regulation lays down the basic rules governing the establishment and implementation of the Office’s budget as well as the presentation and auditing of its accounts.
- (2) The Budget Committee, set up by Article 171 EUTMR, is the Office’s budgetary authority.
- (3) 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 ⁽²⁾ entered into force on 2 August 2018.
- (4) The Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (hereinafter Regulation (EU) 2019/715) ⁽³⁾ repealed the Commission Delegated Regulation (EU) No 1271/2013 ⁽⁴⁾.

⁽¹⁾ OJ L 154, 16.6.2017, p. 1-99.

⁽²⁾ 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 541/2013/EU and repealing Regulation (EU, Euratom) No 966/2012; OJ L 193 of 30 July 2018, p.1.

⁽³⁾ OJ L 122, 10.5.2019, p. 1–38.

⁽⁴⁾ Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council; OJ L 328, 7.12.2013, p. 42.

- (5) In accordance with Article 177 EUTMR, the financial provisions governing the Office shall, insofar as compatible with the particular nature of the Office, be based on the financial regulations adopted for other bodies set up by the Union.
- (6) The present Regulation is adopted to update the financial rules of the Office that are laid down in Regulation No CB-1-15 ⁽⁵⁾ and Regulation No CB-2-15 ⁽⁶⁾ in view of the novelties introduced by Regulation (EU) 2019/715 and to combine the relevant provisions of said Regulations into one single document in order to increase their simplification, clarity and flexibility.
- (7) The Office should establish and implement its budget in accordance with the principles of unity, accuracy, universality, specification, annuality, equilibrium, unit of account, sound financial management and performance, and transparency.
- (8) The financial rules of the Office need to be aligned with the provisions of its constituent act,

HAS ADOPTED THIS REGULATION:

⁽⁵⁾ Regulation No CB-1-15 of the Budget Committee of the European Union Intellectual Property Office of 26 November 2015 laying down the financial provisions applicable to the Office ("Financial Regulation").

⁽⁶⁾ Regulation No CB-2-15 of the Budget Committee of the European Union Intellectual Property Office of 26 November 2015 laying down detailed rules for the implementation of Regulation No CB-1-15 of the Budget Committee of the Office of 26 November 2015 laying down the financial provisions applicable to the Office ("Financial Regulation").

TITLE I GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down the principles and rules governing the establishment and implementation of the Office's budget.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'constituent act' means the instrument of European Union law governing the main aspects of the setting up and operation of the Office, which is Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark;
- (2) 'Management Board' means the internal body of the Office that has the functions established in the constituent act, in particular those mentioned in Article 153 thereof;
- (3) 'Budget Committee' means the internal body of the Office that has the functions established in the constituent act, in particular those mentioned in Chapter XII, Section 6 thereof;
- (4) 'Executive Director' means the person responsible for the management of the Office who has the functions listed in the constituent act, in particular in Article 157 thereof;
- (5) 'authorising officer' means the Executive Director;
- (6) 'authorising officer responsible' means the Executive Director, an authorising officer by delegation or an authorising officer by subdelegation;
- (7) 'Council' means the Council of the European Union;
- (8) 'budget' means the instrument that, for each financial year, forecasts and authorises in advance the Office's revenue and expenditure. It includes, for both revenue and expenditure, separate headings for activities financed by third parties;
- (9) 'Union body' means any body referred to in Article 70 of Regulation (EU, Euratom) 2018/1046;

(10) ‘third entities of public law’ means European Institutions and other EU bodies and other public law bodies as referred to in Article 62(1)(c) of Regulation 2018/1046.

The definitions that are laid down in Article 2 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis* to this Regulation.

Article 3

Periods, dates and time limits

Unless otherwise provided, Council Regulation (EEC, Euratom) No 1182/71 ⁽⁷⁾ shall apply to deadlines set out in this Regulation.

Article 4

Protection of personal data

This Regulation is without prejudice to the requirements of Regulations (EC) No 2018/1725 ⁽⁸⁾ and (EU) No 2016/679 ⁽⁹⁾.

⁽⁷⁾ Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits; OJ L 124, 8.6.1971, p. 1.

⁽⁸⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

⁽⁹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.

TITLE II BUDGET AND BUDGETARY PRINCIPLES

Article 5

Respect for budgetary principles

The Office's 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.

CHAPTER 1

Principles of unity and of budget accuracy

Article 6

Scope of Office's budget

1. For each financial year, the Office's budget shall forecast and authorise all revenue and expenditure considered necessary for the Office. It shall comprise the Office's revenue and expenditure, including administrative expenditure.
2. The Office's budget shall contain non-differentiated appropriations.
3. The budget of the Office shall comprise:
 - (a) revenue consisting of all fees and charges and any other revenue which the Office is authorised to collect by virtue of the tasks entrusted to it;
 - (b) revenue consisting of any other type of income, such as interest, revenue from exchange rate fluctuations or extraordinary income;
 - (c) revenue consisting of any financial contributions from the host Member States;
 - (d) revenue assigned during the financial year to specific items of expenditure in accordance with Article 20(1) of this Regulation;
 - (e) the balance from the previous financial year;
 - (f) revenue consisting, to the extent necessary, of a subsidy granted by the Union, as provided for in Article 172(3) of the constituent act;
 - (g) the Office's expenditure, including administrative expenditure.
4. For the purposes of Article 152(5) of the constituent act, yearly revenue shall be the estimated revenue under points (a) and (b) of paragraph 3 for that financial year only.

5. For the purposes of Article 172(5), (7) and (8) of the constituent act, yearly revenue shall be the revenue collected under points (a) and (b) of paragraph 3 in that financial year only.
6. Commitments shall cover the total cost of the legal commitments entered into during the financial year, subject to Article 75(2) of this Regulation.
7. Payments shall be made to honour the legal commitments entered into in the financial year or preceding financial years.
8. Paragraphs 3 and 6 of this Article shall not prevent appropriations being committed globally or budgetary commitments being made in annual instalments, as respectively provided for in point (b) of Article 74(1) and in Article 74(2) of this Regulation.

Article 7

Contribution agreements, grant agreements and financial framework partnerships

1. Contribution agreements and grant agreements may be exceptionally concluded between the Commission and the Office provided that the following conditions are met:
 - (a) the constituent act of the Office or a basic act within the meaning of Article 2(4) of Regulation (EU, Euratom) 2018/1046 expressly provides for such possibility;
 - (b) the conclusion of such an agreement is duly justified by the special nature of the action and specific expertise of the Office;
 - (c) the tasks to be implemented by the Office under the agreement satisfy the following criteria:
 - i. fall within the scope of the Office's objectives and the tasks are compatible with the Office's mandate as set out in the constituent act;
 - ii. the tasks do not form part of the tasks assigned to the Office in the constituent act and for which the Office would receive a subsidy from the Commission pursuant Article 172(3) of the constituent act.
2. Where contribution agreements and grant agreements referred in paragraph 1 and service-level agreements are concluded for services offered by the Office to the Commission, the Commission may establish a financial framework partnership agreement with the Office in line with Article 130 of Regulation (EU, Euratom) 2018/1046.
3. The choice by the Commission of the Office shall take due account of the cost efficiency of entrusting those tasks.

4. Where the Commission exceptionally signs a contribution agreement with the Office, the rules applicable to indirect management laid down in Titles V and VI of Regulation (EU, Euratom) 2018/1046 shall apply to the Office in respect of funds allocated to that agreement and Articles 110 and 111 of this Regulation shall not apply.
5. The tasks referred to under paragraph 1 should be included in the programming documents of the Office, referred to in Article 32, for information purposes only. Information on the agreements referred to under paragraph 2 shall be included in the consolidated annual activity report referred to in Article 48 of this Regulation.
6. The authorising officer shall inform the Management Board before signing any agreement referred to in paragraph 2.
7. Funds allocated by the European Commission to the Office through agreements governed by this article shall not be deemed to be a subsidy within the meaning of Article 172(3) of the constituent act.

Article 8

Specific rules on the principles of unity and budgetary accuracy

1. All revenue and expenditure shall be booked to a budget item in the Office's budget.
2. No expenditure may be committed or authorised in excess of the appropriations authorised by the Office's budget.
3. An appropriation may be entered in the Office's budget only if it is for an item of expenditure considered necessary.
4. Interest generated by pre-financing payments made from the Office's budget shall not be due to the Office except as otherwise provided for in the contribution agreements referred to in Article 7 of this Regulation.

CHAPTER 2

Principle of annuality

Article 9

Definition

The appropriations entered in the Office's budget shall be authorised for a financial year that shall run from 1 January to 31 December.

Article 10

Budgetary accounting for revenue and appropriations

1. The Office's revenue of a financial year, as referred to in Article 6 of this Regulation, shall be entered in the accounts for that financial year on the basis of the amounts collected during that financial year.
2. Commitments shall be entered in the accounts for a financial year on the basis of the legal commitments entered into up to 31 December of that year. However, the global budgetary commitments referred to in point (b) of Article 74(1) of this Regulation shall be entered in the accounts for a financial year on the basis of the budgetary commitments up to 31 December of that year.
3. Payments shall be entered in the accounts for a financial year on the basis of the payments made by the accounting officer by 31 December of that year.
4. Where the constituent act or basic act provides that clearly defined tasks are financed separately or where the Office implements agreements concluded in accordance with Article 7 of this Regulation, it shall hold separate budget items on the revenue and expenditure operations. The Office shall clearly identify each group of tasks in its resource programming included in the programming documents drawn up pursuant to Article 32 of this Regulation.

Article 11

Commitment of appropriations

1. The appropriations entered in the Office's budget may be committed with effect from 1 January, once the budget has been definitively adopted.
2. As from 15 October of the financial year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year, provided that this expenditure has been approved in the last Office's budget duly adopted, and only up to a maximum of one quarter of the appropriations decided upon by the Budget Committee on the corresponding budget item for the current financial year.

Article 12

Cancellation and carry-over of appropriations

1. Appropriations which have not been used by the end of the financial year for which they were entered shall be cancelled, unless they are carried over in accordance with paragraphs 2 and 4 below.
2. The amounts corresponding to appropriations for which most of the preparatory stages of the commitment procedure have been completed by 31 December of the financial

year may be carried over by a decision taken pursuant to paragraph 3 below, but only to the following financial year. Such appropriations may be committed up to 31 March of the following financial year, with the exception of the appropriations related to building projects, which may be committed up to 31 December of the following financial year.

3. The Budget Committee shall take its decision on carry-overs as referred to in paragraph 2 by 15 February of the following financial year.
4. Appropriations shall be automatically carried over in respect of:
 - (a) appropriations corresponding to internal assigned revenue. Such appropriations may be carried over only to the following financial year and may be committed up to 31 December of that year, with the exception of the internal assigned revenue from lettings and the sale of buildings and land referred to in point (e) of Article 20(3) of this Regulation, which may be carried over until it is fully used;
 - (b) appropriations corresponding to external assigned revenue. Such appropriations shall be fully used by the time all the operations relating to the programme or action to which they are assigned have been carried out or they may be carried over and used for the succeeding programme or action.
 - (c) appropriations corresponding to co-financing of projects funded from the Union budget, and in particular through agreements referred to in Article 7, shall be carried over until the end of the project.
5. Appropriations for staff expenditure shall not be carried over. For the purposes of this Article, staff expenditure comprises remuneration and allowances for the staff of the Office who are subject to the Staff Regulations.
6. Appropriations legally committed by the end of the financial year (year N) shall be paid by the end of the following financial year (year N+1).

Article 13

Detailed provisions on cancellation and carry-over of appropriations

1. The appropriations referred to in Article 12(2) of this Regulation may be carried over only if the commitments could not be made before 31 December of the financial year for reasons not attributable to the authorising officer and if the preparatory stages are sufficiently advanced to make it reasonable to expect that the commitment will be made by no later than 31 March of the following financial year, or, in relation to building projects, by 31 December of the following financial year.
2. Appropriations carried over in accordance with Article 12(2) which have not been committed by 31 March of the following financial year or up to 31 December of the

following year for amounts relating to building projects shall be automatically cancelled.

3. Appropriations carried over which have been cancelled shall be identified in the accounts.

Article 14

Decommitment of appropriations

1. Where budgetary commitments are decommitted in any financial year after the year in which they were made as a result of total or partial non-implementation of the actions for which they were earmarked, the appropriations corresponding to such decommitments shall be cancelled.
2. This Article shall not apply to external assigned revenue referred to in Article 20(2) of this Regulation.

Article 15

Rules applicable in the event of late adoption of Office budget

1. If the Office's budget has not been definitively adopted by the beginning of the financial year, the rules set out in paragraphs 2 to 6 below shall apply.
2. Commitments may be made per chapter up to a maximum of one quarter of the total appropriations authorised in the relevant chapter of the Office's budget for the preceding financial year plus one twelfth for each month that has elapsed.

The limit of the appropriations provided for in the statement of estimates of revenue and expenditure shall not be exceeded.

Payments may be made monthly per chapter up to a maximum of one twelfth of the appropriations authorised in the relevant chapter of the Office's budget for the preceding financial year. However, that sum shall not exceed one twelfth of the appropriations provided for in the same chapter of the statement of estimates of revenue and expenditure.

3. The appropriations authorised in the relevant chapter of the Office's budget for the preceding financial year, as specified in paragraph 2, shall be understood as referring to the appropriations voted in the Office's budget, including by amending budgets, and after adjustment for the transfers made during that financial year.
4. If the continuity of the Office action and management needs so require, the Budget Committee may, at the request of the Executive Director, authorise expenditure in excess of one provisional twelfth but not exceeding a total of four provisional twelfths, except in duly justified cases, both for commitments and for payments over and above those automatically made available in accordance with paragraph 2.

The additional twelfths shall be authorised in full and shall not be divisible.

5. If, for a given chapter, the authorisation of four provisional twelfths granted in accordance with paragraph 4 is not sufficient to cover the expenditure necessary to avoid a break in continuity of action by the Office in the area covered by the chapter in question, authorisation may exceptionally be given by the Budget Committee, at the request of the Executive Director, to exceed the amount of the appropriations entered in the corresponding chapter of the Office's budget for the preceding financial year. However, the overall total of the appropriations available in the Office's budget for the preceding financial year or in the statement of estimates of revenue and expenditure, as proposed, shall in no circumstances be exceeded.

CHAPTER 3

Principle of equilibrium

Article 16

Definition and scope

1. Revenue and expenditure shall be in balance.
2. Appropriations may not exceed the amount of revenue referred to in Article 6 of this Regulation.
3. Fees should be set at a level such as to avoid a significant accumulation of surplus. Where a significant positive or negative budget result, within the meaning of Article 104 of this Regulation, becomes recurrent, the level of the fees and charges shall be revised in accordance with the provisions of the constituent act.
4. The Office shall not raise loans within the framework of its budget.
5. Where the Office receives a subsidy from the Union budget pursuant to Article 172(3) of the constituent act, this subsidy shall constitute, for the Office's budget, a balancing subsidy and may be divided into a number of payments.
6. The Office shall implement rigorous cash management. Where the Office receives a subsidy from the Union budget pursuant to Article 172(3) of the constituent act, the Office shall submit with the payment requests to the Commission a detailed and updated forecast of its real cash requirements throughout the year, including information on assigned revenue.

Article 17

Budget result from financial year

1. Without prejudice to Article 172(8) of the constituent act, if the budget result within the

meaning of Article 104 of this Regulation is positive, it shall be entered in the budget of the Office for the following year as revenue.

2. Where the Office receives the subsidy referred to in point (f) of Article 6(3) of this Regulation and if the budget result is positive, within the meaning of Article 104 of this Regulation, it shall be repaid to the Commission up to the amount of the subsidy paid during the year.

The difference between the subsidy entered in the budget and that actually paid to the Office shall be cancelled.

If the budget result within the meaning of Article 104 of this Regulation is negative, it shall be entered in the Office's budget for the following financial year as expenditure or, where appropriate, offset against the Office's positive budget result in the following financial years.

3. The revenue or expenditure shall be entered in the Office's budget during the budgetary procedure using the letter of amendment procedure set out in Article 42 of Regulation (EU, Euratom) 2018/1046 or, while the implementation of the Office's budget is under way, by means of an amending budget.

Where the Office receives a subsidy from the Union budget pursuant to Article 172(3) of the constituent act, an estimate of the budget result from year N-1, will be provided by the Office no later than 31 January of year N. This information shall be duly taken into account by the Commission when assessing the Office's financial needs for the year N+1.

CHAPTER 4

Principle of unit of account

Article 18

Use of euro

1. The Office's budget shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for the cash-flow purposes referred to in Article 49 of this Regulation, the accounting officer and, in the case of imprest accounts, the imprest administrators, and, for the needs of the administrative management of the Office, the authorising officer responsible, shall be authorised to carry out operations in other currencies.
2. Without prejudice to specific provisions laid down in sector-specific rules, or in specific contracts, grant agreements, contribution agreements and financing agreements, conversion by the authorising officer responsible shall be made using the daily euro exchange rate published in the C series of the *Official Journal of the European Union* of the day on which the payment order or recovery order is drawn up by the authorising department.

If no such daily rate is published, the authorising officer responsible shall use the one referred to in paragraph 3.

3. For the purposes of the accounts provided for in Articles 82, 83 and 84 of Regulation (EU, Euratom) 2018/1046, conversion between the euro and another currency shall be made using the monthly accounting exchange rate of the euro. That accounting exchange rate shall be established by the Commission's accounting officer by means of any source of information regarded as reliable, based on the exchange rate on the penultimate working day of the month preceding that for which the rate is established.
4. Currency conversion operations shall be carried out in such a way as to avoid having a significant impact on the level of the Union co-financing or a detrimental impact on the budget. Where appropriate, the rate of conversion between the euro and other currencies may be calculated using the average of the daily exchange rate in a given period.

CHAPTER 5

Principle of universality

Article 19

Scope

Without prejudice to Article 20 of this Regulation, total revenue shall cover total expenditure. Without prejudice to Article 24 of this Regulation, all revenue and expenditure shall be entered in full without any adjustment against each other.

Article 20

Assigned revenue

1. External assigned revenue and internal assigned revenue shall be used to finance specific items of expenditure.
2. The following shall constitute external assigned revenue:
 - (a) financial contributions from Member States and third countries, including in both cases their public agencies, entities or natural persons, to certain Office activities insofar as this is provided for in the agreement concluded between the Office and the Member States, third countries or the public agencies, entities or natural persons in question;
 - (b) financial contributions from international organisations;

- (c) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests;
 - (d) financial contributions, not covered by point (a), to the Office's activities from third countries or non-Union bodies;
 - (e) revenue from agreements referred to in Article 7 of this Regulation;
 - (f) internal assigned revenue referred to in paragraph 3 below, to the extent that it is ancillary to the other revenue referred to in points (a) to (c) of this paragraph;
3. The following shall constitute internal assigned revenue:
- (a) revenue from third parties in respect of goods, services or work supplied at their request, with the exception of fees and charges referred to in point (a) of Article 6(3) of this Regulation;
 - (b) revenue arising from the repayment, in accordance with Article 62 of this Regulation, of amounts wrongly paid;
 - (c) proceeds from the supply of goods, services and works for Union institutions or other Union bodies;
 - (d) insurance payments received;
 - (e) revenue from lettings and from the sale of buildings and land;
 - (f) revenue arising from subsequent reimbursement of taxes pursuant to point (b) of Article 27(3) of Regulation (EU, Euratom) 2018/1046.
4. Assigned revenue shall be carried over and transferred in accordance with the provisions of points (a) and (b) of Article 12(4) and Article 27 of this Regulation.
5. Without prejudice to point (f) of paragraph 2, the constituent act may also assign the revenue for which it provides to specific items of expenditure. Unless specified otherwise in the constituent act, such revenue shall constitute internal assigned revenue.
6. All items of revenue within the meaning of points (a) to (c) of paragraph 2 and points (a) and (c) of paragraph 3 shall cover all direct or indirect expenditure incurred by the activity or purpose in question.
7. The Office's budget shall include items to accommodate external assigned revenue and internal assigned revenue and, wherever possible, shall indicate the amount.

Assigned revenue may be included in the estimate of revenue and expenditure only for the amounts that are certain at the date of the establishment of the estimate.

Article 21

Structure to accommodate assigned revenue and provision of corresponding appropriations

1. The structure to accommodate assigned revenue in the Office's budget shall comprise the following:
 - a) in the statement of revenue, a budget item to receive the revenue.
 - b) in the statement of expenditure, the budget remarks, including general remarks, showing which budget items may receive the appropriations corresponding to assigned revenue which are made available.

In the case referred to in point (a) of paragraph 1, a token entry '*pro memoria*' shall be made and the estimated revenue shall be shown for information in the remarks.

2. The appropriations corresponding to assigned revenue shall be made available automatically, when the revenue has been received by the Office.
3. Without prejudice to paragraph 2, where assigned revenue stems from the implementation of a contribution agreement concluded pursuant to Article 7, the total amount of appropriations may be made available upon entry into effect of the agreement concerned, provided that the basic act with regard to the funds being delegated to the Office provides for the possibility to make use of annual instalments.

Article 22

Donations

1. The Executive Director may accept any donation made to the Office, such as foundations, subsidies, gifts and bequests.
2. Acceptance of a donation of a value of EUR 50 000 or more which involves a financial charge or any type of obligation, including follow-up costs, exceeding 10% of the value of the donation made, shall be subject to the prior authorisation of the Budget Committee. The Budget Committee shall take a decision within 2 months of the date on which the request for authorisation is submitted to it. If the Budget Committee fails to take a decision within that period, the donation shall be deemed accepted.
3. The Executive Director shall, at the request of the Budget Committee, analyse, estimate and duly explain the financial charges, including follow-up costs, and any other obligations as referred to in paragraph 2 that the acceptance of donations made to the Office entails.

Article 23
Corporate sponsorship

Article 26 of Regulation (EU, Euratom) 2018/1046 shall not apply.

Article 24
Rules on deductions and exchange rate adjustments

Article 27 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

CHAPTER 6
Principle of specification

Article 25
General provisions

1. Appropriations shall be earmarked for specific purposes by title and chapter. The chapters shall be further subdivided into articles and items.
2. In the Office's budget, appropriations may only be transferred to items for which the Office's budget has authorised appropriations or which carry a token entry '*pro memoria*'.
3. The limits referred to in Article 26 of this Regulation shall be calculated at the time the request for transfer is made and with reference to the appropriations provided in the Office's budget, including amending budgets.
4. The amount to be taken into consideration for the purposes of calculating the limits referred to in Article 26 of this Regulation shall be the sum of the transfers to be made on the budget item from which transfers are being made, after adjustment for earlier transfers made.

Article 26
Transfers

1. The Executive Director may transfer appropriations:
 - (a) from one title to another up to a maximum of 10 % of the appropriations for the financial year shown on the item from which the transfer is made;
 - (b) from one chapter to another and within each chapter without limit.
2. Beyond the limit referred to in paragraph 1, the Executive Director may propose transfers of appropriations from one title to another to the Budget Committee. The

Budget Committee shall have 2 weeks to oppose the proposed transfers. After that time limit the proposed transfers shall be deemed to be adopted.

3. Proposals for transfers and transfers carried out under paragraphs 1 and 2 shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.
4. The authorising officer shall inform the Budget Committee as soon as possible of all transfers made. Where the Office receives a subsidy from the Union budget pursuant to Article 172(3) of the constituent act, the authoring officer shall inform the European Parliament and the Council of all transfers carried out under paragraph 2.

Article 27

Specific rules on transfers

Appropriations corresponding to assigned revenue may be transferred only if such revenue is used for the purpose for which it is assigned.

CHAPTER 7

Principle of sound financial management and performance

Article 28

Performance and principles of economy, efficiency and effectiveness

1. Appropriations shall be used in accordance with the principle of sound financial management, and thus be implemented respecting the following principles:
 - (a) the principle of economy, which requires that the resources used by the Office in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price;
 - (b) the principle of efficiency, which concerns the best relationship between the resources employed, the activities undertaken and the achievement of objectives;
 - (c) the principle of effectiveness, which concerns the extent to which the objectives pursued are achieved through the activities undertaken.
2. In line with the principle of sound financial management, the use of appropriations shall focus on performance and for that purpose:
 - (a) objectives for programmes and activities shall be established *ex ante*;

- (b) progress in the achievement of objectives shall be monitored with performance indicators;
 - (c) progress in, and problems with, the achievements of those objectives shall be reported to the Management Board in accordance with Article 32 and Article 48(1)(b) of this Regulation.
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. The indicators used to monitor the achievement of the objectives shall cover all sectors. The Executive Director shall provide the relevant information to the Management Board annually. It shall be included in the programming documents referred to in Article 32 of this Regulation.
4. The Office shall carry out a benchmarking exercise.

The benchmarking exercise shall include:

- a) a review of the efficiency of the Office's horizontal services;
- b) a cost-benefit analysis of sharing services or transferring them entirely to another Union body or the Commission.

When carrying out the benchmarking exercise referred to in the first and the second subparagraphs, the Office shall make the necessary arrangements to avoid any conflict of interests.

Article 29 **Evaluations**

1. Programmes and activities that entail significant spending shall be subject to *ex ante* and retrospective evaluations ("evaluation"), which shall be proportionate to the objectives and expenditure.
2. *Ex ante* evaluations supporting the preparation of programmes and activities shall be based on evidence, if available, on the performance of related programmes or activities and shall identify and analyse the issues to be addressed, the added value of Union involvement, objectives, expected effects of different options, and monitoring and evaluation arrangements.
3. Retrospective evaluations shall assess the performance of the programme or activity, including aspects such as effectiveness, efficiency, coherence, relevance and EU added value. Retrospective evaluations shall be based on the information generated by the monitoring arrangements and indicators established for the action concerned. They shall be undertaken periodically and in sufficient time for the findings to be taken

into account in *ex ante* evaluations or impact assessments that support the preparation of related programmes and activities.

4. The Executive Director shall prepare an action plan to follow up on the conclusions of the evaluations referred to in paragraph 3, in line with the provisions of Article 157(4)(i) of the constituent act, and report on its progress to the Commission in the Consolidated Annual Activity Report referred to in Article 48 of this Regulation and regularly to the Management Board.
5. The Management Board shall scrutinise the implementation of the action plan referred to in paragraph 4, in line with the provisions of Article 153(1)(k) of the constituent act.

Article 30

Internal control of budget implementation

1. Pursuant to the principle of sound financial management, the Office's budget shall be implemented in compliance with effective and efficient internal control.
2. For the purposes of the implementation of the Office's budget, internal control shall be applied at all levels of management and shall be designed to provide reasonable assurance of achieving the following objectives:
 - (a) effectiveness, efficiency and economy of operations;
 - (b) reliability of reporting;
 - (c) safeguarding of assets and information;
 - (d) prevention, detection, correction and follow-up of fraud and irregularities;
 - (e) 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.
3. Effective internal control shall be based on best international practices and on the Internal Control Framework laid down by the European Commission for its own departments, and shall include, in particular, the following elements:
 - (a) segregation of tasks;
 - (b) an appropriate risk management and control strategy that includes control at recipient level;
 - (c) avoidance of conflicts of interest;
 - (d) adequate audit trails and data integrity in data systems;

- (e) procedures for monitoring effectiveness and efficiency;
 - (f) procedures for follow-up of identified internal control weaknesses and exceptions;
 - (g) periodic assessment of the sound functioning of the internal control system.
4. Efficient internal control shall be based on the following elements:
- (a) the implementation of an appropriate risk management and control strategy coordinated among appropriate actors involved in the control chain;
 - (b) the accessibility for all appropriate actors in the control chain of the results of controls carried out;
 - (c) reliance, where appropriate, on independent audit opinions, provided that the quality of the underlying work is adequate and acceptable and that it was performed in accordance with agreed standards;
 - (d) the timely application of corrective measures including, where appropriate, dissuasive penalties;
 - (e) the elimination of multiple controls;
 - (f) the improvement of the cost-benefit ratio of controls.
5. Where the Office also runs offices away from the main seat, the internal control system shall be designed in order to mitigate the specific risks of the activities of those offices.

CHAPTER 8

Principle of transparency

Article 31

Publication of accounts and budgets

1. The Office's budget shall be established and implemented and the accounts presented in accordance with the principle of transparency.
2. Information on the Office's budget and any amending budget of the Office, as definitively adopted, shall be published in the *Official Journal of the European Union* within 3 months of adoption.

The information shall include the aggregated figures for each title of the Office's budget, the establishment plan and an estimate of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and

seconded national experts. It shall also indicate the equivalent information for the previous financial year.

3. The Office's budget, including the establishment plan and any amending budgets, as definitely adopted, as well as an indication of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and of the number of seconded national experts, shall be transmitted for information to the European Parliament and the Council, the Court of Auditors and the Commission, and shall be published on the Office's website within 4 weeks of adoption.
4. The Office shall make available on its website no later than 30 June of the following financial year in which the funds were legally committed, information on the recipients of funds financed from the Office's budget, including experts contracted pursuant to Article 96 of this Regulation, in accordance with Article 38 of Regulation (EU, Euratom) 2018/1046, following a standard presentation. The published information shall be easily accessible, transparent and comprehensive. The information shall be made available, with due observance of the requirements of confidentiality and security, in particular the protection of personal data laid down in Regulation (EU) No 2018/1725.

TITLE III
ESTABLISHMENT AND STRUCTURE OF THE BUDGET

CHAPTER 1
Establishment of the Office's budget

Article 32
Programming documents

1. In accordance with the provisions of the constituent act, the Executive Director shall draw up programming documents containing multiannual and annual programming and, after consulting the Commission, shall submit them to the Management Board for approval.

The Management Board shall adopt the programming documents, taking into account the opinion of the Commission.

2. The programming documents shall contain:
 - (a) a multiannual strategic programme;
 - (b) an annual work programme;
 - (c) strategy for cooperation with third countries and/or international organisations;
 - (d) strategy for achieving efficiency gains and synergies;
 - (e) strategy for the organisational management and internal control systems including their anti-fraud strategy as last updated and an indication of measures to prevent recurrence of cases of conflict of interest, irregularities and fraud, in particular where weaknesses, reported under Article 48 or paragraph 5 of Article 79, have led to critical recommendations.
3. The multiannual strategic programme shall set out:
 - overall strategic programming including objectives, expected results and performance indicators;
 - resource programming including a multiannual budget and a multiannual staff policy plan.

The resource programming shall include qualitative and quantitative information on the human resource and budgetary matters for the reporting purposes, in particular:

- for the years N-1 and N, the information on the number of officials, temporary and contract staff as defined in the Staff Regulations, as well as seconded national experts.
- for the year N-1 an estimate of the budgetary operations within the meaning of Article 104 and information on contributions in kind granted by the host Member State to the Office;
- for the year N+1 an estimate of the number of officials, temporary and contract staff as defined in the Staff Regulations;
- for the following years, an indicative budget and staff resource programming.

The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the overall evaluations referred to in the constituent act.

4. The annual work programme of the Office shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the amount of financial and human resource allocated to each action. The annual work programme shall be coherent with the multiannual strategic programme referred to in paragraph 3.

It shall clearly indicate which tasks of the Office have been added, changed or deleted in comparison with the previous financial year.

5. Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial work programme, in accordance with the provisions of paragraph 1.

The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the authorising officer of the Office.

Article 33

Establishment of the budget

1. The Office's budget shall be established in accordance with the provisions of the constituent act.

The Executive Director shall draw up each year an estimate of the Offices' revenue and expenditure for the following year and shall send it to the Budget Committee by 31 March at the latest.

The estimate of revenue and expenditure of the Office shall include:

- (a) a draft establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations, by grade and by category;
 - (b) where there is a change in the number of persons in post, a statement justifying any request for new posts;
 - (c) a quarterly estimate of cash payments and receipts;
 - (d) information on the achievement of all previously set objectives for the various activities. Evaluation results shall be consulted and referred to as evidence of the likely merits of an increase or decrease of the proposed budget of the Office in comparison with its budget for year N.
2. The Management Board shall forward the adopted programming documents referred to in Article 32 of this Regulation to the European Parliament, the Council and the Commission no later than 31 January each year, as well as any later updated version of those documents.
 3. Before the Budget Committee adopts the budget, the Executive Director may present to the Budget Committee a letter amending the estimates.
 4. The budget of the Office and the establishment plan shall be adopted by the Budget Committee before the beginning of the financial year.
 5. When proposing to entrust new tasks to the Office, the Commission, taking into account the opinion of the Office, shall, without prejudice to the legislative procedures for the modification of the constituent act, submit to the European Parliament and to the Council the necessary information to assess the impact of the new tasks on the financial and human resources of the Office.

Article 34
Amending budgets

Any amendment to the Office's budget, including to the establishment plan, going beyond the modifications authorised under Articles 26 and 38 of this Regulation shall be the subject of an amending budget adopted by the same procedure as the Office's initial budget in accordance with the provisions of the constituent act and Article 33 of this Regulation.

Amending budgets shall be accompanied by statements of reasons and the information on the implementation of the budget for the preceding and current financial years available at the time of their establishment.

CHAPTER 2

Structure and presentation of the Office's budget

Article 35

Structure of the Office's budget

The Office's budget shall consist of a statement of revenue and a statement of expenditure.

Article 36

Budget nomenclature

Insofar as it is justified by the nature of the Office's activities, the statement of expenditure must be set out on the basis of a nomenclature with a classification by purpose. That nomenclature shall be determined by the Office and shall make a clear distinction between administrative appropriations and operational appropriations.

The budget nomenclature shall comply with the principles of specification, sound financial management and transparency. It shall provide the clarity and transparency necessary for the budgetary process, facilitating the identification of the main objectives as reflected in the relevant legal bases, making choices on political priorities possible and enabling efficient and effective implementation.

Article 37

Presentation of the Office's budget

The Office's budget shall show:

- a) in the statement of revenue:
 - i. the Office's estimated revenue for the financial year concerned ('year N');
 - ii. the estimated revenue for the preceding financial year and the revenue for year N-2;
 - iii. appropriate remarks on each revenue item;
- b) in the statement of expenditure:
 - i. the appropriations for year N;
 - ii. the appropriations for the preceding financial year, and the expenditure committed and expenditure paid in year N-2;
 - iii. appropriate remarks on each subdivision.

Article 38

Rules on establishment plans for staff

1. The establishment plan, adopted by the Budget Committee and annexed to the budget, shall show, next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled. It shall constitute an absolute limit for the Office. No appointment may be made in excess of the limit set.
2. Without prejudice to paragraph 1, the effects of part-time work authorised by the appointing authority in accordance with the Staff Regulations may be offset by other appointments. Where a staff member requests the withdrawal of the authorisation before expiry of the granted period, the Office shall take appropriate measures to respect the limit referred to in paragraph 1 as soon as possible.

TITLE IV IMPLEMENTATION OF THE OFFICE'S BUDGET

CHAPTER 1 General provisions

Article 39

Budget implementation in accordance with principle of sound financial management

1. The Executive Director shall perform the duties of authorising officer. He or she shall implement the revenue and expenditure of the budget in accordance with this Regulation and the principle of sound financial management under his or her own responsibility and within the limits of the appropriations authorised.
2. Without prejudice to the responsibilities of the authorising officer as regards prevention and detection of fraud and irregularities, the Office shall participate in fraud prevention activities of the European Anti-Fraud Office.

Article 40

Information on transfers of personal data for audit purposes

In any call made in the context of grants, procurement or prizes implemented in direct implementation, potential beneficiaries, candidates, tenderers and participants shall, in accordance with Regulation (EU) 2018/1725, be informed that, for the purposes of safeguarding the Union's financial interests, their personal data may be transferred to internal audit services, to the European Court of Auditors or to the European Anti-Fraud Office and between authorising officers of the Union bodies, the Commission and the executive agencies.

Article 41

Delegation of budget implementation powers

1. The Executive Director may delegate the powers of budget implementation to Office's staff covered by the Staff Regulations, in accordance with the conditions laid down in this Regulation and the Office's internal rules, and within the limits laid down in the instrument of delegation. Those so empowered may act only within the limits of the powers expressly conferred upon them.
2. The powers which the authorising officer delegates allow the holders, in their capacity as authorising officers by delegation, to implement the budget by, in particular:
 - (a) making budgetary and legal commitments as well as carrying out the preliminaries for these commitments;

- (b) validating and authorising expenditure;
- (c) establishing amounts receivable (including making financial corrections), and issuing recovery orders;
- (d) taking individual decisions on the award of grants, public procurement contracts or prizes;
- (e) proposing transfers of appropriations;
- (f) selling assets placed under their responsibility
- (g) the decision to waive recovery of an established amount receivable lower than EUR 5 000.

The powers delegated may allow the authorising officer by delegation to carry out only some of the specific acts referred to above.

3. The tasks and responsibilities that are inherent to the position of the authorising officer may not be delegated, in particular:
 - (a) the general responsibility for implementing revenue and expenditure in accordance with the principle of sound financial management and for ensuring that the requirements of legality and regularity are complied with, in accordance with Article 45(1) of this Regulation.
 - (b) the general responsibility for putting in place the organisational structure and the internal management and control systems suited to the performance of his or her duties, including where appropriate *ex post* verifications, in accordance with Article 45(2) of this Regulation;
 - (c) the obligation to take the necessary measures against possible irregularities, bad financial management or failure to abide by professional rules;
 - (d) provision of the Consolidated Annual Activity Report in accordance with Article 48(1) of this Regulation;
 - (e) the decision to waive recovery of an established amount receivable equal to or greater than EUR 5 000;
 - (f) the signing of public contracts concluded jointly with Member States, EFTA Member States and candidate countries.
4. Without prejudice to paragraphs 1 and 2, the authorising officer may lay down in the internal rules detailed measures for the management of appropriations as he or she considers necessary for the proper implementation of the budget.

5. The delegatee may subdelegate the powers received with the explicit agreement of the Executive Director.

Article 42
Conflicts of interest

1. Financial actors within the meaning of Chapter 3 of this Title and other persons, including the members of the Management Board and of the Budget Committee, involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action that may bring their own interests into conflict with those of the Office. They shall also take appropriate measures to prevent a conflict of interest from arising in the functions under their responsibility and to address situations which may objectively be perceived as a conflict of interest.

Where there is a risk of a conflict of interest, the person in question shall refer the matter to the competent authority. The competent authority shall confirm in writing whether a conflict of interest is found to exist. In that case, the competent authority shall ensure that the person concerned ceases all activities in the matter. The competent authority shall take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.
3. The competent authority referred to in paragraph 1 shall be the Executive Director. If the member of staff concerned is the Executive Director, the competent authority shall be the Management Board. In the event of a conflict of interest involving a member of the Management Board, the competent authority shall be the Management Board, exclusive of the member concerned.
4. In accordance with Article 153(1)(g) of the constituent act, the Management Board, shall adopt the rules on the prevention and management of conflicts of interest. The Office shall publish annually on its website the declaration of interests of the Management Board members.

CHAPTER 2
Method of implementation

Article 43
Method of implementation of the Office budget

1. The Office's budget shall be implemented by the Executive Director in the departments placed under his or her authority.

2. Notwithstanding the types of agreements that the Office may enter into pursuant to its constituent act or basic acts or other provisions of EU law, in order to facilitate the implementation of its appropriations, the Office may conclude service-level agreements with third entities of public law as defined under Article 2 of this Regulation, including the European School of Alicante. The service-level agreements shall lay down the terms and conditions governing the provisions of services and supply of products in accordance to Article 59 of Regulation (EU, Euratom) 2018/1046 and in compliance with the relevant provisions of this Regulation.
3. Technical expertise tasks and administrative, preparatory or ancillary tasks not involving the exercise of public authority or the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities in compliance with the principle of sound financial management.

CHAPTER 3

Financial actors

Section 1

Principle of segregation of duties

Article 44

Segregation of duties

The duties of authorising officer and accounting officer shall be segregated and mutually exclusive.

The Office shall provide each financial actor with the resources required to perform his or her duties and a charter describing in detail his or her tasks, rights and obligations.

Section 2

Authorising officer

Article 45

Powers and duties of authorising officer

1. The authorising officer shall be responsible for implementing revenue and expenditure in accordance with the principle of sound financial management, including through ensuring reporting on performance, and for ensuring compliance with the requirements of legality and regularity and equal treatment of recipients of funds.
2. The authorising officer shall put in place the organisational structure and the internal control systems suited to the performance of the duties of authorising officer, in accordance with the minimum standards or principles adopted by the Budget Committee, on the basis of the Internal Control Framework laid down by the Commission for its own departments and having due regard to the risks associated

with the management environment, including where applicable specific risks associated to decentralised offices, and to the nature of the actions financed.

The establishment of such structure and systems shall be supported by a comprehensive risk analysis, which shall take into account their cost-effectiveness and performance considerations.

The authorising officer may establish within his or her departments an expertise and advice function to help him or her control the risks involved in his or her activities.

3. To implement expenditure, the authorising officer shall make budgetary and legal commitments, shall validate expenditure and authorise payments, and shall undertake the preliminary steps for the implementation of appropriations.
4. To implement revenue, the authorising officer shall draw up estimates of amounts receivable, establish entitlements to be recovered and issue recovery orders. Where appropriate, the authorising officer shall waive established entitlements.
5. In order to prevent errors and irregularities before the authorisation of operations as well as to mitigate risks of non-achievement of objectives, each operation shall be subject at least to an *ex ante* control relating to the operational and financial aspects of the operation on the basis of a control strategy which takes risk and cost-effectiveness into account.

The extent in terms of frequency and intensity of the *ex ante* controls shall be determined by the authorising officer, taking into account the results of prior controls as well as risk-based and cost-effectiveness considerations, on the basis of his or her own risk analysis. In case of doubt, the authorising officer responsible for validating the relevant operations shall, as part of the *ex ante* control, request complementary information or perform an on-the-spot control in order to obtain reasonable assurance.

6. For the purpose of controls, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer to constitute a single operation.
7. For a given operation, the verification shall be carried out by staff other than those who initiated the operation. The staff who carry out the verification shall not be subordinate to the members of staff who initiated the operation.
8. The authorising officer may put in place *ex post* controls to detect and correct errors and irregularities of operations after they have been authorised. Such controls may be organised on a sample basis according to risk and shall take account of the results of prior controls as well as cost-effectiveness and performance considerations.
9. The *ex post* controls shall be carried out by staff other than those responsible for the *ex ante* controls. The staff responsible for the *ex post* controls shall not be subordinate to the members of staff responsible for the *ex ante* controls.

The *ex post* controls may take the form of (financial) audits at the premises of the beneficiaries.

The rules and modalities, including timeframes, for carrying out audits of the beneficiaries shall be clear, consistent and transparent, and shall be made available when signing the grant agreement.

10. Authorising officers and staff responsible for budget implementation shall have the necessary professional skills. They shall respect a specific code of professional standards adopted by the Office and based on standards laid down by the Commission for its own departments.
11. If a member of staff involved in the financial management and control of transactions considers that a decision he or she is required by his or her superior to apply or to agree to is irregular or contrary to the principle of sound financial management or the professional rules which the member of staff is required to observe, he or she shall inform the Executive Director, who shall, if the information is given in writing, reply in writing. If the Executive Director fails to take action within a reasonable time given the circumstances of the case and in any event within a month or confirms the initial decision or instruction and the member of staff believes that such confirmation does not constitute a reasonable response to his or her concern, the member of staff shall inform the relevant panel referred to in Article 143 of Regulation (EU, Euratom) 2018/1046 and the Budget Committee in writing.
12. In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, a member of staff or other servant, including national experts seconded to the Office shall inform their immediate superior, the Executive Director or the Budget Committee or the European Anti-Fraud Office or the European Public Prosecutor's Office directly.

Article 46

Delegation of budget implementation

Where powers of budget implementation are delegated or subdelegated in accordance with Article 41 of this Regulation, the relevant provisions of Article 45 of this Regulation shall apply *mutatis mutandis* to the authorising officers by delegation or subdelegation.

Article 47

Keeping of supporting documents by authorising officers

1. The authorising officer shall set up paper-based or electronic systems for the keeping original supporting documents relating to budget implementation. Such documents shall be kept for at least five years from the date on which the Budget Committee grants discharge for the financial year to which the documents relate.

2. Documents relating to operations not definitively closed shall be kept for longer than provided for in paragraph 1, namely until the end of the year following that in which the operations are closed.
3. Personal data contained in supporting documents shall where possible be deleted when those data are not necessary for budgetary discharge, control and audit purposes. Article 88 of Regulation (EU) 2018/1725 shall apply to the conservation of data.

Article 48

Consolidated annual activity report

1. The authorising officer shall report to the Management Board on the performance of his or her duties in the form of a consolidated annual activity report containing the following:
 - (a) information on:
 - i. the achievement of the objectives and results set in the programming documents referred to in Article 32 of this Regulation through the reporting on the set of performance indicators;
 - ii. the action plan to follow-up on the conclusions of the evaluations referred to in paragraph 3 of Article 29 and the report on its progress in accordance with Article 29(4);
 - iii. the implementation of the Office's annual work programme, budget and staff resources referred to in Article 32 of this Regulation;
 - iv. the Office's contribution to the achievement of the Union political priorities;
 - v. organisational management and on the efficiency and effectiveness of the internal control systems, including the implementation of the Office's anti-fraud strategy, the summary of number and type of internal audits carried out by the internal auditor, the recommendations made and the action taken on these recommendations and on recommendations of previous years, as referred to in Articles 85 and 86 of this Regulation;
 - vi. any observations of the Court of Auditors and the actions taken on these observations;
 - vii. the agreements referred to in Article 7 of this Regulation;
 - viii. the service-level agreements referred to in Article 43 of this Regulation;

- ix. the acts of delegation and subdelegation referred to in Article 41 of this Regulation.
- (b) a declaration by the authorising officer stating whether he or she has a reasonable assurance that, unless otherwise specified in any reservations related to defined areas of revenue and expenditure:
 - i. the information contained in the report presents a true and fair view;
 - ii. the resources assigned to the activities described in the report have been used for their intended purpose and in accordance with the principle of sound financial management,
 - iii. the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

The consolidated annual activity report shall indicate the results of the operations by reference to the objectives set and performance considerations, the risks associated with the operations, the use made of the resources provided and the efficiency and effectiveness of the internal control systems, including an overall assessment of the costs and benefits of controls.

- 2. The Management Board shall adopt the consolidated annual activity report and shall forward it no later than 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors.
- 3. Additional reporting requirements may be provided in the constituent act in duly justified cases, in particular when it is required by the nature of the field in which the Office operates.

Section 3 **Accounting officer**

Article 49 **Powers and duties of accounting officer**

The Budget Committee shall appoint an accounting officer, who shall be responsible in the Office for:

- (a) properly implementing payments, collecting revenue and recovering amounts established as being receivable;
- (b) preparing and presenting the accounts in accordance with Title X;
- (c) keeping the accounts in accordance with Title X;

- (d) implementing the accounting rules and the chart of accounts, ensuring as far as necessary compatibility with the provisions adopted by the Commission's accounting officer;
- (e) laying down and validating the accounting systems and, where appropriate, validating systems laid down by the authorising officer to supply or justify accounting information;
- (f) treasury management.

With respect to the tasks referred to in point (e) of the first subparagraph, the accounting officer shall be empowered to verify at any time compliance with the validation criteria.

Article 50

Appointment and termination of duties of accounting officer

1. At the proposal of the Executive Director, the Budget Committee shall appoint an accounting officer, covered by the Staff Regulations, who shall be completely independent in the performance of his or her duties. The accounting officer shall be chosen by the Budget Committee on the grounds of his or her particular competence as evidenced by diplomas or equivalent professional experience.
2. The Office's accounting officer may act as, or assume part of the tasks of, the accounting officer of another Union body.

The Office and the Union body concerned shall make the necessary arrangements in order to avoid any conflict of interests.

In such a case, an agreement shall be signed between the Office and the Union body concerned establishing the conditions for such collaboration.

The Budget Committee shall be informed of any agreement signed pursuant to the third subparagraph.

3. A trial balance shall be drawn up without delay in the event of termination of the duties of the accounting officer.

The trial balance accompanied by a hand-over report shall be transmitted by the accounting officer who is terminating his or her duties or, if that is not possible, by a member of staff in his or her department to the new accounting officer.

The new accounting officer shall sign the trial balance in acceptance within one month from the date of transmission and he or she may make reservations.

The hand-over report shall also contain the result of the trial balance and any reservations made.

Article 51
Accounting rules

1. The Office's accounting officer shall apply the rules adopted by the accounting officer of the Commission based on internationally accepted accounting standards for the public sector.
2. For the purposes of the first paragraph of this Article, Articles 80 to 84 and 87 of Regulation (EU, Euratom) 2018/1046 shall apply. Articles 85 and 86 of Regulation (EU, Euratom) 2018/1046 shall apply mutatis mutandis.

Section 4
Imprest administrator

Article 52
Imprest accounts

Article 88 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 53
Creation and administration of imprest accounts

Where imprest accounts are set up by the Office, Article 89 of Regulation (EU, Euratom) 2018/1046 shall apply.

CHAPTER 4
Liability of financial actors

Section 1
General rules

Article 54
Withdrawal of delegation of powers and suspension of duties given to financial actors

Article 90 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 55
Liability of the financial actors for illegal activity, fraud or corruption

Article 91 of Regulation (EU, Euratom) 2018/1046 shall apply.

Section 2
Rules applicable to authorising officers

Article 56
Rules applicable to authorising officers

Article 92 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 57
Treatment of financial irregularities on the part of a member of staff

Article 93 of Regulation (EU, Euratom) 2018/1046 shall apply.

Section 3
Rules applicable to accounting officers and imprest administrators

Article 58
Rules applicable to accounting officers

Article 94 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 59
Rules applicable to imprest administrators

Article 95 of Regulation (EU, Euratom) 2018/1046 shall apply.

CHAPTER 5
Revenue operations

Article 60
Request for payment of Union subsidy

Where the Office needs a subsidy from the Union budget pursuant to Article 172(3) of the constituent act, the Office shall present to the Commission requests for payment of all or part of the annual Union subsidy pursuant to Article 16(6) of this Regulation under terms and at intervals agreed with the Commission.

Article 61
Treatment of interest

The funds paid to the Office shall bear interest for the benefit of the Office's budget.

Where the Office receives a subsidy from the Union budget pursuant to Article 172(3) of the constituent act, the interest generated by said subsidy shall not be due to the Union budget.

Article 62
Estimate of amounts receivable

Article 97 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 63
Establishment of amounts receivable

Article 98 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 64
Default interest

Article 99 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 65
Authorisation of recovery

The authorisation of recovery is the act by which the authorising officer instructs the accounting officer, by issuing a recovery order, to recover an amount receivable that the authorising officer has established.

Article 66
Rules on recovery

Paragraphs 1 to 6 of Article 101 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 67
Recovery by offsetting

Article 102 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 68
Recovery procedure failing voluntary payment

Article 103 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 69
Additional time for payment

Article 104 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 70
Limitation period

Article 105 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 71
Specific provisions applicable to fees and charges

With regard to the fees and charges referred to in point (a) of Article 6(3) of this Regulation, an overall provisional estimate of such fees and charges shall be included in the programming documents referred to in Article 32 of this Regulation.

Where fees and charges are entirely determined by legislation, the authorising officer may abstain from issuing recovery orders and directly draw up debit notes after having established the amount receivable. In this case all details of the Office's entitlement shall be registered. The accounting officer shall keep a list of all debit notes and provide the number of the debit notes and the global amount in the Office's report on budgetary and financial management.

Where the Office uses a separate invoicing system, the accounting officer shall regularly, and at least on a monthly basis, enter the accumulated sum of fees and charges received into the accounts.

The Office shall provide services by virtue of the tasks entrusted to it only after the corresponding fee or charge has been paid in its entirety. However, in exceptional circumstances, a service may be provided without prior payment of the corresponding charge or fee. In cases where services have been provided without prior payment of the corresponding charge or fee, Articles 63 to 70 of this Regulation shall apply.

CHAPTER 6
Expenditure operations

Article 72
Financing decisions

1. A budgetary commitment shall be preceded by a financing decision. Administrative appropriations may be implemented without a prior financing decision.

2. The Office's annual and multiannual work programmes included in the programming documents referred to in Article 32 of this Regulation shall be equivalent to a financing decision for the activities it covers, provided that the elements set out in Article 32(2) and (3) of this Regulation are clearly identified. A multiannual financing decision shall specify that the implementation of the decision is subject to the availability of budget appropriations for the respective financial years after the adoption of the budget or as provided for in the system of provisional twelfths.
3. The financing decision shall also set out the following:
 - (a) for grants: the type of applicants targeted by the call for proposals or direct award and the global budgetary envelope reserved for the grants;
 - (b) for procurement: the global budgetary envelope reserved for procurements;
 - (c) for prizes: the type of participants targeted by the contest, the global budgetary envelope reserved for the contest and a specific reference for prizes with a unit value of EUR 1 000 000 or more.

Article 73
Expenditure operations

1. Every item of expenditure shall be committed, validated, authorised and paid.

At the end of the periods referred to in Article 75 of this Regulation, the unused balance of budgetary commitments shall be decommitted.

When executing operations, the authorising officer shall ensure that the expenditure complies with the Treaties, the budget, this Regulation and other acts adopted pursuant to the Treaties, as well as with the principle of sound financial management.
2. The authorising officer shall make a budgetary commitment before entering into a legal commitment with third parties.

The first subparagraph shall not apply to legal commitments concluded following a declaration of a crisis situation in the framework of a business continuity plan, in accordance with the procedures adopted by the Office.
3. The authorising officer shall validate expenditure by accepting that an item of expenditure is charged to the Office's budget, after having checked the supporting documents attesting the creditor's entitlement as per the conditions set in the legal commitment when there is a legal commitment. For this purpose, the authorising officer responsible shall:
 - (a) verify the existence of the creditor's entitlement;

- (b) determine or verify the reality and the amount of the claim through the endorsement 'certified correct';
- (c) verify the conditions according to which payment is due.

Notwithstanding the first subparagraph, the validation of expenditure shall also apply to interim or final reports not associated with a request for payment, in which case the impact on the accounting system will be limited to the general accounts.

4. The validation decision shall be expressed through electronically secured signature in accordance with Article 146 of Regulation (EU, Euratom) 2018/1046 by the authorising officer or by a technically competent member of staff, duly empowered by a formal decision of the authorising officer or, exceptionally, for paper workflow, take the form of a stamp incorporating that signature.

With the endorsement 'certified correct', the authorising officer or a technically competent member of staff, duly empowered by the authorising officer, shall certify that:

- (a) for the pre-financing, the conditions required in the legal commitment for the payment of the pre-financing are met;
- (b) for interim and balance payments in contracts, the services provided for in the contract have been properly provided, the supplies properly delivered or that the work has been properly carried out;
- (c) for interim and balance payments in grants, the action or work programme carried out by the beneficiary is in all respects in compliance with the grant agreement including, where applicable, that the costs declared by the beneficiary are eligible.

In the case referred to in point (c) of the second subparagraph, cost estimates shall not be deemed to comply with the eligibility conditions set out in Article 186(3) of Regulation (EU, Euratom) 2018/1046. The same principle shall also apply for interim and final reports not associated to a payment request.

5. In order to authorise the expenditure, the authorising officer shall, after having verified that the appropriations are available, issue a payment order to instruct the accounting officer to pay an amount of expenditure that has been previously validated.
6. Where periodic payments are made with regard to services rendered, including rental services or goods delivered, the authorising officer may subject to that officer's risk analysis, order the application of a direct debit system from an imprest account.

Article 74

Types of budgetary commitments

1. Budgetary commitments shall fall into one of the following three categories:
 - a) individual: when the recipient and the amount of the expenditure are known;
 - b) global: when at least one of the elements necessary to identify the individual commitment is still not known;
 - c) provisional: to cover routine administrative expenditure where either the amount or the final payees are not definitively known.
2. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments only where the constituent act or basic act so provides or where they relate to administrative expenditure.
3. A global budgetary commitment shall be made on the basis of a financing decision.

The global budgetary commitment shall be made at the latest before the decision on the recipients and amounts is taken and, where implementation of the appropriations concerned involves the adoption of a work programme, at the earliest after that programme has been adopted.
4. The global budgetary commitment shall be implemented by the conclusion of one or more legal commitments.
5. Each individual legal commitment adopted following a global budgetary commitment shall, prior to signature, be registered by the authorising officer in the budgetary accounts and booked to the global budgetary commitment.
6. Provisional budgetary commitments shall be implemented by entering into one or more legal commitments giving rise to an entitlement to subsequent payments. However, in cases relating to expenditure on staff management, they may be implemented directly by payments.

Article 75

Time limits for commitments

1. Without prejudice to Articles 73(2) and 114(2) of this Regulation, legal commitments relating to individual or provisional budgetary commitments shall be entered into by 31 December of year N, year N being the one in which the budgetary commitment was made.
2. Global budgetary commitments shall cover the total cost of the corresponding legal commitments concluded up to 31 December of year N+1.

3. At the end of the periods referred to in paragraphs 1 and 2, the unused balance of such budgetary commitments shall be decommitted by the authorising officer.
4. The individual and provisional budgetary commitments for actions extending over more than one financial year shall, except in the case of staff expenditure, have a final date for implementation set in accordance with the conditions in the legal commitments to which they refer and taking into account the principle of sound financial management.
5. Any parts of budgetary commitments that have not been executed by payments 6 months after the final date for implementation shall be decommitted in accordance with Article 14 of this Regulation.
6. The amount of a budgetary commitment for which no payment within the meaning of Article 76 of this Regulation has been made within 2 years of the signing of the legal commitment shall be decommitted, except where that amount relates to a court case before judicial courts or arbitral bodies or where there are special provisions laid down in sector-specific rules.

Article 76
Types of payments

1. Payment of expenditure shall be made by the accounting officer within the limits of the funds available.
2. Payment shall be made on production of proof that the relevant action is in accordance with the contract, the agreement or the basic act and shall cover one or more of the following operations:
 - (a) payment of the entire amount due;
 - (b) payment of the amount due in any of the following ways:
 - i. pre-financing providing a float, which may be divided into a number of payments in accordance with the principle of sound financial management; such pre-financing shall be paid either on the basis of the contract, the grant agreement or the basic act, or on the basis of supporting documents which make it possible to check that the terms of the contract or agreement in question are complied with;
 - ii. one or more interim payments as a counterpart of the partial execution of the action or performance of the contract. It may clear pre-financing in whole or in part, without prejudice to the provisions of the basic act;
 - iii. payment of the balance of the amounts due where the action or contract is completely executed.

The payment of the balance shall clear all preceding expenditure. A recovery order shall be issued to recover unused amounts.

3. A distinction shall be made in the budgetary accounting between the different types of payment referred to in paragraph 2 at the time each payment is made.
4. The accounting rules referred to in Article 51 of this Regulation shall include the rules for clearing the pre-financing in the accounts and for the acknowledgement of the eligibility of costs.
5. Pre-financing payments shall be cleared regularly by the authorising officer responsible, according to the economic nature of the project and, at the latest, at the end of the project. The clearing shall be performed on the basis of information on costs incurred or confirmation of the conditions for payment being fulfilled in accordance with Article 125 of Regulation (EU, Euratom) 2018/1046, as validated by the authorising officer in accordance with Article 73(3) of this Regulation.

For grant agreements or contracts above EUR 5 000 000, the authorising officer shall obtain at each year end at least the information needed to calculate a reasonable estimate of the costs. That information shall not be used for clearing the pre-financing, but may be used by the authorising officer and the accounting officer to comply with Article 82(2) of Regulation (EU, Euratom) 2018/1046.

For the purposes of the second subparagraph, appropriate provisions shall be included in the legal commitments entered into.

Article 77

Time limits for payments

The payment of expenditure shall be carried out within the time limits specified in, and in accordance with Article 115 of Regulation (EU, Euratom) 2018/1046.

The Office shall submit to the Budget Committee a report on the compliance with the time limits and on the suspension of the time limits laid down in this Article. The report of the Office shall be annexed to the consolidated annual activity report referred to in Article 48 of this Regulation.

CHAPTER 7

Internal auditor

Article 78

Appointment of internal auditor

1. The Office shall have an internal auditing function that shall be performed in compliance with the relevant international standards.
2. The internal auditor shall be appointed by the Executive Director, in accordance with the provisions of the constituent act, and shall be accountable to the latter for verifying the proper operation of budget implementation systems and procedures. The internal auditor may be neither authorising officer nor accounting officer.
3. The Office shall inform the Management Board and the Budget Committee of the appointment of its internal auditor.
4. The Office shall determine, in accordance with its specific features and its requirements, the scope of the mission of its internal auditor and shall lay down in detail the objectives and procedures for the exercise of the internal audit function with due respect for international internal audit standards.
5. The Executive Director may appoint as internal auditor, by virtue of his or her particular competence, an official or other servant covered by the Staff Regulations selected from nationals of the Member States.
6. If the Office and a Union institution or another Union body appoint the same internal auditor they shall make the necessary arrangements for the internal auditor to be declared liable for his or her actions as laid down in Article 82 of this Regulation.
7. The Office shall inform the Management Board and the Budget Committee when the duties of its internal auditor are terminated.

Article 79

Powers and duties of the internal auditor

1. The internal auditor shall advise the Office on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.
2. The internal auditor shall be responsible, in particular, for:
 - (a) assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing policies, programmes and actions by reference to the risks associated with them;

- (b) assessing the efficiency and effectiveness of the internal control and audit systems applicable to each operation for implementation of the Office's budget.
3. The internal auditor shall perform his or her duties in relation to all the Office's activities and departments. He or she shall enjoy full and unlimited access to all information required to perform his or her duties, if necessary, also on-the-spot access, including in the Member States and in third countries.
4. The internal auditor shall take note of the consolidated annual activity report of the authorising officer and any other pieces of information identified.
5. The internal auditor shall report to the Executive Director on his or her findings and recommendations.
6. The internal auditor shall make the internal audit reports available to the Management Board and the Budget Committee.
7. The Office shall ensure that action is taken with regard to recommendations resulting from audits.
8. The Office's Executive Director shall prepare an action plan following up on the conclusions of the internal audit reports and shall report on progress twice a year to the Management Board, the Budget Committee and the Commission.
9. The Office shall consider whether the recommendations made in its internal auditor's reports are suitable for an exchange of best practices with the other Union bodies.
10. The internal auditor shall submit to the Management Board, the Budget Committee and the Executive Director an annual internal audit report, indicating the number and type of internal audits carried out, the principal recommendations made and the action taken with regard to those recommendations.
11. The annual internal audit report shall mention any systemic problems detected by the panel set up pursuant to Article 143 of Regulation (EU, Euratom) 2018/1046 where it gives the opinion referred to in Article 93 of Regulation (EU, Euratom) 2018/1046.
12. The internal auditor shall, during the elaboration of the report, focus in particular on overall compliance with the principles of sound financial management and performance, and shall ensure that appropriate measures have been taken in order to steadily improve and enhance their application.
13. The internal auditor shall also report in any of the following cases:
 - (a) critical risks and recommendations have not been addressed;
 - (b) there are significant delays in the implementation of the recommendations made

in previous years.

14. The Management Board and the Executive Director shall ensure regular monitoring of the implementation of audit recommendations. The Management Board shall examine the information referred to in Article 48(1)(a) of this Regulation and whether the recommendations have been fully and timely implemented.
15. The Office shall make available the contact details of the internal auditor to any natural or legal person involved in expenditure operations, for the purpose of confidentially contacting the internal auditor.
16. The reports and findings of the internal auditor shall be accessible to the public only after validation by the internal auditor of the action taken for their implementation.
17. The Office shall provide its internal auditor with the resources required for the proper performance of the internal audit function and a mission charter detailing the tasks, rights and obligations of its internal auditor.

Article 80

Work programme of the internal auditor

1. The internal auditor shall draw up an annual audit plan taking into consideration, inter alia, the Executive Director's assessment of risk in the Office and shall submit it to the Executive Director.
2. The Executive Director may ask the internal auditor to carry out audits not included in the work programme referred to in paragraph 1.

Article 81

Independence of internal auditor

1. The internal auditor shall enjoy complete independence in the conduct of his or her audits. Special rules applicable to the internal auditor shall be laid down by the Management Board and shall be such as to guarantee that the internal auditor is totally independent in the performance of his or her duties, and to establish the internal auditor's responsibility.
2. The internal auditor may not be given any instructions nor be restricted in any way as regards the performance of the functions which, by virtue of his or her appointment, are assigned to him or her under this Regulation.
3. If the internal auditor is a member of staff, he or she shall exercise exclusive audit functions in full independence and assume responsibility as laid down in the Staff Regulations.

Article 82

Liability of the internal auditor

1. The Executive Director, proceeding in accordance with this Article, may act to have the internal auditor, as a member of staff, declared liable for his or her actions.
2. The Executive Director shall take a reasoned decision to open an investigation. That decision shall be communicated to the interested party. The Executive Director may put in charge of the investigation, under his or her direct responsibility, one or more officials of a grade equal to or higher than that of the member of staff concerned. In the course of the investigation, the views of the interested party shall be heard.
3. The investigation report shall be communicated to the interested party, who shall then be heard by the Office on the subject of that report.
4. On the basis of the report and the hearing, the Executive Director shall adopt either a reasoned decision terminating the proceedings or a reasoned decision in accordance with Articles 22 and 86 of the Staff Regulations as well as Annex IX thereto. Decisions imposing disciplinary measures or financial penalties shall be notified to the interested party and communicated, for information purposes, to the Management Board, the Budget Committee, the Commission and the Court of Auditors.
5. The interested party may bring an action in respect of such decisions before the Court of Justice of the European Union, as provided for in the Staff Regulations.

Article 83

Action before the Court of Justice of the European Union

Without prejudice to the remedies allowed by the Staff Regulations, the internal auditor may bring an action directly before the Court of Justice of the European Union in respect of any act relating to the performance of his or her duties as internal auditor. He or she shall lodge such an action within 3 months of the calendar day on which the act in question came to his or her knowledge. Such actions shall be investigated and heard in accordance with Article 91(5) of the Staff Regulations.

TITLE V COMMON RULES

Article 84

Forms of Office contributions

1. The Office's contributions shall help achieve a Union policy objective and results specified and may take any of the following forms:
 - (a) financing not linked to costs of the relevant operations based on:
 - i. the fulfilment of conditions set out in sector-specific rules or Commission decisions, or;
 - ii. the achievement of results measured by reference to the previously set milestones or through performance indicators;
 - (b) reimbursement of eligible costs actually incurred;
 - (c) unit costs, which cover all or certain specific categories of eligible costs which are clearly identified in advance by reference to an amount per unit;
 - (d) lump sums, which cover in global terms all or certain specific categories of eligible costs which are clearly identified in advance;
 - (e) flat-rate financing, which covers specific categories of eligible costs which are clearly identified in advance, by applying a percentage;
 - (f) a combination of the forms referred to in points (a) to (e).

The Office's contributions under points (c), (d) and (e) of paragraph 1 shall be established in accordance with Article 181 of Regulation (EU, Euratom) 2018/1046 or sector-specific rules. The Office's contributions under point (a) of paragraph 1 shall be established in accordance with Article 181 of Regulation (EU, Euratom) 2018/1046, sector-specific rules or a Commission decision.

2. When determining the appropriate form of a contribution, the potential recipients' interests and accounting methods shall be taken into account to the greatest extent possible.
3. The authorising officer responsible shall report on financing not linked to costs pursuant to points (a) and (f) of paragraph 1 in the annual activity report referred to in Article 48 of this Regulation.
4. Notwithstanding Article 43 of this Regulation and other forms of contribution that may be adopted by the Office pursuant to its constituent act or basic acts or other provisions of EU law, any other form of cooperation that the Office may agree with

third entities of public law, including the European School of Alicante, in the performance of public tasks shall clearly define the responsibilities and obligations of the parties to the agreement, the conditions under which actions are to be implemented and, where applicable, the conditions for financing the actions. The parties to the agreement may jointly establish the rules and conditions under which activities for such support are to be processed. Any agreement entered into by the Office in pursuance of this paragraph shall be in full compliance with the other provisions of this Regulation and with the governing rules of the parties to the agreement.

Article 85

Cross-reliance on assessments

Article 126 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 86

Cross-reliance on audits

Article 127 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 87

Use of already available information

Article 128 of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 88

Cooperation for protection of financial interests of the Union

Article 129 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 89

Information to the Commission of cases of fraud and other financial irregularities

Without prejudice to its obligations pursuant to Article 8(1) of Regulation (EU, Euratom) 883/2013 ⁽¹⁰⁾ and Article 24(1) of Council Regulation (EU) 2017/1939⁽¹¹⁾, the Office shall

⁽¹⁰⁾ Regulation (EU, Euratom) 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) 1074/1999; OJ L 248, 18.9.2013, p.1.

⁽¹¹⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'); OJ L 283, 31.10.2017, p. 1.

inform the Commission without delay on cases of presumed fraud and other financial irregularities.

Moreover, it shall inform the Commission of any completed or ongoing investigations by the European Public Prosecutor's Office (EPPO) or the European Anti-Fraud Office (OLAF), and of any audits or controls by the Court of Auditors or the Internal Audit Service of the European Commission (IAS) without endangering the confidentiality of the investigations.

Where the Commission's responsibility to implement the Union's budget may be affected or in cases involving a potentially serious reputational risk for the Union, the EPPO and/or OLAF shall inform the Commission without delay of any ongoing or completed investigation, without endangering its confidentiality and effectiveness.

Article 90

Early-detection and exclusion system

Section 2 of Chapter 2 of Title V of Regulation (EU, Euratom) 2018/1046 shall apply.

Article 91

Rules on procedures, management and e-government

Section 1 and section 3 of Chapter 2 and Chapter 3 of Title V of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

TITLE VI
PUBLIC PROCUREMENT AND CONCESSIONS

Article 92
Common provisions

As regards procurement, the relevant provisions of the Regulation (EU, Euratom) 2018/1046 and Annex 1 thereof shall apply, subject to Article 93 of this Regulation.

The Office may be associated, at its request, as contracting authority, with the award of Commission or interinstitutional contracts and with the award of contracts of other Union bodies.

Article 93
Procurement procedures

The Office may conclude a service-level agreement as referred to in paragraph 2 of Article 43 of this Regulation, without having recourse to a public procurement procedure.

The Office may use joint procurement procedures with contracting authorities of the host Member State to cover its administrative needs. In such cases, Article 165 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

TITLE VII GRANTS AND PRIZES

Article 94 **Grants**

1. Where the Office may award grants in accordance with the constituent act or pursuant to Article 7 or in any other circumstances so provided for by EU law, the relevant provisions of the Regulation (EU, Euratom) 2018/1046 shall apply.
2. In line with Article 152(5) of the constituent act, the Office may award grants without calls for proposals to central industrial property offices of the Member States and the Benelux Office for Intellectual Property
3. Insofar as compatible with Article 195 of Regulation (EU, Euratom) 2018/1046, the Office may award grants without calls for proposals to international organisations and other Union bodies as defined in Article 2 of this Regulation.

Article 95 **Prizes**

Where the Office may award prizes in accordance with the constituent act, the relevant provisions of Title IX of Regulation (EU, Euratom) 2018/1046 shall apply.

TITLE VIII
OTHER BUDGET IMPLEMENTATION INSTRUMENTS

Article 96
Remunerated external experts

Article 237 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 97
Non remunerated experts

Article 238 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 98
Membership fees and other payments of subscriptions

Article 239 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

Article 99
Other instruments

Article 240 of Regulation (EU, Euratom) 2018/1046 shall apply *mutatis mutandis*.

TITLE IX RESERVE FUND

Article 100

Establishment of reserve fund

1. Pursuant to Article 172(10) of the constituent act, the Office shall establish a reserve fund having sufficient funds to ensure the continuity of its operations and the execution of its tasks for 1 year, that is, the equivalent of the estimated appropriations foreseen in Titles 1, 2 and 3 of the Office's budget.
2. Each year, the Management Board and the Budget Committee shall take the necessary measures to ensure compliance with Article 172(10) of the constituent act, in particular before approving the allocation of the funds foreseen under Article 172(5), (7) and (8) of the constituent act.
3. Funds may only be allocated to the reserve fund when expressly authorised by the Budget Committee.

Article 101

Use of reserve fund

1. The reserve fund may only be used to cover expenditure under Titles 1, 2 and 3 of the Office's budget, including expenditure related to cooperation activities with the Member States but excluding compensation to the Member States pursuant to Article 172(5) and (7) of the constituent act.
2. The reserve fund may only be used with the prior authorisation of the Budget Committee.
3. For each financial year, the reserve fund shall be reflected in the balance sheet in the Office's annual accounts.

TITLE X
ANNUAL ACCOUNTS AND OTHER FINANCIAL REPORTING

CHAPTER 1
Annual accounts

Section 1
Accounting framework

Article 102
Structure of accounts

The Office's annual accounts shall be prepared for each financial year that shall run from 1 January to 31 December. Those accounts shall comprise the following:

- (a) the Office's financial statements;
- (b) the Office's budget implementation reports.

Article 103
Financial statements

1. The financial statements shall be presented in euro and in accordance with the accounting rules referred to in Article 51 of this Regulation and shall comprise the following:
 - (a) the balance sheet, which presents all assets and liabilities and the financial situation prevailing on 31 December of the preceding financial year;
 - (b) the statement of financial performance, that presents the economic result for the preceding financial year;
 - (c) the cash-flow statement showing amounts collected and disbursed during the financial year and the final treasury position;
 - (d) the statement of changes in net assets presenting an overview of the movements during the year in reserves and accumulated results.
2. The financial statements shall present information, including information on accounting policies, in a manner that ensures it is relevant, reliable, comparable and understandable.
3. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 of this Article and shall supply all the additional information prescribed by the accounting rules referred to

in Article 51 of this Regulation and the internationally accepted accounting practice, where such information is relevant to the Office's activities.

The notes shall contain at least the following information:

- (a) accounting principles, rules and methods;
 - (b) explanatory notes supplying additional information not contained in the body of the financial statements, which is necessary for a fair presentation of the accounts.
4. The accounting officer shall, after the close of the financial year and up to the date of transmission of the general accounts, make any adjustments that, without involving disbursement or collection in respect of that year, are necessary for a true and fair view of those accounts.

Article 104

Budget implementation reports

1. The budget implementation reports shall be presented in euro and shall be comparable year by year. They shall consist of:
 - (a) reports which aggregate all budgetary operations for the year in terms of revenue and expenditure;
 - (b) explanatory notes, which shall supplement and comment on the information given in the reports.
2. The structure of the budget implementation reports shall be the same as that of the Office's budget.
3. The budget implementation reports shall contain:
 - a) information on revenue, in particular changes in the revenue estimates, the revenue outturn and entitlements established;
 - b) information showing changes in the total appropriations available;
 - c) information showing the use made of the total appropriations;
 - d) information showing commitments outstanding, those carried over from the preceding financial year and those made during the financial year.
4. The budget result shall consist of the difference between:
 - a) all the revenue collected in respect of that financial year;

- b) the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over.

The difference referred to in the first subparagraph shall be increased or decreased on the one hand, by the net amount of appropriations carried over from previous financial years that have been cancelled and, on the other hand, by:

- a) payments made in excess of the appropriations carried over from the previous financial year as a result of a change in euro rates;
 - b) the balance resulting from exchange gains and losses during the financial year, both realised and non-realised.
5. For the purposes of Article 172(6) of the constituent act, a budgetary deficit shall be the negative result consisting in the difference between:
- the yearly revenue, as defined in Article 6(5), plus any unused appropriations carried over from the previous financial year, and
 - the total of the budget execution of Titles 1, 2 and 3 of that financial year, comprising the payments and the appropriations carried over against that financial year's budget, less any eventual allocations to or plus any withdrawals from the reserve fund, less the amount that would correspond to the offsetting foreseen in article 172(5) of the constituent act, and excluding the positive/negative balance from the previous financial year.
6. For the purposes of Article 172(7) of the constituent act, a budgetary surplus shall be the positive result consisting in the difference between:
- the yearly revenue, as defined in Article 6(5), plus any unused appropriations carried over from the previous financial year, and
 - the total of the budget execution of Titles 1, 2 and 3 of that financial year, comprising the payments and the appropriations carried over against that financial year's budget, less any eventual allocations to or plus any withdrawals from the reserve fund, less the amount corresponding to the offsetting foreseen in article 172(5) of the constituent act, and excluding the positive/negative balance from the previous financial year.
7. For the purposes of the substantive surplus generated during five consecutive years provided for in Article 172(8) of the constituent act, a budgetary surplus shall be the positive result in each year consisting in the difference between:
- the yearly revenue, as defined in Article 6(5), plus any unused appropriations carried over from the previous financial year, and

- the total of the budget execution of Titles 1, 2 and 3 of that financial year, comprising the payments and the appropriations carried over against that financial year's budget, less any eventual allocations to or plus any withdrawals from the reserve fund, less the amount corresponding to the offsetting foreseen in Articles 172(5) and (7) of the constituent act, and excluding the positive/negative balance from the previous financial year.
8. Where applicable, the offsetting foreseen in Article 172(5) of the constituent act corresponding to a specific financial year N will be distributed to the Member States in year N+2, i.e. in the budgetary exercise following the closure of the accounts of that financial year.
 9. For the purposes of Article 172(8) of the constituent act, a budgetary surplus as defined in paragraph 7 of this Article shall be generated in each of five consecutive years and shall be considered substantive when the positive result in each of the five years of reference is equivalent to or higher than 10% of the executed yearly revenue of the affected financial year. When a transfer to the EU budget occurs, a new cycle of five consecutive years will commence.
 10. The structure of the budgetary implementation reports shall be the same as that of the budget of the Office itself.

Article 105

Supporting documents

Each entry into the accounts shall be based on appropriate supporting documents in accordance with Article 47 of this Regulation.

Section 2

Annual accounts timetable

Article 106

Provisional accounts

1. The Office's accounting officer shall send the provisional accounts by electronic means to the Budget Committee, the Commission's accounting officer and to the Court of Auditors by 31 March of the following year.
2. The Office's accounting officer shall also provide by 31 March of the following financial year the required accounting information for consolidation purposes to the Commission's accounting officer, in the manner and format laid down by the latter.

Article 107

Approval of final accounts

1. In accordance with Article 246 of Regulation (EU, Euratom) 2018/1046, the Court of Auditors shall, by 1 June, make its observations on the provisional accounts of the Office.
2. The Office's accounting officer shall provide, by 1 July, the required accounting information to the Commission's accounting officer, in the manner and format laid down by the Commission, with a view to drawing up the final consolidated accounts.
3. On receiving the Court of Auditors' observations on the provisional accounts of the Office, the accounting officer shall draw up the final Office's accounts in accordance with Article 49 of this Regulation. The Executive Director shall send them to the Budget Committee.
4. Where the Office receives a subsidy from the Union budget pursuant to Article 172(3) of the constituent act, the Budget Committee shall give an opinion on the final accounts.
5. The Accounting Officer shall send the final accounts by electronic means, together with the opinion of the Budget Committee where the Office receives a subsidy from the Union budget pursuant to Article 172(3) of the constituent act to the European Parliament, the Council, the Commission's accounting officer and the Court of Auditors by 1 July of the following financial year.
6. The Office's accounting officer shall also send to the Court of Auditors, with a copy to the Commission's accounting officer, a representation letter covering those final accounts. The representation letter shall be established at the same date at which the final accounts of the Office are drawn up.

The final accounts shall be accompanied by a note drawn up by the accounting officer, in which the latter declares that the final accounts were prepared in accordance with this Title and with the applicable accounting principles, rules and methods.

A link to the pages of the website where the final Office's accounts are disclosed shall be published in the *Official Journal of the European Union* by 15 November of the following year.

7. The Executive Director shall send the Court of Auditors a reply to the observations made in its annual report by 30 September of the following financial year at the latest.

CHAPTER 2

Budgetary and other financial reporting

Article 108

Annual report on budgetary and financial management

1. The Office shall prepare a report on budgetary and financial management for the financial year.
2. The Executive Director shall send the report to the European Parliament, the Council, the Commission and the Court of Auditors by 31 March of the following financial year.
3. The report referred to in paragraph 2 shall give an account, both in absolute terms and expressed as a percentage, at least, of the rate of implementation of appropriations together with summary information on the transfers of appropriations among the various budget items.

TITLE XI
EXTERNAL AUDIT, DISCHARGE AND COMBATTING FRAUD

Article 109
External audit

1. The Court of Auditors shall verify that the annual accounts of the Office properly present the income, expenditure and financial position of the Office prior to consolidation in the final accounts of the Commission.

The Court of Auditors shall prepare a specific annual report on the Office in line with the requirements of Article 287(1) of the Treaty on the Functioning of the European Union.

2. The Office shall send to the Court of Auditors the Office's budget as finally adopted. It shall inform the Court of Auditors, as soon as possible, of all decisions and acts adopted pursuant to Articles 10, 14, 19 and 23 of this Regulation.
3. The scrutiny carried out by the Court of Auditors shall be governed by Articles 254 to 259 of Regulation (EU, Euratom) 2018/1046.

Article 110
Timetable for discharge procedure

1. The Budget Committee shall, before 30 June of year N+2 give discharge to the Executive Director in respect of the implementation of the budget for year N.
2. If the date provided for in paragraph 1 cannot be met, the Budget Committee shall inform the Executive Director of the reasons for the postponement.
3. If the Budget Committee postpones the decision giving a discharge, the Executive Director shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

Article 111
Discharge procedure

1. The discharge decision shall cover the accounts of all the revenue and expenditure of the Office, the budget result and the assets and liabilities of the Office shown in the financial statement.
2. With a view to granting the discharge, the Budget Committee shall examine the accounts and financial statements of the Office. It shall also examine the annual report made by the Court of Auditors, together with the replies of the Executive Director of the Office, any relevant special reports by the Court of Auditors in respect of the financial

year concerned and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

3. The Executive Director shall submit to the Budget Committee, at its request, any information required for the smooth application of the discharge procedure for the financial year concerned.

Article 112

Follow-up measures

1. The Executive Director shall take all appropriate steps to act on the observations accompanying the Budget Committee's discharge decision.
2. At the request of the Budget Committee, the Executive Director shall report on the measures taken in the light of those observations and comments. The Executive Director shall send a copy thereof to the Commission and the Court of Auditors.

Article 113

On-the-spot checks by the Commission, the Court of Auditors and OLAF

1. The Office shall grant the Court of Auditors access to its sites and premises and to all the data and information, including data and information in electronic format, needed in order to conduct their audits.
2. Where the Office receives a subsidy from the Union budget pursuant to Article 172(3) of the constituent act, it shall also grant to Commission staff and other persons authorised by it the access necessary in order to conduct their audits.
3. The European Anti-Fraud Office (OLAF) may carry out investigations including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council and Council Regulation (Euratom, EC) No 2185/96 ⁽¹²⁾, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union.

⁽¹²⁾ Council Regulation (Euratom, EC) 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities; OJ L 292, 15.11.1996, p. 2.

TITLE XII ADMINISTRATIVE APPROPRIATIONS

Article 114

Administrative appropriations

1. Administrative appropriations shall be non-differentiated appropriations.
2. Administrative expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the Office's budget of the financial year in which it is effected.
3. Expenditure which is to be paid in advance pursuant to legal or contractual provisions may give rise to payments from 1 December onwards to be charged to the appropriations for the following financial year. In this case, the limit referred to in Article 11(2) of this Regulation shall not apply.

Article 115

Specific provisions regarding building projects

1. Where the Office foresees changes to its building policy which have significant financial implications, it shall provide the Budget Committee, by 1 July, with a working document on its building policy, which shall incorporate the following information:
 - (a) for each building, the expenditure and surface area covered by the appropriations of the corresponding items in the Office's budget;
 - (b) the expected evolution of the global programming of surface area and locations for the coming years with a description of the building projects in planning phase that are already identified;
 - (c) the final terms and costs, as well as relevant information regarding project implementation of new building projects previously submitted to the Budget Committee under the procedure established in paragraph 2 below and not included in the preceding year's working documents.
2. For any building project likely to have significant financial implications for the Office's budget, the Office shall inform the Budget Committee as early as possible about the building surface area required and provisional planning 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.
3. For any building project likely to have significant financial implications for the Office's budget, the Office shall present the building project, including its detailed estimated costs and its financing, as well as a list of draft contracts intended to be used, and

shall request the approval of the Budget Committee before contracts are concluded. At the Office's request, documents submitted relating to the building project shall be treated confidentially.

Except in cases of force majeure, the Budget Committee shall deliberate upon the building project within four weeks of receipt by the Budget Committee.

The building project shall be deemed approved at the expiry of this four-week period, unless the Budget Committee takes a decision contrary to the proposal within this period of time.

If the Budget Committee raises duly justified concerns within that 4-week period, that period shall be extended once by two weeks.

If the Budget Committee takes a decision contrary to the building project, the Office shall withdraw its proposal and may submit a new one.

4. In cases of force majeure, the information provided for in paragraph 2 may be submitted jointly with the building project. The Budget Committee shall deliberate upon the building project within two weeks of its receipt by the Budget Committee. The building project shall be deemed to be approved at the expiry of this two-week period, unless the Budget Committee takes a decision contrary to the proposal within this period of time.
5. The following shall be considered as building projects likely to have significant financial implications for the budget of the Office:
 - a) any acquisition of land;
 - b) the acquisition, sale, structural renovation, construction of buildings or any project combining these elements to be implemented in the same time frame, exceeding EUR 3 000 000;
 - c) any new building contract (including usufructs, long-term leases and renewals of existing building contracts under less favourable conditions) not covered by point (b) with an annual charge of at least EUR 750 000;
 - d) the extension or renewal of existing building contracts (including usufruct and long-term leases) under the same or more favourable conditions, with an annual charge of at least EUR 3 000 000.
6. Without prejudice to Article 16(4) of this Regulation, a building acquisition project may be financed through a loan, subject to prior approval by the Budget Committee.

Loans shall be contracted and repaid in accordance with the principle of sound financial management and with due regard to the best financial interests of the Office.

When the Office proposes to finance the acquisition through a loan, the financing plan to be submitted by the Office, together with the request for prior approval, shall specify, in particular, the maximum level of financing, the financing period, the type of financing, the financing conditions and savings compared to other types of contractual arrangements.

The Budget Committee shall deliberate upon the request for prior approval within four weeks, extendable once by two weeks, of its receipt by the Budget Committee. The acquisition through a loan shall be deemed to be rejected if the Budget Committee does not expressly approve it within the deadline.

7. The early information procedure set out in paragraph 2 and the prior approval procedure set out in paragraphs 3 and 4 above shall not apply to acquisition of land free of charge or for a symbolic amount.
8. The early information procedure set out in paragraph 2 of this Article and the prior approval procedure set out in paragraphs 3 and 4 of this Article shall also apply to residential buildings if the acquisition, structural renovation, construction of buildings or any project combining those elements in the same timeframe exceeds EUR 2 000 000 and the price is above 110 % of the local price or rent index of comparable properties. The Budget Committee may request from the Office any information related to residential buildings.
9. The prior approval procedure set out in paragraphs 3 and 4 of this Article shall not apply to preparatory contracts or studies necessary to evaluate the detailed cost and financing of the building project.

**TITLE XIII
TRANSITIONAL AND FINAL PROVISIONS**

Article 116

Information requests by European Parliament, Council and Commission

The European Parliament, the Council and the Commission shall be entitled to obtain any necessary information or explanations from the Office regarding budgetary matters within their fields of competence.

Article 117

Repeal

Regulations No CB-1-15 and No CB-2-15 of the Budget Committee are hereby repealed with effect from 15 July 2019. Any references to the repealed Regulations shall be construed as referring to this Regulation.

Article 118

Entry into force

This Regulation and its provisions shall enter into force on 15 July 2019 with the exception of Article 48 of this Regulation which shall apply from 1 January 2020.

Done at Alicante on 10 July 2019.



*For the Budget Committee
The Chairperson*