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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Budget Committee
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Subject:	Financial Regulation (recast): Amendments related to centralised publication of data on recipients of EU funding (transparency for the public) (Fiche 3)

Delegations will find enclosed the Commission's Fiche No 3 regarding the amendments related to centralised publication of data on recipients of EU funding (transparency for the public).

Financial Regulation recast
(COM(2022)223 final)

Amendments related to centralised publication of data on recipients of EU funding (transparency for the public)

The current transparency obligations across the different methods of EU budget implementation do not allow for a single access and information point for the public on the use of the EU budget and on recipients of EU funding like the one offered by the Financial Transparency System ('FTS') currently in use for direct management.

The European Parliament has been calling on the Commission to improve the way information on the use of the EU budget and on recipients of EU funding is provided to the public. In particular, the Parliament considers that the information made public is too fragmented in many different websites to allow for adequate transparency and accountability concerning the use of the EU budget. In its own initiative report on the revision of the Financial Regulation ('FR'), the Parliament stressed the need to make progress in the area of transparency and suggested the compulsory centralisation of information on recipients of EU funding within a user-friendly public EU database with accessible data in a machine-readable format while acknowledging that requirements should be balanced to reflect strictly relevant information items and ensure data protection.

The proposal aims to improve the way information is provided to the public on the use of the EU budget and on recipients of EU funding. The proposed modifications to the Financial Regulation consist of:

- Establishing horizontal measures for Member States implementing the EU budget under shared management, for Member States that receive and implement EU funds under direct management, for persons and entities implementing the EU budget under indirect management and for other Union institutions and bodies to transmit to the Commission for publication, at least on a yearly basis, information on their recipients and amounts of EU funding.
- Assigning to the Commission the responsibility to consolidate, centralise and publish the data on recipients of EU funding in a single website and database covering all methods of EU budget implementation (direct, indirect and shared management) and budget implementation by other Union institutions and bodies. The resulting single website would be an enhanced version of the FTS.
- Applying the new provisions only to programmes adopted under and financed as from the post-2027 MFF to ensure a smooth transition and enough time for the necessary adaptations of IT tools.
- Including an explicit reference to the application of Article 38 FR, taking into consideration the transitional period, to any future instruments where Member States receive and implement EU funds under direct management (as in the case of Member States under RRF).

The creation of a single website and database at EU level covering all recipients on EU funding would overcome the current fragmentation, enhance transparency and facilitate public scrutiny of recipients. Overall support for such modifications was expressed in the public consultation on the

¹ This fiche is a non-paper prepared by the responsible Commission department to facilitate the decision making process. Fragments of the Commission proposal have been inserted in Annex for ease of reference only. The authentic text of the proposal is the one published in the [Official Journal](#) of the European Union.

FR that closed on 1 October 2021. These modifications are to be distinguished from the proposal for recording and storing of data on recipients of EU funding and the use of a single integrated IT system for data-mining and risk-scoring for control and audit purposes that are dealt with in a separate fiche.

1. Scene setter

The current transparency obligations across the different methods of EU budget implementation do not allow for a single access and information point for the public on the use of the EU budget and on recipients of EU funding like the one offered by the Financial Transparency System ('FTS') currently in use for direct management.

With respect to direct management, Article 38(1) FR obliges the Commission including executive agencies to make available information on recipients of funds financed from the budget. The same obligation applies to other Union institutions. With respect to decentralised agencies, Article 31(4) of the Framework Financial Regulation (Commission Delegated Regulation (EU) 2019/715) requires each Union body concerned to make available on its website information on the recipients of funds financed from its budget, including experts contracted, in accordance with Article 38 FR. A matching obligation exists in Article 15(3) of the Model Financial Regulation for public-private partnership bodies (Commission Delegated Regulation (EU) 2019/887).

With respect to indirect management, Article 38 FR obliges entrusted partners to publish information on recipients in accordance with their rules and procedures, to the extent that those rules are deemed equivalent following the pillar assessment carried out by the Commission pursuant to Article 154(4)(e) FR.

With respect to shared management, pursuant to Article 38 FR and sector-specific rules, the Member States' bodies implementing the budget must publish information on their recipients. The new Common Agriculture Policy (CAP) rules now refer to the Common Provisions Regulation (CPR) rules, meaning that the set of data to be published is essentially the same, although CAP data is to be published at Member State level whereas CPR data is to be published at managing authority level.

The FR is the overarching and horizontal regulation for the EU budget and covers all of its methods of implementation. The FR is therefore the most appropriate legal instrument to regulate a uniform approach and further enhance transparency on the use of the EU budget and on recipients of EU funding.

2. Details of the proposal

Article 38 FR is placed in Title II 'Budget and budgetary principles', Chapter 8 'Principle of transparency' and sets out the rules for publication of information on recipients.

The proposed modifications aim at reinforcing the requirements for transparency in Article 38 FR and consist of:

- 1) Establishing horizontal measures for Member States implementing the EU budget under shared management, for Member States that receive and implement EU funds under direct management, for persons and entities implementing the EU budget under indirect management and for other Union institutions (Article 59 FR) and bodies (Articles 70 and 71 FR) to transmit to the Commission for publication, at least on a yearly basis and at the latest by 31 March every year, information on their recipients and amounts of EU funding.

- 2) Assigning to the Commission the responsibility to consolidate, centralise and publish, by 30 June every year, the data on recipients of EU funding in a single website and database covering all methods of EU budget implementation (direct, indirect and shared management) and budget implementation by other Union institutions and bodies. The resulting single website would be an enhanced version of the FTS.
- 3) Specifying that information should be transmitted and published in an open, interoperable and machine-readable format, which allows data to be sorted, searched, extracted, compared and reused.
- 4) Adding a requirement to publish unique identifiers of recipients of EU funding that are legal persons (such as VAT or Tax identification number²). This allows for an easy and accurate identification, filtering and grouping of recipients of EU funding in all methods of EU budget implementation.
- 5) Including an explicit reference to the application of Article 38 FR, taking into consideration the transitional period, to any future instruments where Member States receive and implement EU funds under direct management (as in the case of Member States under RRF). Given the latest developments of new instruments with Member States in the context of direct management (as opposed to those under shared management already regulated by Article 38 FR), such application would cover potential future instruments and avoid lengthy legislative proposals.
- 6) As regards indirect management, the transmission of data on recipients of EU funding to the Commission would apply to the direct recipients of entrusted partners where financial support is above EUR 500 000. This is in line with the rationale of this method of budget implementation based on reliance on partners' rules, the equivalence of those rules to those of the Commission (through the assessment of their publication rules) and the principle of proportionality. The threshold aligns with that for publication of financial support provided through financial instruments introduced in the FR 2018 revision.
- 7) Applying the new provisions only to programmes adopted under and financed as from the post-2027 MFF to ensure a smooth transition and enough time for the necessary adaptations of IT tools (for instance the development of an electronic template to transmit data) and, in the case of indirect management, for renegotiating the agreements with entrusted partners, just revised in 2021.

In spite of the centralised publication of data by the Commission, the existing transparency obligations for entrusted partners, Member State bodies implementing the budget under shared management, other Union institutions and bodies are maintained, as it is important that they communicate in a transparent manner and ensure visibility to citizens on their particular use of the EU budget. This becomes even more relevant for policies or Funds that have a very specific national or regional dimension.

To allow a swift and effortless transmission of data, the Commission will prepare a simple template for input in a Commission dedicated server allowing automatic transmission of whole data sets at once, not requiring one by one encoding. The transmission of data would happen (at least) once a year and will cover data that Union institutions and bodies, Member States and entrusted partners already have at their disposal.

² OECD provides an overview of domestic rules in the different jurisdictions (including third countries) governing the issuance, structure, use and validity of Tax Identification Numbers ("TIN") or their functional equivalents. The jurisdiction-specific information of the TINs is split into a section for individuals and a section for entities. Please see further details here <https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>.

Annex: FR proposal

Recital/Article	Proposed modifications
Revised recitals for revised Article 38	<p>(29) Without prejudice to the rules on the protection of personal data, the utmost transparency regarding information on recipients should be sought. The information on recipients of Union funds implemented under direct management should be published on a dedicated website of Union institutions, such as the Financial Transparency System, and Publication requirements should cover all methods of budget implementation, including by other Union institutions and bodies. To that end, Member States, persons and entities implementing the budget and other Union institutions and bodies should transmit to the Commission, at least on a yearly basis, information on their recipients of Union funding. That information should include at least the name, a unique identifier and the locality of the recipient, the amount legally committed and the purpose of the measure. That information should take into account relevant criteria such as the periodicity, the type and the importance of the measure.</p> <p>For prizes, grants and contracts awarded following the opening up of a public procedure to competition, and in particular for contests, calls for proposals and calls for tenders, in order to respect the principles of the TFEU and in particular the principles of transparency, proportionality, equal treatment and non-discrimination, the name and locality of the recipients of Union funds should be published. Such publication should contribute to the control of the award procedures by the unsuccessful applicants in the competition.</p> <p>(31) Personal data referring to natural persons should not be publicly available for longer than the period during which the funds are being used by the recipient and should therefore be removed after two years. The same should apply to personal data referring to legal persons whose official name identifies one or more natural persons.</p> <p>(33) For reasons of legal certainty and in accordance with the principle of proportionality, the situations in which publication should not take place should be specified. For example, information should not be published with regard to scholarships or other forms of direct support paid to natural persons most in need, to certain contracts with a very low value or to financial support below a certain threshold provided through financial instruments or budgetary guarantees, or in cases where disclosure risks threatening the rights and freedoms of the individuals concerned as protected by the Charter of Fundamental Rights of the European Union or causing harm to the commercial interests of the recipients. For grants, however, there should be no special exemption from the obligation to publish information on the basis of a specific threshold, in order to maintain the current practice and to allow for transparency.</p> <p>(36) In the case of indirect and shared management, the persons, entities or designated bodies implementing Union funds should make available information on recipients and final recipients. In the case of shared management, the information should be published in accordance with sector-specific rules. Member States that receive and implement Union funds under direct management should make available information on their recipients in accordance with this Regulation. The Commission should make available</p>

	information about a single website, including a reference to its address, where the information on recipients and final recipients can be found.
New recital (256) for transitional provisions Articles 36 and 38	(256) Some modifications regarding the transmission to the Commission of data on recipients for the purposes of publication, and regarding the electronic recording and storage of data on recipients and the use of the single integrated IT system for data-mining and risk-scoring to access and analyse those data should apply only to programmes adopted under and financed from the post-2027 multiannual financial framework in order to ensure a smooth transition by allowing sufficient time for the necessary adaption of electronic data systems and of relevant agreements, as well as the provision of guidance and training.
Revised Article 38	<p>Article 38</p> <p>Publication of information on recipients and other information</p> <p>1. The Commission shall make available on its website, in an appropriate and timely manner, information on recipients of funds financed from the budget no later than 30 June of the year following the financial year in which the funds were legally committed, where the budget is implemented by it in accordance with point (a) of the first subparagraph of Article 62(1), first subparagraph, point (a), by Union institutions in accordance with Article 59(1), and by the Union bodies referred to in Articles 70 and 71.</p> <p>Where the budget is implemented in accordance with Article 62(1), first subparagraph, points (b) and (c), and with Member States in accordance to Article 62(1), first subparagraph, point (a), the Commission shall make available on its website information on recipients no later than 30 June of the year following the financial year in which the contract or agreement setting out the conditions of support was established. Where the budget is implemented in accordance with Article 62(1), first subparagraph, point (b), references in this Article to recipients shall be understood as references to beneficiaries as defined in sector-specific rules.</p> <p>The first subparagraph of this paragraph shall also apply to other Union institutions when they implement the budget pursuant to Article 59(1).</p> <p>2. Save in the cases referred to in paragraphs 3 and 4, the following information shall be published in an open, interoperable and machine-readable format, which allows data to be sorted, searched, extracted, compared and reused, having due regard for the requirements of confidentiality and security, in particular the protection of personal data:</p> <ul style="list-style-type: none"> (a) whether the recipient is a natural or a legal person; (b) the recipient's full legal name in the case of a legal person and their VAT identification number or tax identification number where available or another unique identifier established at country level, the first and last name of the recipient in the case of a natural person; (c) the locality of the recipient, namely: <ul style="list-style-type: none"> (i) the address of the recipient when the recipient is a legal person; (ii) the region on NUTS 2 level when the recipient is a natural person and is domiciled in the European Union or the

country when the recipient is a natural person and is not domiciled in the European Union;

(de) the amount ~~legally~~ committed and, in case of a commitment with multiple recipients, the breakdown of this amount per recipient where available ;

(ed) the nature and purpose of the measure.

~~The information referred to in the first subparagraph of this paragraph shall only be published for prizes, grants and contracts which have been awarded as a result of contests, grant award procedures or procurement procedures, and for experts selected pursuant to Article 237(2).~~

3. The information referred to in ~~the first subparagraph of~~ paragraph 2 shall not be published and shall not be submitted for publication in accordance with paragraph 6 of this Article for :

(a) education supports paid to natural persons and other direct support paid to natural persons most in need as referred to in ~~point (b) of Article 195491(4), point (b);~~

(b) very low value contracts awarded to experts selected pursuant to Article ~~242237(2)~~ as well as very low value contracts below the amount referred to in point 14.4 of Annex I;

(c) financial support provided through financial instruments or budgetary guarantees for an amount lower than EUR 500 000;

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

(e) where it is not required for publication in sector-specific rules where the budget is implemented in accordance with Article 62(1), first subparagraph, point (b).

In the cases referred to in point (c) of the first subparagraph, the information made available shall be limited to statistical data, aggregated in accordance with relevant criteria, such as geographical situation, economic typology of recipients, type of support received and the Union policy area under which such support was provided.

Where natural persons are concerned, the disclosure of the information referred to in ~~the first subparagraph of~~ paragraph 2 shall be based on relevant criteria such as the frequency or the type of the measure and the amounts involved.

4. Persons or entities implementing Union funds pursuant to ~~point (e) of the first subparagraph of~~ Article 62(1), first subparagraph, point (c), shall publish information on recipients in accordance with their rules and procedures, to the extent that those rules are deemed equivalent following the assessment carried out by the Commission pursuant to ~~point (e) of the first subparagraph of~~ Article 158 (3) and ~~154(4)~~, first subparagraph, point (e), and provided that any publication of personal data is subject to safeguards equivalent to those set out in this Article.

Bodies designated pursuant to Article 63(3) shall publish information in accordance with sector-specific rules. Those sector-specific rules may, in

	<p>accordance with the relevant legal basis, derogate from paragraphs 2 and 3 of this Article, in particular for the publication of personal data, where justified on the basis of the criteria referred to in the third subparagraph of paragraph 3 of this Article, and taking into account the specificities of the sector concerned.</p> <p>Member States that receive and implement Union funds, pursuant to budget implementation under Article 62(1), first subparagraph, point (a), shall ensure <i>ex post</i> publication of information on their recipients, in a single website, in accordance with paragraphs 2 and 3 of this Article.</p> <p>5. The information referred to in paragraph 1 shall be published on the websites of Union institutions, no later than 30 June of the year following the financial year in which the funds were legally committed.</p> <p>The websites of Union institutions shall contain a reference to the address of the website where the information referred to in paragraph 1 can be found if it is not published directly on a dedicated website of Union institutions.</p> <p>The Commission shall make available, in an appropriate and timely manner, information about a single website, including a reference to its address, where the information as provided by the Member States, persons, entities or bodies referred to in paragraph 4 can be found.</p> <p>6. For the purposes of the first and second subparagraphs of paragraph 1 of this Article and without prejudice to paragraph 4 and to sector-specific rules, Union institutions implementing the budget pursuant to Article 59(1), Member States implementing the budget pursuant to Article 62(1), first subparagraph, point (b), Member States that receive and implement Union funds pursuant to budget implementation under Article 62(1), first subparagraph, point (a), persons or entities implementing the budget pursuant to Article 62(1), first subparagraph, point (c) and Union bodies referred to in Articles 70 and 71 shall transmit electronically to the Commission, in an open, interoperable and machine-readable format, at least once a year and at the latest by 31 March of the year following the financial year in which the funds were legally committed or in which the contract or agreement setting out the conditions of support was established, whichever is applicable, the data on their recipients referred to in paragraph 2 of this Article with the exception of the data referred to in the first subparagraph of paragraph 3 of this Article.</p> <p>In addition, the data to be transmitted shall also include the VAT identification number or tax identification number of natural persons where available or another unique identifier established at country level with a view to improve the quality of the data transmitted without it being used for publication.</p> <p>76. Where personal data are published, the information shall be removed two years after the end of the financial year in which the funds were legally committed. This shall also apply to personal data referring to legal persons whose official name identifies one or more natural persons.</p> <p>Where the budget is implemented in accordance with Article 62(1), first subparagraph, points (b) and (c), the personal data shall be removed two years after the end of the financial year in which the contract or agreement setting out the conditions of support was established.</p>
Specific provisions for indirect management in Article 159(6)	<p>6. The requirements of paragraph 6 of Article 38 shall apply to persons or entities implementing Union funds pursuant to Article 62(1), first</p>

	subparagraph, point c), where the financial support directly provided by persons or entities to third parties is of an amount higher than EUR 500 000.
Transitional provisions in Article 275(4)	4. The obligations set out in Article 38, third subparagraph of paragraph 4 and in paragraph 6, shall apply only to programmes adopted under and financed from the post-2027 multiannual financial framework.