

The working group represents 43 organisations from civil society, which are organized in the structured dialogue set up by the European Commission.

State of play after the opening of the first reading at the European Parliament – a civil society point of view

Analysis on the text “Draft compromise/oral amendments – revised” (2010/0395- COD), discussed by EP budget committee on the 16.09.2011 and “Financial rules applicable to the annual budget” (A7-0325/2011), discussed and voted by EP on 26.10.2011

Introduction

The latest EP’s draft compromise discussed on the 16 September 2011 and the plenary voting of the EP on 26 October 2011, has taken on board many of the recommendations made by the civil society working group coordinated by Euclid Network (see policy briefing “[Better Return on investments: make it better for civil society, better for Europe](#)”).

The Financial Regulation lays out key concepts and high-level rules which then have to be interpreted in order for them to become operating procedure. This interpretation is key to end requirements made in Calls for Proposal and is done through either the Implementing Rules or left to the discretion of Authorising Officers.

Our preference should be to ensure that as much as possible is made clear in the Implementing Rules rather than left to Authorising Officers as this promotes consistency and we have a chance to influence the interpretation of the Financial Regulation.

As an example we can look at the case of bank guarantees. The proposed article 125 is:

The authorising officer (“AO”) responsible may, if he deems it appropriate and proportionate *on a case-by-case basis and subject to risk analysis*, (proposed article 125) require the beneficiary to lodge a guarantee in advance in order to limit the financial risks connected with the payment of pre-financing

Guarantees shall not be required in the case of very low value grants or of low value grants where the beneficiary received at least one grant every year over the last five years

If left to the Authorising Officers, then some could say that they believe all small and medium sized NGO’s are by their nature financially risky, and therefore bank guarantees are required.

If the Implementing Rules lay out a rational Risk Assessment process that takes into account the fact that NGO’s have low financial reserves, and that the fact that the grants are spread across a number of NGO’s then there should be significantly fewer Guarantees requested. For example the Implementing Rules could give examples of when a Guarantee should be requested.

This briefing aims to show the progress reported in the draft compromise compared to the recommendations presented in the policy briefing, although all achievements are SUBJECT to changes in the IMPLEMENTING RULES.

Priority issues

Priority Issue	Progress	Action Required
<p>1. Non profit rule: as applied to Operating Grants and ongoing operations prior to receiving the following year's grant (Art. 117(4a new))</p>	<p>Progress in 5 parts</p> <ul style="list-style-type: none"> - Provisions may be allowed for sustainability but needs clarifying - Carry over for 3% of operating costs into the year N+2 is equivalent to ONLY 10 days costs so reduces impact of not offsetting small profits and losses - Non profit rule does not apply to low value grants - Profit = surplus, when the request for final payment is made (projects) - Profit = surplus balance on the operating budget (operating grants) - Proposal to exclude grants based on flat rates, lump sums and low value grants (<€60,000 Art 116) 	<p>Need to ensure that can include provisions for closure in operating costs (clarification in IR) And/or Increase 3 % Ensure that exclusion for low value grants also applies for very low value grants.</p>
<p>2. In kind contribution: the grant <u>can</u> represent 100% of eligible costs if co financing by beneficiary is provided in kind or through ineligible cost (Art. 117b new)</p>	<p>Progress for low value grants: if the authorising officer intends to refuse in kind contribution, he shall justify why it is not necessary or inappropriate.</p> <p><i>“Not necessary” is unclear in this context. What may not be necessary for an “AO” may be for a beneficiary.</i></p> <p>No progress for larger grants: “The authorising officer responsible may accept in-kind contributions as co-financing, if considered necessary or appropriate. “</p> <p><i>This represents no change from the present position as per the IR</i></p>	<p>For grants over €60,000 should change the approach to in-kind and align it to a tendering process to support the “AO”'s in assessing value. A tendering mechanism would value the work based on competing commercial tenders to do the same work. “AO”'s would need to assess the competence of the in-kind based tender as is presently required for commercial tenders.</p>

	<i>Art 172 which has led to “AOs” allowing almost no usage of in-kind contributions of co-financing.</i>	
3. Administrative costs should be increased from 7% (Art. 117a (new) (e)(f))	Achieved Increased to 10% up to 250.000€ and 8% thereafter Achieved, when taking into consideration clear regulation of costing all identifiable people time.	15% is closer to real administrative cost of CSO
4. Lump sums/flat rates simplified, maximum threshold abolished and amounts set up depending on the nature of the programme. (Art. 116a (new))	Some progress Lump sums are excluded from the No- Profit rule -(proposed Art 117 4 (bb)). Lump sums are allowed with significant due diligence from the “AO”. So significant that Lump Sums are likely to be rarely used. Excluded from non-profit, but could be clearer on processes such as budget detail, reporting, audit etc.	Need detailed rules in whole process: grant award, review, payment and audit process and identification of areas that will be simplified (eg budget simplification to audit rules)
5. Bank guarantees not mandatory (Art. 125)	Partly achieved The authorising officer responsible may, if he deems it appropriate and proportionate on a case-by-case basis and subject to risk analysis request a bank guarantee. Discrimination of newcomers: Guarantees shall not be required in the case of very low value grants or of low value grants where the beneficiary received at least one grant every year over the last five years.	Influence IR changes Discrimination of newcomers should not be fixed. Text should be changed back to original text with the word “or” before the word “where”
6. Very Low and Low value grants: less administrative requirements & increased threshold (from EUR 2,500 to 5,000 and from 25,000 to EUR 50,000) (Art. 101(a and b); recital 23a)	Achieved to limited extent Very low grants are 10,000€; Low grants are 60,000€. Excluded from non-profit rule, certification and guarantees if the beneficiary has received a grant for each of the last 5 years, but	Need detailed rules in whole process: grant award, review, payment and audit process and identification of areas that will be simplified (eg budget simplification to audit rules)

	need clearer and detailed guidance on how this will translate into increased simplification and reduced costs of processing grants.	
7. Payment of interest on pre-financing removed ; recital 8	Achieved	
8. VAT as eligible cost (Art. 117a new (3c))	Achieved	
9. Simplification of grant application procedures and to reduce duplication through the use of databases (Art. 102(1); 105(1a))	<p>No progress but this is relates more to IR then FR.</p> <p>Application for Low Value grants should specifically be simplified.</p> <p>Databases are only required for “ details of candidates and tenderers which are in one of the situations referred to in Article 100, Article 101, point (b) of Article 103(1) and point (a) of Article 103(2).” i.e. those that have suffered penalties or are ineligible.</p> <p>Databases should be used to positively support simplification.</p>	Pressure on IR to increase the use of databases to avoid duplication and support simplification.
10. Tolerable risk of error (Art. 29; recital 16)	Re-emphasises ‘sound financial management’ rather than just control and introduces the idea of unreasonable cost of controls and acceptance that controls can cost more than the errors. This should support more efficient processes.	Need to ensure that they extrapolate this into detailed simplification in the IR
11. Systemic Error (Art. 126(3))	Achieved Extrapolation of errors is now the last resort after audit of other projects	

<p>12. Decreasing of operating grants removed (Article 121)</p>	<p>Achieved</p>	
<p>13. External audits (Art. 123(3a new))</p>	<p>Required for projects grants above 750.000€ and operating grants exceeding 100.000€</p> <ul style="list-style-type: none"> - explicitly accepted or rejected within 90 days - if accepted shall not be subject to ex-post audits or evaluation 	
<p>14. Record keeping (Art. 126a (new))</p>	<p>Achieved</p> <p>5 years 3 years for low value grants Following the payment of the balance</p>	<p>Ensure that it applies to very low grants too</p>
<p>15. Double ceiling (Art. 117a (new))</p>	<p>Achieved</p> <p>Grants shall not exceed an overall ceiling expressed in terms of an absolute value which is to be established on the basis of estimated eligible costs.</p>	
<p>16. Processing time limit (Art. 122(1a new))</p>	<p>No progress</p> <p>6 months 9 months for panel decisions</p>	<p>Need to show that 6 month does not work for operating grants</p>
<p>17. Indirect cost in projects for beneficiaries of operating grants where project is not part of the working programme</p>	<p>No progress</p>	<p>Follow-up needed. It also affects project partners where the main applicant is receiving an operating grant.</p>

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