

**DECISION 21/2019 OF THE GOVERNING BOARD
THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY (EIT)**

**ON THE FINANCIAL REGULATION
OF THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY**

THE GOVERNING BOARD OF THE EUROPEAN INSTITUTE OF INNOVATION AND TECHNOLOGY,

Having regard to Regulation (EC) No 294/2008¹ of 11 March 2008 establishing the European Institute of Innovation and Technology, as amended by Regulation of the European Parliament and of the Council No 1292/2013² of 11 December 2013 (hereinafter referred to as the ‘EIT Regulation’), in particular Article 21 thereof;

Having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (hereinafter referred to as the ‘EU Financial Regulation’)³, in particular Article 70 thereof;

Having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the 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 referred to as the ‘Framework Financial Regulation’), in particular Article 112⁴;

Having regard to Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in “Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)” and repealing Regulation (EC) No 1906/2006 (hereafter referred to as ‘Horizon 2020 Rules for Participation’)⁵;

Having regard to the Decision of the Governing Board of the European Institute of Innovation and Technology of 27 December 2013 on adopting the financial regulation for the European Institute of Innovation and Technology⁶;

Having regard to Decision 6/2015 of the Governing Board of the European Institute of Innovation and Technology of 5 March 2015 amending the financial regulation for the European Institute of Innovation and Technology⁷;

¹ OJ L 97, 9.4.2008, p. 1

² OJ L 347, 20.10.2012, p. 1

³ OJ L 193, 30.7.2018, p. 1–222

⁴ OJ L 122, 10.5.2019, p. 1–38

⁵ OJ L 347, 20.12.2013, p. 81

⁶ 01364.EIT.2014.I

⁷ 00101.EIT.2015.I.GB34

Having regard to Decision 11/2016 of the Governing Board of the European Institute of Innovation and Technology of 20 April 2016 amending the financial regulation for the European Institute of Innovation and Technology⁸;

Having regard to Decision 8/2016 of the Governing Board of the European Institute of Innovation and Technology of 24 May 2016 on the Rules of procedure of the EIT Governing Board and Executive Committee⁹, in particular Article 12 thereof;

Having regard to Commission Decision C(2019) 5689 of 30 July 2019 on a request from the European Institute of Innovation and Technology for its financial rules from certain provisions of Delegated Regulation (EU) 2019/715 (hereafter referred to as the 'Commission Decision')¹⁰;

Whereas:

- (1) The EIT's current financial regulation was adopted by the Governing Board in 2013. Due to the entry into force of the EU Financial Regulation on 2 August 2018 and the Framework Financial Regulation on 1 January 2019, it is necessary to revise the 2013 financial regulation of the EIT.
- (2) Article 70 of the EU Financial Regulation states that the financial rules of bodies of the European Union, such as the EIT, shall not depart from the Framework Financial Regulation, except where the EIT's specific needs so require and subject to the Commission's prior consent.
- (3) Article 112 of the Framework Financial Regulation requires the EIT to adopt its new financial rules which shall lay down the derogations applicable to the EIT in accordance with the Commission Implementing Decision.
- (4) The Commission's Implementing Decision, adopted on 30 July 2019, granted consent for two derogations from the Framework Financial Regulation for the EIT.
- (5) First derogation: the EIT has been granted with the right of the re-entry of cancelled appropriations in 2009. Since then, the re-entry procedure, which allows to make cancelled appropriations available again up to the following three financial years, has been a necessary part of the mechanism for ensuring the efficient implementation of the Business Plans of the EIT Knowledge and Innovation Communities ('KICs'), including their multiannual innovation projects. The newly adopted Commission Implementing Decision of 30 July 2019 states that it is necessary to re-align the EIT's financial rules to the Framework Financial Regulation in this respect and allows the EIT to maintain the current derogation with the possibility of re-entry only for a limited period (for any financial year before 1 January 2022).
- (6) Second derogation: the newly adopted Commission Implementing Decision of 30 July 2019 granted consent to the derogation allowing the EIT to use the lists of experts drawn up by the Commission or other Union bodies or, if appropriate, select individuals with the appropriate skills from outside those lists. This departure is justified by the need for the EIT to be able to put at its disposal a broad pool of experts for the evaluation of proposals and the monitoring of EIT's KICs.

⁸ 00673.EIT.GB.2016.WP

⁹ 00507.EIT.2016.I.GB.WP

¹⁰ SG-Greffe(2019) D/11534

HAS DECIDED AS FOLLOWS:

Article 1
Application of the Framework Financial Regulation

The provisions of the Framework Financial Regulation shall be applied by the EIT entirely, except for the derogations laid down in Articles 2-3 of this decision.

Article 2
Derogation on the re-entry of cancelled appropriations

(1) Article 6(3) of the Framework Financial Regulation shall be applied by the EIT as follows:

- “3. The appropriations authorised for the financial year shall consist of:
- (a) appropriations consisting of the annual contribution granted by the Union;
 - (b) appropriations arising from own revenue consisting of all fees and charges which the Union body is authorised to collect by virtue of the tasks entrusted to it, and any other revenue;
 - (c) appropriations consisting of any financial contributions from the host Member States;
 - (d) appropriations provided following the receipt of revenue assigned during the financial year to specific items of expenditure in accordance with Article 20(1);
 - (e) appropriations carried over from the preceding financial years.

For the purposes of the budget for any financial year before 1 January 2022, the first subparagraph shall have effect as if point (e) referred instead to appropriations ‘re-entered from the preceding financial years’.”

(2) Article 12 of the Framework Financial Regulation shall be applied by the EIT as follows:

“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 carried over in accordance with paragraphs 2 and 4.
2. The following appropriations may be carried over by a decision taken pursuant to paragraph 3, but only to the following financial year:
 - (a) commitment appropriations and non-differentiated appropriations, for which most of the preparatory stages of the commitment procedure have been completed by 31 December of the financial year. Such appropriations may be committed up to 31 March of the following financial year, with the exception of non-differentiated appropriations related to building projects which may be committed up to 31 December of the following financial year;
 - (b) payment appropriations which are needed to cover existing commitments or commitments linked to commitment appropriations carried over, where the payment appropriations provided for in the relevant budget lines for the following financial year are insufficient.

With regard to point (b) of the first subparagraph, the Union body shall first use the appropriations authorised for the current financial year and shall not use the appropriations carried over until the former are exhausted.

3. The management board or, where the constituent act allows it, the executive board, 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) 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.

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 Union bodies who are subject to the Staff Regulations.

6. Non-differentiated appropriations legally committed by the end of the financial year shall be paid until the end of the following financial year.

7. For the purposes of the budget for any financial year before 1 January 2022, this Article shall have effect as follows:

(a) paragraph 2 shall effect as if it read as follows:

‘2. The following appropriations may be re-entered by a decision taken pursuant to paragraph 4:

- (a) differentiated commitment appropriations, but they may only be re-entered for the following three financial years;
- (b) payment appropriations which are needed to cover existing commitments or which come from the positive budget result referred to in Article 99, but they may only re-entered for the following financial year.’;

(b) the other provisions of this Article shall have effect as if any references to carry-over were references to re-entry.”

(3) Article 13 of the Framework Financial Regulation shall be applied by the EIT as follows:

“Article 13

Detailed provisions on cancellation and carryover of appropriations

1. The commitment appropriations and the non-differentiated appropriations referred to in point (a) of the first subparagraph of Article 12(2) 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 point (a) of 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.

4. For the purposes of the budget for any financial year before 1 January 2022, this Article shall have effect as if read as follows:

‘1. Appropriations re-entered for a financial year in accordance with point (a) or point (b) of Article 12(2) which have not been committed by 31 December of that financial year, with the exception of cancelled appropriations entered on budget lines under the Title called “cancelled appropriations not used in year n” shall be automatically cancelled and cannot be re-entered any longer.

2. Appropriations re-entered for a financial year shall be identified in the budget of the Union body.

3. Re-entered appropriations which have been cancelled shall be identified in the accounts.’.”

(4) Article 17 of the Framework Financial Regulation shall be applied by the EIT as follows:

“Article 17
Balance from financial year

1. If the budget result within the meaning of Article 99 is positive, it shall be repaid to the Commission up to the amount of the contribution paid during the year. The part of the budget result exceeding the amount of the Union contribution paid during the year shall be entered in the budget of the Union body for the following financial year as revenue.

The first subparagraph shall also apply when the revenue of the Union body is constituted by fees and charges in addition to the Union contribution.

The difference between the contribution entered in the budget and that actually paid to the Union body shall be cancelled.

2. In exceptional cases, where the constituent act provides that the revenues arising from fees and charges are assigned to particular items of expenditure, the Union body may carry-over the balance of fees and charges as assigned revenue for the activities related to the provision of the services for which the fees are due.

3. If the budget result within the meaning of Article 99 is negative, it shall be entered in the budget of the Union body for the following financial year as payment appropriations or, where appropriate, offset against positive budget result of the Union body in the following financial years.

Where the fees and charges are assigned revenue the negative result related to this assigned revenue can be offset against the accumulated surplus from previous years, if available.

4. The revenue or payment appropriations shall be entered in the budget of the Union body during the budgetary procedure using the letter of amendment procedure set out in Article 42 of Regulation

(EU, Euratom) 2018/1046 or, while implementation of the budget of the Union body is under way, by means of an amending budget.

An estimate of the budget result from year N – 1 will be provided no later than 31 January of the year N. This information shall be duly taken into account by the Commission when assessing the financial needs of the Union body for the year N + 1.

5. For the purposes of the budget for any financial year before 1 January 2022, paragraphs 1 and 2 shall have effect as if they read as follows:

‘1. If the budget result within the meaning of Article 99 is positive, it shall be entered in the budget of the Union body for the following financial year as revenue. The part of the budget result that relates to cancellation of unused payment appropriations re-entered from a previous financial year shall be repaid to the Commission.

The first subparagraph shall also apply when the revenue of the Union body is constituted by fees and charges in addition to the Union contribution.

2. Where the constituent act provides that the revenues arising from fees and charges are assigned to particular items of expenditure, the Union body shall re-enter the balance of fees and charges as assigned revenue for the activities related to the provision of the services for which the fees are due.’”

(5) Article 20(4) of the Framework Financial Regulation shall be applied by the EIT as follows:

“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.

For the purposes of the budget for any financial year before 1 January 2022, the first subparagraph shall have effect as if the reference to ‘carried over’ were a reference to ‘re-entered’.”

Article 3 Derogation on the selection of experts

Article 93 of the Framework Financial Regulation shall be applied by the EIT as follows:

“Article 93 Remunerated external experts

1. Article 237 of Regulation (EU, Euratom) 2018/1046 shall apply mutatis mutandis.
2. The Union body may use the lists of experts drawn up by the Commission or other Union bodies. It may, if deemed appropriate, select any individual with the appropriate skills from outside the lists.”

Article 4 Repeal

This decision shall repeal the following acts:

- Decision of the Governing Board of the European Institute of Innovation and Technology of 27 December 2013 on adopting the financial regulation for the European Institute of Innovation and Technology;
- Decision 6/2015 of the Governing Board of the European Institute of Innovation and Technology of 5 March 2015 amending the financial regulation for the European Institute of Innovation and Technology;
- Decision 11/2016 of the Governing Board of the European Institute of Innovation and Technology of 20 April 2016 amending the financial regulation for the European Institute of Innovation and Technology.

Article 5 Entry into force

This decision shall enter into force with retroactive effect on 1 July 2019.

Done in Budapest, 25 September 2019¹¹

For the EIT Governing Board

[Signed]

Dirk Jan van den Berg
Chairman of the Governing Board

¹¹ Approved by written procedure on 25 September 2019