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# Overview of the Legal Framework

*European Commission*

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**Chapter 33: Financial and Budgetary Provisions**

***Explanatory meeting on the acquis with Albania and  
North Macedonia***

*Disclaimer: these slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union'*

**Directorate-General for the Budget**





# Structure of the presentation

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- 1. Primary Law: Treaty Provisions**
- 2. Secondary Law**
  - a. Inter Institutional Agreement**
  - b. Own Resources Decision ('quasi-primary')**
  - c. Implementing legislation**
  - d. Financial Regulation**



# Legal Framework - Treaty

## ❑ Financial provisions of the Treaties (Art. 310-325)

### ❑ Financial provisions (Art. 310)

- §3: the implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing the legal basis for its action and for the implementation of the corresponding expenditure

### ❑ Own resources of the Union (Art. 311)

- Own Resources Decision requires unanimity and ratification by Member States (national parliaments)
- Implementing Regulation for the Union's own resources system

### ❑ Multiannual Financial Framework (Art. 312)

- Covers at least five years
- Annual ceilings for broad categories of expenditure (headings)

### ❑ Annual budget (Art. 313 – 316)

### ❑ Common provisions (Art. 320 – 324)

- Financial Regulation (Art. 322, §1)
- Interinstitutional cooperation (Art. 324)



# Legal Framework – Multianual Financial Framework

## Art. 312 TFEU:

According to the Treaty of Lisbon the Council, acting in accordance with a special legislative procedure, must unanimously adopt the MFF Regulation after having obtained the consent of Parliament which shall be given by a majority of its component members.

## The MFF 2014-2020

- ❑ Council Regulation + Interinstitutional Agreement
  - ❑ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 and its amendment Council Regulation (EU, Euratom) 2017/1123 of 20 June 2017 .
  - ❑ The Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management



# Legal Framework - Treaty

## Art. 311 TFEU:

- *„Without prejudice to other revenue, the EU budget shall be financed wholly from own resources.“*
- *"The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the EP adopt a decision laying down the provisions relating to the system of own resources of the Union... This decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements."*



## Own Resources Decision



## Own Resources Decision & Implementing Regulation (I)

### Council Decision No. 335 of 26 May 2014 on the system of Union's own resources

- ☐ entered into force on 26/05/2014; retroactive effect from 1/1/2014;

#### Defines:

- ☐ Types of own resources (Art. 2);
- ☐ Corrections (Art. 2 and 4,5)
- ☐ Own resources ceiling (Art. 3) fixed 1.23% of EU GNI at market price, as provided by the Commission in application of Regulation (EU) No 549/2013 ('ESA 2010').
- ☐ Universality principle (Art. 6) and Surplus carry over (Art. 7)
- ☐ Council shall lay down Implementing measures (Art. 9) in accordance with the procedure set out in the fourth paragraph of Article 311 TFEU regarding:
  - a) procedure for calculating and budgeting the annual budgetary balance
  - b) provisions and arrangements necessary for controlling and supervising the revenue referred to in Article 2



## Own Resources Decision & Implementing Regulation (II)

Implementing measures presently in force based in Art. 338.1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure. (see Art.294 ( Ex Art. 251 TEC)).

[http://www.europarl.europa.eu/external/html/legislativeprocedure/default\\_en.htm](http://www.europarl.europa.eu/external/html/legislativeprocedure/default_en.htm)

- ❑ Regulation (EU) 2019/516 of the European Parliament and the Council of 19 March 2019 on the harmonisation of gross national income at market prices and repealing Council Directive 89/130/EEC, Euratom and Council Regulation (EC, Euratom) No 1287/2003 (GNI Regulation)



## Own Resources Decision & Implementing Regulation (III)

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Implementing measures presently in force is based is based on Art. 311(4); *QMV in Council, consent by EP*

- ❑ Council Regulation ( EU, Euratom No 608/2014 of 26 May 2014 laying down implementing measures for the system of own resources of the European Union,
  - ❑ Controls and supervision measures, reporting fraud, inspections;
  - ❑ Establishes the Advisory Committee for Own Resources (ACOR)





## Own Resources Decision & Implementing Regulation (IV)

Implementing regulations presently in force are based on Art. 322(2). The European Parliament and the Council, acting in accordance with the ordinary legislative procedure (see Art. 294 ( Ex Art. 251 TEC)).

[http://www.europarl.europa.eu/external/html/legislativeprocedure/default\\_en.htm](http://www.europarl.europa.eu/external/html/legislativeprocedure/default_en.htm)

- ❑ Council Regulation (EU, Euratom) 2016/804 of 17 May 2016 amending Regulation (EU, Euratom) No 609/2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements.
- ❑ Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax



# Legal Framework – Financial Regulation

## □ Financial regulation

- 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

- consolidated versions :

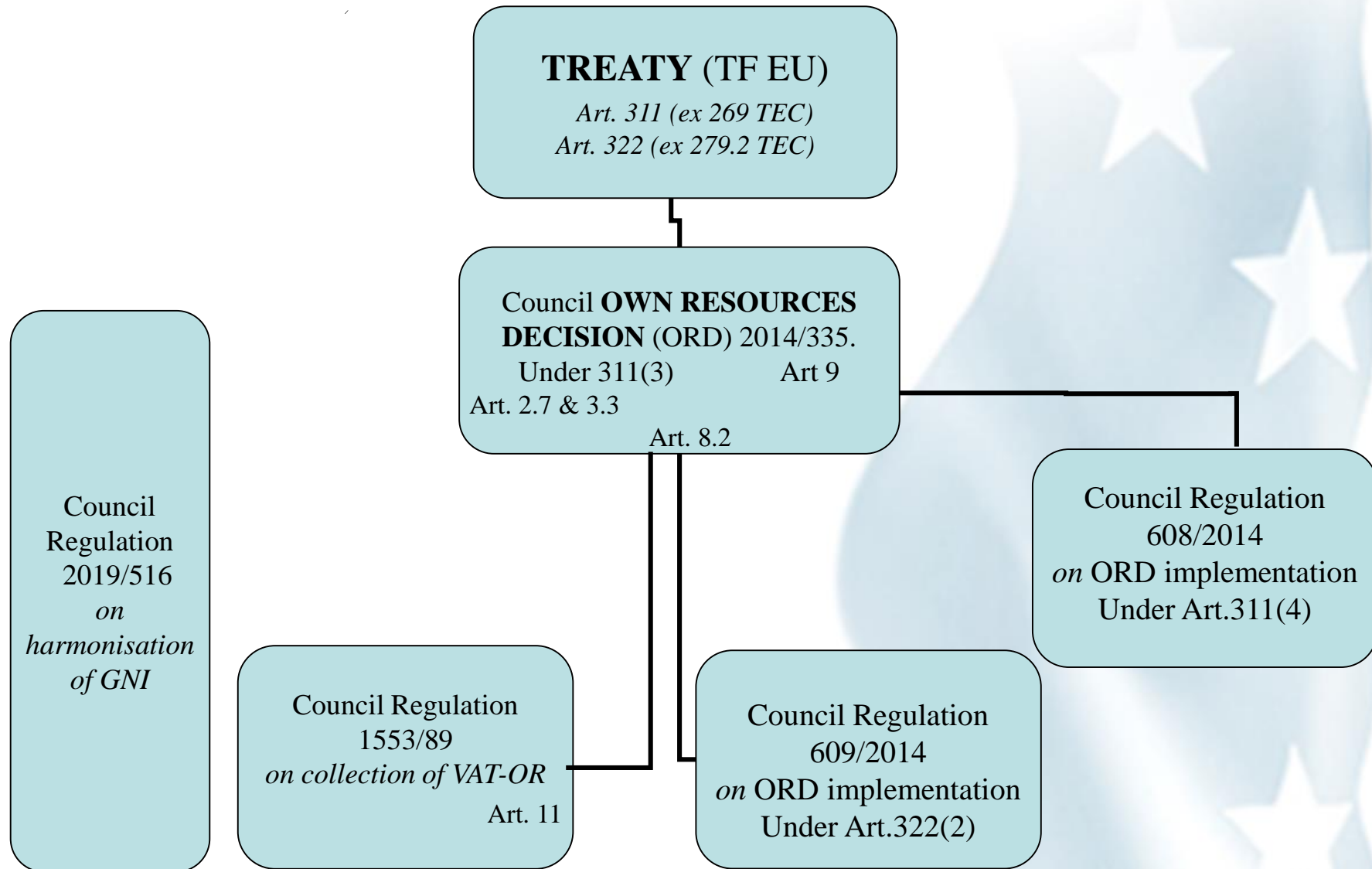
[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2018.193.01.0001.01.ENG&toc=OJ:L:2018:193:FULL](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.193.01.0001.01.ENG&toc=OJ:L:2018:193:FULL)

## □ Provisions on revenue operations in FR

- Title IV (Implementation), Chapter 5

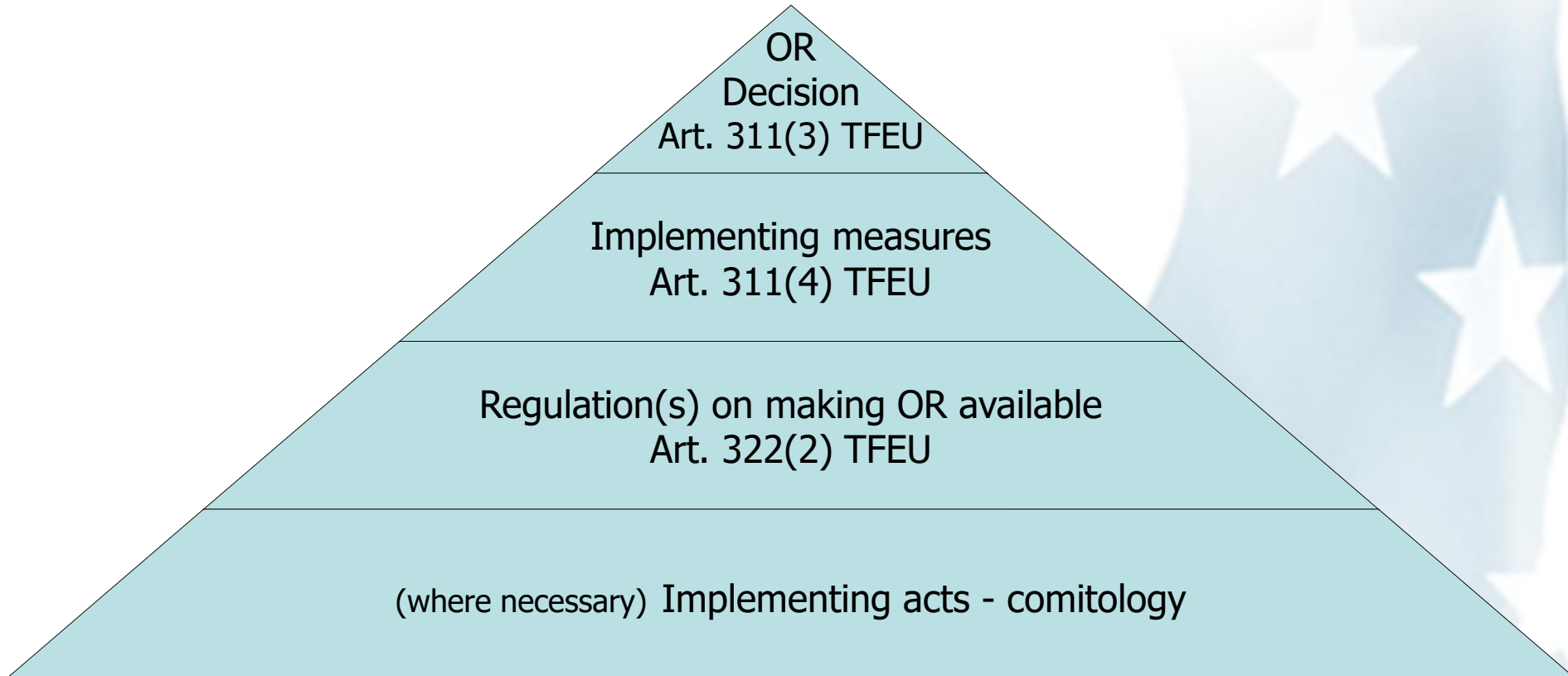


# Overview of the current system





# Legal architecture of the proposals



➔ **Hierarchy within the OR system is clarified**



# Streamlined legal architecture

