



EUROPEAN
COMMISSION

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COMMISSION DECISION

of 5.3.2015

**on the Internal Rules on the implementation of the general budget of the
European Union (European Commission section) for the attention of the
Commission departments**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union¹, and in particular Articles 56 and 62 thereof,

Whereas:

- (1) Article 47 of Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union ('RAP')² states that each institution is to lay down in its internal rules such measures for the management of appropriations as it considers necessary for proper implementation of its section of the budget.
- (2) Articles 13 to 15 of the Commission's Rules of Procedure lay down rules on the empowerment procedure, the delegation procedure and subdelegation for individual decisions awarding grants and contracts³,
- (3) Article 50 of the Commission Delegated Regulation (EU) No 1268/2012 states that each institution shall draw up a code of professional standards on matters of internal control. The current code of professional standards for the ex-ante financial verification function as attached to the Communication C(2006)735⁴ should be updated and annexed to these Internal Rules. The Communication C(2006)735 should cease to apply.

HAS DECIDED AS FOLLOWS:

¹ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012, OJ L 298, 26.10.2012, p.1.

² Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.

³ See Decision 2010/138/EU, Euratom of 24 February 2010, OJ L 55, 5.3.2010, lastly amended by Commission Decision of 9 November 2011(2011/737/EU, Euratom) — OJ L 296, 15.11.2011.

⁴ Communication to the Commission from Ms Grybauskaite in agreement with Mr Kallas of 22 May 2006 (C(2006)735).

TITLE I — GENERAL PROVISIONS

Article 1 *Scope*

This Decision lays down the rules to be applied by Commission departments and the executive agencies⁵ referred to in Article 62 of the Financial Regulation for the implementation of the general budget of the European Union, in accordance with Article 317 of the Treaty on the Functioning of the European Union and Articles 56, 58, 69 and 214 of Regulation (EU) No 966/2012 (the 'Financial Regulation').

These rules shall also apply to Heads of Union Delegations managing, as Commission authorising officers by subdelegation, operational appropriations from the Commission section of the budget of the European Union.

Article 2 *Delegation of powers*

1. Designation of authorising officers

The authorising officers to whom the Commission delegates its powers of budget implementation are designated in Annex 1 ('Commitment of expenditure and management of appropriations').

2. Delegation of powers to executive agencies

In accordance with Article 6 of Council Regulation (EC) No 58/2003 of 19 December 2002⁶, the executive agencies referred to in Article 62 of the Financial Regulation shall be the subject of specific acts of delegation adopted by the Commission⁷. The acts in question shall be directly applicable irrespective of whether Annex 1 has been formally adjusted.

In accordance with Article 62(2) of the Financial Regulation, the powers delegated by the Commission to the executive agencies shall be implemented by the Directors of those agencies by direct management.

3. Authorising officers by delegation and by subdelegation:

(a) The following shall be 'authorising officers by delegation':

- Directors-General, grade AD16/AD15 officials or members of temporary staff⁸ heading the highest level administrative unit under the direct authority of a Member of the Commission;

⁵ Only when they implement appropriations from the Commission section of the budget.

⁶ Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, pp. 1-8).

⁷ The references to the specific acts of delegation adopted in the past for each budget line concerned are shown in Annex 1. If there is any contradiction as to which budget line is to receive the appropriations for which implementation is delegated to an executive agency, it is the most recent act which is authentic.

⁸ Within the meaning of Article 2 of the Second Part (Conditions of employment of other servants) of Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of employment of other servants of the European Communities (OJ L 56, 4.3.1968, p. 1).

- Heads of Service, grade AD16/AD15 (personal) or grade AD14 officials or members of temporary staff, other than Heads of Cabinet, heading an administrative unit and under the direct authority of a Member of the Commission;
 - the Directors of the European Offices and the interinstitutional European Offices referred to in Title V of Part Two of the Financial Regulation ('FR'), who are treated as Heads of Service;
 - the Directors of the executive agencies referred to in Article 62 of the Financial Regulation when they implement appropriations from the Commission section of the budget to exercise the powers which the Commission has delegated to the agency;
 - the Director of Directorate A of the Internal Audit Service⁹.
- (b) The following shall be 'authorising officers by subdelegation'¹⁰:
- authorising officers by delegation who become authorising officers by subdelegation, as a result of cross subdelegation, when they implement appropriations for which another authorising officer by delegation is responsible;
 - Deputy Directors-General, officials or members of the temporary staff of grade AD14 or higher in charge of one or more directorates or administrative units, under the direct authority of a Director-General or a Head of Service;
 - Directors, officials or members of the temporary staff of grade AD14 or higher, heading an administrative unit, under the direct authority of a Director-General, a Head of Service or a Deputy Director-General;
 - Heads of Unit or Deputy Heads of Unit, officials or members of the temporary staff of grade AD9 or higher, heading an administrative unit, under the direct authority of a Director, a Deputy Director-General, a Head of Service or a Director-General;
 - Heads of Representation, who are officials or members of temporary staff of grade AD9 or higher, heading a Commission representation in a Member State, under the direct authority of a Director in the Directorate-General for Communication;
 - Heads of Delegation, who are officials or members of temporary staff of the European External Action Service ('EEAS') heading a European Union Delegation to a third country, under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. Heads of Delegation shall assume the function of Commission authorising officer by subdelegation for the management of operational appropriations from the Commission section of the Union budget;

⁹ In accordance with Article 98(1) FR, the internal auditor may not be either an authorising officer or an accounting officer. The powers of budget implementation are therefore delegated to the Director of IAS.A.

¹⁰ This section applies both to Commission departments (including the Offices) and to the executive agencies, save for the indent concerning the cross subdelegation of powers, which the executive agencies may neither receive nor grant.

- in EU Delegations, Commission officials or members of temporary staff of grade AD5 or higher, performing the function of Head of Section at least;
- officials and members of temporary staff and, in certain instances, contract staff performing a function lower than that of Head of Unit, Head of Representation or Head of Delegation, subject to the conditions and within the limits laid down in Article 7.

Article 3 **Co-delegation**

1. Principle

Powers concerning a given budget line may be delegated to more than one person. These co-delegations are set out in Annex 1.

2. Horizontal and vertical co-delegation

Horizontal co-delegation shall consist of dividing the appropriations in a budget line between a number of authorising officers who implement their respective appropriations by making commitments, validating and authorising expenditure and, where applicable, making recoveries. It shall fall into two categories – type I and type II.

Vertical co-delegation shall consist of dividing between a number of authorising officers the various budget implementation operations relating to the same appropriations¹¹. The detailed arrangements for managing and supervising the line or the part of the line concerned shall be laid down in a written agreement signed jointly in accordance with Article 4(1) ('Content of delegation of powers: Principle'). Vertical co-delegation shall be automatically extended each year until it is revoked in writing by the authorising officers by delegation concerned (or by one of them with the agreement of the others).

3. Type I horizontal co-delegation

In type I horizontal co-delegation, the implementation of appropriations in the same line shall be shared between a number of authorising officers by delegation either:

- following a written agreement between these authorising officers by delegation. In this case, the appropriations remain unusable (unassigned)¹² until a written agreement setting out the internal organisation of the appropriations within the line has been concluded between the authorising officers by delegation and sent to DG BUDG.

Any changes to the internal organisation of the appropriations in the course of the financial year shall be subject of a written agreement between the authorising officers directly concerned which is to be sent to DG BUDG. The authorising officers not directly concerned by such changes¹³ but sharing the line do not have to give their written agreement but may issue a prior consent

¹¹ For example, under Article 279 RAP, the budgetary commitment is made by the authorising officer of a DG, whereas all subsequent acts may be co-delegated to the Directors of interinstitutional European offices.

¹² They are placed in reserve in the fund management centre (FMC).

¹³ In the sense of point E.2 of Annex 1

at the beginning of the year for such cases. The prior consent may be revoked in writing at any time; or

- on the basis of a decision adopted by DG BUDG for expenditure in Heading V of the multiannual financial framework¹⁴.

Authorising officers by delegation shall implement their appropriations independently. Each authorising officer shall therefore be responsible for requesting the appropriations he deems necessary for implementation and for carrying out the work programme, when the draft budget is drawn up. He must therefore also account for their use in his annual activity report.

This form of co-delegation shall be automatically extended each year until it is revoked in writing by the authorising officers by delegation concerned (or by one of them with the agreement of the others).

4. Type II horizontal co-delegation

Type II horizontal co-delegation shall involve a primary authorising officer by delegation and a secondary authorising officer by delegation, whereby the primary authorising officer may hand over the performance of certain administrative services¹⁵ to another authorising officer by entrusting him with part of the budgetary implementation of the line¹⁶.

All the appropriations available at the start of the year shall be made available to the primary authorising officer by delegation, who may co-delegate to the secondary authorising officer by delegation the task of implementing part of the line following a specific annual agreement between the two DGs concerned, which shall be sent to DG BUDG by the primary authorising officer¹⁷. To this end, the written agreement of the two authorising officers by delegation is required before the co-delegated funds are made available in ABAC¹⁸.

The secondary authorising officer shall bear sole responsibility for implementing the appropriations co-delegated to him and shall report thereon in his annual activity report.

This type of co-delegation shall be updated regularly and the agreement shall be filed electronically in accordance with the applicable E-Domec rules.

Article 4 ***Content of delegation of powers***

1. Principle

¹⁴ For Heading V lines, DG BUDG decides on the use of type I co-delegation in order to transfer appropriations in the same line between different DGs and departments (e.g. OIB, OIL and DIGIT).

¹⁵ The co-delegated line may be either administrative or operational.

¹⁶ For example: the organisation of conferences and interpreting services (SCIC) and the provision of IT services (this list is not exhaustive).

¹⁷ For the record, the co-delegation must be set out beforehand in Annex 1 to the Internal Rules.

¹⁸ This agreement, which can be sent by e-mail, must be recorded in ARES. However, once the inter-DG workflow will be in place, agreement by the secondary authorising officer in ABAC is sufficient.

The powers which the Commission delegates to the authorising officers defined in Article 2 allow the holders, in their capacity as authorising officers by delegation¹⁹, to implement the budget by:

- (i) making budgetary and legal commitments²⁰ as well as carrying out the preliminaries,
- (ii) transferring amounts to Union trust funds in accordance with Article 187 FR,
- (iii) validating and authorising expenditure,
- (iv) establishing amounts receivable (including making financial corrections and extrapolating errors as provided for in Article 80(4) FR) and issuing recovery orders, waiving recovery and cancelling established amounts receivable,
- (v) the measures set out in Article 60(6) FR concerning in particular the examination and approval of accounts and the exclusion from Union financing of expenditure in breach of the applicable rules in the context of indirect management,
- (vi) taking individual decisions on the award of grants, public contracts or prizes in accordance with Article 24 ('Financing decision'),
- (vii) proposing transfers of appropriations in accordance with Article 28 ('Procedure for transfers of appropriations'),
- (viii) selling assets placed under their responsibility.

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

In cases covered by Article 97 RAP, where two different authorising officers by delegation are responsible for budgetary commitment and legal commitment, the procedure for the management and control of the line or the part of the line concerned shall be laid down in a written agreement which they both sign.

2. Adoption of decisions by the Commission

The Commission itself may nevertheless exercise the powers it has delegated, either on its own initiative or at the request of the authorising officer by delegation.

3. Waiving the recovery of amounts receivable

Decisions on waiving the recovery of amounts receivable which are equal to or higher than the thresholds laid down in Article 91(4) RAP shall be reserved for the College of Commissioners²¹.

¹⁹ In accordance with the financial circuits in their departments.

²⁰ Including for financial instruments.

²¹ Article 91(4) RAP reads: *'The waiving of recovery of an established amount receivable may not be delegated by the institution in any of the following cases: a) where the amount to be waived is EUR 1 000 000 or more; b) where the amount to be waived is EUR 100 000 or more, where this represents 25 % or more of the established amount receivable.*

Beneath the thresholds set out in the first subparagraph, each institution shall lay down in its internal rules the conditions and procedure for delegating the power to waive recovery of an established debt.'

Below these thresholds, any total or partial waiver of the recovery of an established amount receivable shall be the subject of a substantiated decision adopted by the authorising officer responsible, in accordance with Article 80 FR.

Decisions to waive the recovery of amounts receivable pursuant to the principle of proportionality under Article 91(1)(c) RAP shall be governed by the guidelines set out in Annex 18.

4. Extra-budgetary operations and trust funds

Authorising officers by delegation shall also be responsible for any extra-budgetary operation connected with the implementation of budget lines for which powers have been delegated to them²².

Specific provisions on the trust funds adopted by the Commission shall apply to the management of the trust funds provided for in Article 187 FR. Where no such specific provisions on these funds are adopted yet, these Internal Rules shall apply *mutatis mutandis* to the management of the trust funds with the exception of Title III²³.

Article 5

Delegation of powers in relation to interinstitutional procurement or public contracts concluded with one or more Member States, Member States of the European Free Trade Association (EFTA) and candidate countries

1. Principle

The delegation of budget implementation powers shall cover interinstitutional procurement and public contracts concluded jointly with one or more Member States.

2. Interinstitutional procurement

The authorising officer by delegation shall be responsible for applying the procedure laid down in the second subparagraph of Article 104(1) FR for contracts concluded with other institutions, executive agencies and the bodies referred to in Articles 208 and 209 FR. He shall also be responsible for drawing up, signing and implementing agreements concluded with those bodies for the purpose of implementing the above procedure.

3. Public contracts with one or more Member States

For the conclusion of public contracts organised jointly with one or more Member States pursuant to the third subparagraph of Article 104(1) FR and Article 133 RAP, the Internal Rules shall apply, except in the following cases:

- (a) the College of Commissioners shall approve²⁴, before it is signed, the draft agreement between the Commission and the Member State(s) concerning the

²² 'Extra-budgetary operations' concern expenditure and revenue which generate a financial flow but are booked to the budget accounts later.

²³ Article 26 ('Trust funds') of Title III shall continue to apply to the establishment of a fund and the transfer of appropriations to it, but not to the management of the fund, which shall be governed by the establishment decision and by the agreement setting up the fund.

²⁴ Normally it should be stipulated that the joint contract in question is covered by the Decision of 12 October 1977 (SEC(77) 3503, PV 446), as last amended by Decision SEC(2007) 337 on empowerment and delegation of powers procedures in the event of legal action.

practical arrangements of the procurement procedure, after an interservice consultation;

- (b) the College of Commissioners shall adopt decisions abandoning and cancelling contracts or terminating contracts, as provided for in Articles 114 and 116 FR.

The authorising officer by delegation shall be empowered to sign and implement the agreement concluded between the Commission and one or more Member States, subject to the restrictions set out in the previous subparagraph.

4. Public contracts with Member States of the European Free Trade Association (EFTA) and candidate countries

The rules applied to public contracts with one or more Member States, as laid down in paragraph 3, shall also apply to public contracts concluded with one or more Member States of the European Free Trade Association (EFTA) or candidate countries, provided that the possibility of using such contracts is specifically provided for in a bilateral or multilateral treaty.

Article 6

Charter of authorising officers by delegation

1. Principle

Authorising officers by delegation shall perform their duties in accordance with the Charter of the tasks and responsibilities of authorising officers by delegation (Annex 15 - part 1/4). The Charter shall identify the tasks entrusted to authorising officers by delegation, their rights, duties and the specific responsibilities they assume in this role.

2. Purpose

All authorising officers shall sign the Charter on taking up their duties and whenever the provisions therein are amended.

3. Archiving

A signed copy of the Charter shall be filed electronically in accordance with the applicable E-Domec rules.²⁵

Article 7

Subdelegation of the powers of budget implementation

1. Principle

The authorising officer by delegation may subdelegate all his powers to authorising officers by subdelegation, in line with Article 66(2) FR, and except where specified in the following paragraph.

2. Exception: tasks which may not be subdelegated

The tasks and responsibilities which are inherent to the position of authorising officer by delegation may not be subdelegated, in particular:

²⁵ See joint DG BUDG/SG note – 'Classification of charters, subdelegations and deputising' of 11 December 2013, ref. Ares(2013)3697856.

- (1) 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 66(1) FR;
- (2) the general responsibility for putting in place the organisational structure and the internal management and control systems and procedures suited to the performance of his duties, including where appropriate ex post verifications, in accordance with Article 66(2) and (6) FR;
- (3) the obligation to take the necessary measures in the cases referred to in Article 66(8) FR concerning possible irregularities, bad financial management or failure to abide by professional rules;
- (4) adoption of the annual activity report (AAR) and the annexes thereto, in accordance with Article 66(9) FR;
- (5) the waiving of an amount receivable exceeding EUR 15 000. However, the authorising officer by delegation may subdelegate this power to another authorising officer by delegation in the context of cross subdelegation;
- (6) the signing of loans to finance the acquisition of buildings under Article 203(8) FR;
- (7) the signing of public contracts concluded jointly with Member States, EFTA Member States and candidate countries;
- (8) requests for transfers regarding which the budgetary authority must be informed or must give its authorisation.

3. Further subdelegation

An authorising officer by subdelegation may in turn subdelegate his powers to other authorising officers by subdelegation performing an equal or lesser function²⁶ in his Directorate-General or assimilated service²⁷ after having obtained the written agreement of the authorising officer by delegation on the person chosen to receive these powers.

4. Level of subdelegation

Save in the cases referred to in paragraph 6, powers may be subdelegated to authorising officers by subdelegation performing at least the function of Head of Unit, Deputy Head of Unit or Head of Representation.

They may also be subdelegated to category AD and AST officials and temporary staff on the basis of an analysis of the requirements and risks carried out under the responsibility of the authorising officer by delegation responsible.

By way of exception, in the European Offices and in the Representations in the Member States, powers may be subdelegated to contract staff, within the meaning of Article 3a of the Conditions of employment of other servants, in function groups III or IV.

5. Level of subdelegation in EU Delegations

²⁶ For example, a Director-General may subdelegate his powers to a Director, who may in turn subdelegate them to a Head of Unit or a lower-ranking official.

²⁷ With the exception of subdelegations granted by a Director to a Head of Delegation.

Save in the cases provided for in paragraph 6, in EU Delegations powers may be subdelegated²⁸ to Heads of Delegation in relation to operational appropriations. In the case of administrative appropriations, powers may be subdelegated to a member of staff performing at least the function of Head of Section.

Nevertheless, for the individual decisions awarding grants, prizes or public procurement contracts referred to in Article 24(4) and for the signing of contracts and framework contracts, powers may be subdelegated only to officials or members of the temporary staff performing at least the function of Head of Section and having at least grade AD5, provided that they have sufficient professional experience to warrant such subdelegation and that adequate controls are put in place by the delegating authorising officer.

Exceptionally, and save in the cases referred to in the preceding subparagraph and in paragraph 6, powers may be subdelegated to contract staff of the Commission in function groups III or IV.

Powers shall be subdelegated according to the rules and within the limits laid down in the following paragraphs and in Articles 8 to 13.

6. Specific limits to subdelegation:

- (a) The rank to which decisions on exclusions and penalties provided for in Articles 34 and 35 may be subdelegated shall be limited to the function of Director and Head of Delegation.
- (b) The following powers may be subdelegated only to officials and members of temporary staff performing at least the function of Head of Unit, Head of Representation, or Deputy Head of Unit or Head of Sector having at least grade AD5 provided that they have sufficient professional experience to warrant such subdelegation and that adequate controls are put in place by the delegating authorising officer:
 - power to take individual decisions awarding grants, prizes or public procurement contracts referred to in Article 24(4);
 - power to sign contracts, framework contracts and specific contracts with or without reopening of competition as referred to in Article 122 RAP.
- (c) The power to sign specific contracts without reopening of competition concerning the routine administrative expenditure referred to in Article 98 RAP may be subdelegated to category AD and AST officials and members of temporary staff, provided that adequate limits and controls are put in place by the Head of Unit or Head of Representation.
- (d) Implementation of the measures referred to in Article 91(1)(a) and (b) and Article 92 RAP on waiving recovery of an established amount receivable of less than EUR 15 000 may be subdelegated only to staff of the rank of Head of Unit, Head of Delegation or Head of Representation.

²⁸

In principle, the Commission officials in a Delegation receive the subdelegation relating to operational appropriations from the Head of Delegation, save in exceptional cases where they may receive it directly from headquarters or in the case of administrative appropriations.

- (e) The power to sign agreements concerning the financial instruments provided for in Article 25 may be subdelegated only to officials and members of temporary staff performing at least the function of Director.
- (f) The power to transfer²⁹ budget funds to a trust fund set up under Article 187 FR may be subdelegated only to officials and members of temporary staff performing at least the function of Director.

7. Criteria for choosing authorising officers by subdelegation

The rank of the official to whom powers are subdelegated must always be commensurate with the risks inherent in the operations concerned, with account being taken of the amounts involved and the principle of cost-effectiveness.

Authorising officers by subdelegation shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or appropriate professional experience, or after an appropriate training programme.

8. Recovery of (sub)delegated powers by the authorising officer by (sub)delegation

An authorising officer by delegation or subdelegation who has subdelegated his powers may, at any moment and without amending the instrument of subdelegation, himself continue to exercise these subdelegated powers on his own initiative or at the request of the person to whom those powers have been subdelegated.

9. Subdelegation for the same budget line

Powers concerning a single budget line may be subdelegated to more than one authorising officer by subdelegation.

Article 8

Subdelegation to Heads of EU Delegations for operational appropriations

1. Principle

In accordance with Article 56(2) FR and by way of derogation from Article 7(3) ('Further subdelegation'), the acts of budget implementation referred to in Article 4(1) ('Content of delegation of powers: Principle') may be subdelegated to Heads of Union Delegations for the management of operational appropriations³⁰ concerning the Commission section of the budget.

Powers may be subdelegated to the Head of Delegation only by officials or members of temporary staff performing at least the function of Director, having obtained the written agreement of the authorising officer by delegation³¹.

2. Information for the European External Action Service (EEAS)

Where an authorising officer by delegation (or by subdelegation³²) subdelegates powers to a Head of Delegation, he shall inform the departments of the High Representative of the Union for Foreign Affairs and Security Policy. The same

²⁹ The term 'transfer' must be interpreted within the meaning given in Article 187(6) FR: 'The contributions of the Union shall be transferred to this account on the basis of payment requests that are duly substantiated...'

³⁰ This excludes administrative appropriations, including 'support expenditure' (XX.01.04) – the 'ex-BA lines'.

³¹ Article 7(6) shall apply.

³² At Director level.

procedure shall apply in exceptional cases where the subdelegation of powers to a Head of Delegation is revoked.

3. Agreement of the home Directorate-General

Powers may be subdelegated to the same Head of Delegation by several authorising officers by delegation (or by subdelegation). However, any authorising officer by delegation (or by subdelegation) who wishes to use Delegation staff attached to another Directorate-General must first ask for the consent of that Directorate-General. The Head of Delegation shall be informed of this consent by the authorising officer granting the subdelegation³³.

4. Subdelegation of powers by the Head of Delegation

A Head of Delegation to whom powers have been subdelegated may subdelegate his powers only to officials or members of staff within his Delegation who belong to a Commission Directorate-General or department. He shall comply in particular with the rules and the limits laid down in paragraphs 3 to 6 of Article 7 ('Subdelegation of the powers of budget implementation').

The Head of Delegation shall ask beforehand for the written agreement of the authorising officer by delegation or subdelegation³⁴ on the person chosen to carry out these duties. Any further subdelegation must receive the explicit agreement of the authorising officer by delegation or subdelegation³⁵.

5. Level of further subdelegation

The Head of Delegation or the officials or members of temporary staff to whom powers have been subdelegated³⁶ may subdelegate their powers only to officials, members of temporary staff or contract staff who belong to a Commission Directorate-General or department under the terms laid down in Article 7(4).

6. Limits

The limits laid down in Article 7(5) shall apply.

7. Application by analogy

Paragraphs 6 to 8 of Article 7 shall apply.

8. Initiation of operations by local and contract staff

Given the limited number of staff in Delegations and in order to ensure the necessary flexibility in the operation of the Delegations, local and contract staff belonging to the Commission and assigned to the administrative sections of the Delegations may initiate operations involving EEAS administrative appropriations, under the responsibility of the EEAS.

³³ Accordingly, if a task is ultimately to be entrusted to staff in DG DEVCO or DG NEAR, it seems advisable that, except in unusual one-off cases, the other DGs should give a cross subdelegation to DG DEVCO or DG NEAR directly so that it in turn can subdelegate powers to its staff in the Delegation via the Head of Delegation.

³⁴ 'Authorising officer by subdelegation' is understood here to mean the Director who subdelegated powers to the Head of Delegation.

³⁵ As above.

³⁶ In principle, officials in a Delegation must receive the subdelegation from the Head of Delegation, save in exceptional cases where powers may be subdelegated to them directly from headquarters.

Article 9
Subdelegation for budget implementation measures modifying an established amount receivable³⁷

1. Waiving of recovery of an established amount receivable: authorising officer responsible

The waiving of the recovery of an established amount receivable below the thresholds referred to in the first subparagraph of Article 91(4) RAP shall be the subject of a substantiated decision adopted by the authorising officer by delegation.

2. Subdelegation

Authorising officers by delegation may subdelegate the power to cancel an amount receivable as referred to in Article 92 RAP where the amount is less than EUR 15 000.

The power to waive the recovery of an established amount receivable as referred to in Article 91 RAP may be subdelegated only if the amount to be waived is less than EUR 15 000 and if the waiver is based on the fact that:

- the foreseeable cost would exceed the amount to be recovered and the waiver would not harm the image of the Union (Article 91(1)(a) RAP), or
- the amount receivable cannot be recovered in view of its age or the insolvency of the debtor (Article 91(1)(b) RAP).

The power to cancel an amount receivable or waive recovery thereof may be subdelegated only to officials and members of temporary staff performing at least the function of Head of Unit and to Heads of Delegation and Heads of Representation.

Decisions to waive the recovery of amounts receivable pursuant to the principle of proportionality under Article 91(1)(c) RAP may not be subdelegated.

3. Waiving or cancellation of amounts receivable: cross subdelegation

Cancellation decisions may be subdelegated without any limit to another authorising officer by delegation.

Decisions to waive the recovery of an established amount receivable below the thresholds referred to in the first subparagraph of Article 91(4) RAP may also be subdelegated to another authorising officer by delegation in the context of cross subdelegation. The limit of EUR 15 000 referred to in paragraph 2 and the ban on subdelegating the power to waive recovery pursuant to the principle of proportionality (Article 91(1)(c) RAP) shall not apply in this case.

This authorising officer by delegation may further subdelegate these cancellation or waiver decisions to a member of staff performing at least the function of Head of Unit in his Directorate-General or department, subject to the same conditions and limits as set out in point 2 above.

Article 10
Charter of authorising officers by subdelegation

1. Purpose

³⁷ See summary table in Annex 19.

The Charter of tasks and responsibilities of authorising officers by subdelegation, attached in Annex 15 - part 2/4, shall identify the tasks entrusted to authorising officers by subdelegation, their rights and duties and the specific responsibilities arising from their function. It shall lay down in particular the need to report regularly to the authorising officer by delegation, or where applicable the authorising officer by subdelegation having subdelegated powers to him, on the implementation of programmes, operations or actions in respect of which powers have been subdelegated.

2. Signature

The authorising officer by subdelegation³⁸ shall sign the Charter of tasks and responsibilities of authorising officers by subdelegation when receiving powers by subdelegation and whenever any changes are made to the Charter.

3. Archiving

A signed copy of the Charter shall be filed electronically in accordance with the applicable E-Domec rules.³⁹

Article 11

Content of the instrument of subdelegation

1. Information to be included

The act authorising the subdelegation of powers shall be drawn up in writing, dated and signed by the authorising officer by delegation or subdelegation responsible⁴⁰, and where appropriate by his deputy⁴¹. To be valid, it must contain the following:

- the name of the official or officials or temporary staff⁴² to whom the powers are subdelegated;
- the budget implementation measures which the authorising officer by subdelegation may adopt;
- the budget lines for which the powers are subdelegated;
- the amount of budget appropriations which the authorising officer by subdelegation is authorised to implement;
- acceptance by the authorising officer or officers by subdelegation.

2. Reports

In accordance with the Charter of tasks and responsibilities of authorising officers by subdelegation, the instrument of subdelegation shall specify the periodic reports to be submitted to the authorising officer by delegation or authorising officer by subdelegation who subdelegated the powers.

3. Limits to subdelegation

³⁸ Including the Head of Delegation and the Head of Section in a Delegation.

³⁹ See joint DG BUDG/SG note – 'Classification of charters, subdelegations and deputising' of 11 December 2013, ref. Ares(2013)3697856.

⁴⁰ In accordance with the models set out in Annex 2.

⁴¹ In accordance with Article 14 ('Deputising').

⁴² Or other members of staff for the cases referred to in Article 7(4) ('Subdelegation of the powers of budget implementation').

In the instrument of subdelegation the responsible authorising officer by delegation or subdelegation may set a limit on the exercise of the powers subdelegated. In particular, he may limit the period of subdelegation and lay down maximum amounts for the operations which may be carried out by the person to whom the powers have been subdelegated.

Subdivision of a single operation with a view to evading application of any upper limits shall be prohibited.

4. Archiving

A signed copy of the instrument of subdelegation and of the Charter shall be filed electronically in accordance with the applicable E-Domec rules.⁴³

Article 12 *Cross subdelegation*

1. Principle

In the interests of sound budget implementation, the authorising officer by delegation (**‘the delegator’**) may, by way of exception, subdelegate management of a budget line or part of a line to another Director-General or Head of Service (**‘the delegatee’**).

The delegatee may, in turn and without having to obtain the explicit agreement of the delegator⁴⁴, subdelegate these powers to one or more officials or members of temporary staff⁴⁵ in his Directorate-General or Service who hold the rank referred to in Article 7, or to a Head of Delegation, in accordance with the rules laid down in Articles 7 to 13.

For the purposes of applying Article 7(3) (**‘Further subdelegation’**), the only condition for the subdelegation of powers is that the written agreement of the delegatee be obtained.

2. Written agreement

A written agreement⁴⁶ shall be drawn up in accordance with Article 11 and signed by the two authorising officers by delegation concerned. This agreement shall also set out the conditions and rules for management and control of the relevant line or part of a line as well as the respective responsibilities. It shall specifically state that the delegatee must contribute to the delegator’s annual activity report with regard to the operation and application of the internal control system.

3. Exemption from signature of the Charter

The delegatee shall not be required to sign the Charter of authorising officers by subdelegation.

⁴³ See joint DG BUDG/SG note – ‘Classification of charters, subdelegations and deputising’ of 11 December 2013, ref. Ares(2013)3697856.

⁴⁴ For example: Director-General A grants a cross subdelegation to Director-General B. The latter may in turn subdelegate powers without having to ask DG A for his written agreement. Afterwards the Director in DG B must seek the authorisation of DG B in order to subdelegate the powers to his head of unit.

⁴⁵ In the cases referred to in Article 7(4), powers may be subdelegated to contract staff.

⁴⁶ The model in Annex 2 part 2/3 (**‘Cross subdelegation’**), duly completed, shall constitute a **‘written agreement’**.

4. Archiving

A signed copy of the cross subdelegation shall be filed electronically in accordance with the applicable E-Domec rules.⁴⁷

5. Executive agencies: prohibition of cross subdelegation

The executive agencies may on no account grant a cross subdelegation of powers to an authorising officer by delegation or subdelegation or receive a cross subdelegation from them.

6. Cessation of the delegatee's duties

Where the delegatee ceases to exercise his duties, the cross subdelegation shall remain valid for his replacement⁴⁸, unless specifically amended or revoked by the delegator.

Nevertheless, for the sake of sound financial management, the delegator shall confirm the subdelegation of his powers to the new delegatee as soon as possible.

7. Cessation of the delegator's duties

Article 13(3) shall apply by analogy to cases where the delegator ceases to exercise his duties.

Article 13
End of subdelegation

1. Cessation of duties by the delegated authorising officer

The subdelegation shall end at the latest on the expiry date laid down in the instrument of subdelegation.

The authorising officer by delegation or subdelegation who subdelegated his powers of implementation (**'the delegator'**) may revoke the subdelegation at any time.

Where the beneficiary of the subdelegation (**'the delegatee'**) ceases to exercise his duties, the subdelegation shall remain valid for his replacement⁴⁹, unless specifically amended or revoked by the delegator.

For the sake of sound financial management and legal certainty, the delegator shall confirm the subdelegation of his powers to the new job-holder as soon as possible.

2. Statement by the outgoing authorising officer by subdelegation

Where the subdelegation ends because the expiry date laid down in the instrument of subdelegation has been reached, or where the delegatee ceases his duties⁵⁰, the latter must draw up a report for the delegator and, where appropriate, his replacement⁵¹, setting out the state of ongoing cases.

⁴⁷ See joint DG BUDG/SG note – 'Classification of charters, subdelegations and deputising' of 11 December 2013, ref. Ares(2013)3697856.

⁴⁸ The term 'replacement' shall mean either the member of staff deputising for a period when the post is vacant or the new authorising officer to whom powers are delegated.

⁴⁹ For the definition of 'replacement', see previous footnote.

⁵⁰ NB: the subdelegation does not expire when the authorising officer by subdelegation ceases to exercise the duties of his post, as it remains valid for his replacement. See footnote 48 for the definition of 'replacement'.

⁵¹ The new authorising officer by subdelegation.

The replacement may send the delegator his observations on this statement.

3. Cessation of duties by the delegating authorising officer

Unless specifically amended or revoked by a new delegating authorising officer, the subdelegation of powers granted by his predecessor shall remain valid.

For the sake of sound financial management and legal certainty, the new delegating authorising officer shall, as soon as possible after taking up his duties, confirm the powers that have been subdelegated.

4. Archiving

The official document ending a subdelegation shall be filed electronically in accordance with the applicable E-Domec rules⁵².

Article 14 ***Deputising***

1. Principle

The system of deputising is designed to ensure continuity of service where the authorising officer by delegation or subdelegation in post is unable to perform his duties or the post is vacant.

For budget implementation measures, the deputising arrangements shall apply only when no powers have been subdelegated or when none of the powers subdelegated can be used.⁵³

2. Deputising for authorising officers

The system of deputising for authorising officers by delegation and subdelegation is governed by Articles 24 to 27 of the Commission's Rules of Procedure.

3. Deputising for authorising officers

The authorising officer responsible shall take appropriate measures to ensure that a deputising system is in place, including access rights to ABAC, so that his departments operate efficiently at all times.

The deputy may be designated in the decision appointing the post holder or at any time afterwards.

In Union Delegations, the person deputising for the Head of Delegation, as the Commission's authorising officer by subdelegation, must be chosen from the Commission staff.

If the designated deputies are absent or unable to deputise or if no deputy has been designated, the subordinate official present from a Commission Directorate-General or department who has the highest grade shall deputise for the powers of authorising officer by subdelegation exercised by a Head of Delegation. In the event of equal grade, the criteria applied are, in order, seniority in grade, seniority in the service and age.

⁵² See joint DG BUDG/SG note – 'Classification of charters, subdelegations and deputising' of 11 December 2013, ref. Ares(2013)3697856.

⁵³ For example: a Head of Unit who has been subdelegated a power from his Director must use the subdelegated power first before exercising his powers as the Director's deputy.

In exceptional cases, where it is not possible to apply the above provisions, a specific, duly substantiated request shall be made to the authorising officer by delegation. He may adopt derogations and shall set the maximum duration thereof, which may not exceed the time for which it is impossible to apply the above provisions.

4. Powers and responsibilities of the deputy

Persons deputising shall exercise the powers and assume the responsibilities of the post holder throughout the period during which they deputise.

The person deputising shall include next to his name and signature the words 'deputising for Mr/Ms...' where the post holder is unable to perform his duties, or give his title as '*acting deputy*'.

5. Deputising in the EEAS: initiation of operations in Delegations

In exceptional circumstances and for the purposes of continuity of service, Commission officials and temporary staff and staff covered by the Conditions of employment of other servants may perform the duties of initiation within the meaning of Article 49 RAP in EU delegations in respect of the appropriations of the EEAS.

This paragraph shall apply without prejudice to the provisions of Article 8(8) on the duties of initiation that can be performed for the EEAS budget by local or contract staff of the Commission acting in full capacity or as deputies.

6. Signing of the Charter of Authorising Officers

Before exercising their functions, all persons deputising shall sign the Charter for authorising officers by delegation or the Charter for authorising officers by subdelegation, as appropriate, unless they have already signed it in respect of another delegation or subdelegation of powers.

7. Validity of subdelegation

The subdelegation of powers by the authorising officer shall remain valid throughout the period during which someone deputises for him, unless the person deputising decides otherwise.

8. Ban on circumventing delegation by deputising

The delegation and subdelegation system must not be circumvented by means of the deputising arrangements.

9. Assignment of ABAC access rights

For the purposes of budget implementation via the ABAC system, access rights shall be granted to the members of staff who are deputising, in accordance with the relevant technical provisions⁵⁴.

10. Archiving

The deputising shall be filed electronically in accordance with the applicable E-Domec rules⁵⁵.

⁵⁴

See ABAC Security LPM Manual,
<https://myintracomm.ec.europa.eu/budgweb/EN/abac/security/Pages/its-security.aspx>

Article 15

Deputising for the accounting officer

1. Principle

Where the accounting officer is unable to perform his duties or the post is vacant, the Director of Directorate DGA C in DG BUDG shall perform the duties of accounting officer for routine administrative matters with the exception of the signing off of the accounts under Article 68(4) FR and the tasks set out in Article 68(1)(d) and (e) FR. Before deputising, the person concerned must have signed the Charter of the accounting officer.

2. Start of deputising

The start of deputising shall be noted by the Director-General of DG BUDG or, in his absence, the Director of Directorate DGA C of DG BUDG.

3. Incompatibility of functions

While deputising for the accounting officer, the person concerned may not perform the duties of authorising officer. The Director-General of DG BUDG shall appoint a person to replace him in his duties.

4. End of deputising

While deputising for the accounting officer, the person concerned shall keep a file of all the acts carried out and decisions taken. He shall give this file to the accounting officer when his period of deputising is over or, when a new accounting officer is appointed, to that new accounting officer.

Article 16

Documents and signature

1. Medium

There shall be no requirement for charters, instruments of subdelegation, deputising instruments and other documents relating to budget management and strictly for internal use within the Commission to be signed by hand.

Electronic signing in Ares (SIGN task terminated) shall be authentic if it has been carried out by the authorising officer himself⁵⁵.

Where signature in Ares has been delegated **by the authorising officer responsible**, the version signed on paper must be scanned and annexed in Ares. It can then be destroyed.

2. Password

The password used to confirm the electronic signature shall be personal. It must not be communicated to another person. If it is, the post holder shall be entirely responsible for any abuse committed by another person.

⁵⁵ See joint DG BUDG/SG note – 'Classification of charters, subdelegations and deputising' of 11 December 2013, ref. Ares(2013)3697856.

⁵⁶ Not by means of a delegation of signature in Ares.

Article 17
Annual report on the access rights granted in ABAC

1. Purpose and recipients

Each year the Director-General for the Budget shall send the authorising officers by delegation a report on the use of the access rights granted to users of the ABAC system. The authorising officers by delegation shall ensure consistency between the rights granted in ABAC and the powers delegated.

2. Content of the report

The report shall contain a list of the names of every user in each Directorate-General or department with ABAC access at the time the report is drawn up.

3. Follow-up to report

After receiving this report, the authorising officer by delegation shall check whether authorised access in ABAC is in keeping with the powers delegated. If he establishes an anomaly, he shall adopt any corrective measures he considers appropriate.

4. Assistance from DG Budget

The departments of the Director-General for the Budget shall assist the authorising officer by delegation in eliminating any inconsistencies between the powers delegated and the access rights in ABAC.

Article 18
Authorisation for management and administrative tasks

1. Principle

Authorisation is an internal administrative act by which the authorising officer responsible enables one or more staff members, defined within the meaning of Article 65(2) FR⁵⁷, to carry out one or more specific tasks on his behalf and under his responsibility.

The tasks which may be the subject of an authorisation are acts in preparation for or ancillary to budget implementation which do not involve complex choices and do not entail any particular risks for the institution.

An authorised member of staff may not in turn entrust the task he has been authorised to carry out to another member of staff.

2. Conditions

In granting authorisations, the authorising officer responsible shall take into account the risks inherent in the tasks concerned, the size of the amounts in question and the principle of cost-effectiveness.

The authorised staff shall be chosen in the light of their particular knowledge, skills and qualifications, as evidenced by diplomas or resulting from appropriate professional experience or an appropriate training programme.

⁵⁷ Article 65(2) FR reads: 'For the purposes of this Title, the term "staff" refers to persons covered by the Staff Regulations'.

3. Forms of authorisation

Authorisations shall be granted in writing and in such a way that it is possible at any time to determine exactly the task entrusted. Authorisation may take the following forms:

- (i) an individual decision,
- (ii) definition of the role of each staff member under the procedures set up by each DG,
- (iii) definition of specific duties in the job description of the staff member concerned,
- (iv) a combination of these arrangements.

4. Cases where authorisation is possible

Authorisations may concern the following tasks:

- (i) certain acts relating to payment requests provided for in Articles 100 to 106 RAP, namely ‘passing for payment’ and ‘certifying as correct’, and certain acts referred to in Article 92 FR and Article 111 RAP, namely the non-admissibility of payment requests, suspension of the time limit for approval of reports or certificates on which payment depends, suspension of time limits for payments or continuation thereof beyond two months (Article 92(4) FR);
- (ii) commitments for routine administrative expenditure covered by a framework contract without the reopening of competition as referred to in Article 98 RAP, provided that they are well defined and that a certain maximum commitment ceiling is set⁵⁸;
- (iii) requests for transfers concerning external staff within the global envelope, in accordance with Article 28(3) of the Internal Rules and Annex 1 thereto.

TITLE II - IMPLEMENTATION OF REVENUE

Article 19

Powers of authorising officer exercised by the Director-General for the Budget relating to revenue

1. Areas of responsibility of the Director-General for the Budget

The Director-General for the Budget shall be the authorising officer by delegation for the budget implementation measures relating to the following revenue:

- (a) own resources and financial contributions from the Member States;

⁵⁸

In some cases the authorising officer responsible will have the choice of granting a subdelegation or an authorisation for this type of expenditure. The difference is that an authorisation is limited to acts in preparation for or ancillary to budget implementation which do not involve complex choices and do not entail any particular risks for the institution, is more clearly defined (in particular by setting a maximum commitment ceiling) and is carried out under the responsibility of the authorising officer by subdelegation.

- (b) the financial contributions of States forming part of the European Economic Area;
- (c) deductions from salaries (only Union bodies, EIB, ECB, EIF, etc.);⁵⁹
- (d) the following miscellaneous revenue:
 - investment and loan revenue, with the exception of revenue assigned to the Research Fund for Coal and Steel⁶⁰ for which the Director-General of DG Research and Innovation (DG RTD) is authorising officer by delegation,
 - bank interest and interest accruing from pre-financing payments made to the delegated bodies referred to in Article 58(1)(c)(ii) to (viii) FR in the cases provided for in Article 8(4) FR,
 - default interest due to the Commission,
 - receipts or bank transfers returned as not identified,
 - repayments by the Member States in accordance with Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union⁶¹,
 - implementation measures concerning donations made to the European Union already accepted by the Commission.

2. Unpaid internal recovery orders

Where a recovery order issued by one department against another remains unpaid on the due date, the Directorate-General for the Budget shall make available to the issuing department the commitment and payment appropriations necessary for its repayment, charging them to the expenditure line of the department that received the recovery order, after hearing the observations of both parties.

Article 20

Powers of authorising officer exercised by other Directors-General and Heads of Service

1. Principle

For other revenue, the authorising officer by delegation shall be the authorising officer by delegation for expenditure of the same nature or, failing that, the authorising officer by delegation responsible for the area of activity with which the revenue is connected⁶².

2. Area of responsibility of the Secretary-General

For revenue accruing from the charge for the issue of copies of a document in paper form and for other revenue from fees for other media, the authorising officer by delegation shall be the Secretary-General in accordance with the third paragraph of Article 7 of the detailed rules for the application of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to

⁵⁹ Regulation (EEC, Euratom, ECSC) No 260/68 of the Council of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities.

⁶⁰ Decisions 2003/76/EC to 2003/78/EC (OJ L 29, 5.2.2003, pp. 22-39).

⁶¹ The Director-General of the JRC is the authorising officer by delegation for repayments made to the JRC.

⁶² The Director-General of DG RTD is the authorising officer by delegation for the contributions resulting from the association or cooperation agreements under the framework programme for research.

European Parliament, Council and Commission documents⁶³, which are set out in the Annex to Commission Decision 2001/937/EC, ECSC, Euratom of 5 December 2001 amending its rules of procedure⁶⁴.

3. Responsibility of other authorising officers by delegation for assigned revenue

For the assigned revenue referred to in Article 23(2) ('Provision of appropriations corresponding to assigned revenue'), the Director-General of the Joint Research Centre (JRC) shall be the authorising officer by delegation.

For the assigned revenue referred to in Article 23(4), the Director-General of DG DEVCO, the Director-General of DG NEAR, Director-General of DG ECHO and Head of Service of FPI shall be the authorising officer by delegation.

Article 21

Subdelegation of powers for implementation of revenue

1. Assessment of the need for subdelegation

The authorising officers by delegation concerned – the Director-General for the Budget in the case of Article 19 ('Powers of authorising officer exercised by the Director-General for the Budget') and the other authorising officers by delegation for the various sectors (in the case of Article 20 ('Powers of authorising officer exercised by other Directors-General and Heads of Service')) – shall assess whether the power to perform budget implementation measures relating to revenue needs to be subdelegated. In particular, they shall take account of the type of revenue to be recovered, the relative volume of this revenue or its repetitive nature.

2. Applicable rules on subdelegation

The subdelegation of these powers shall be based *mutatis mutandis* on Articles 7 to 13 when accounting requirements permit.

Article 22

Enforceable decisions for the benefit of other institutions

The enforceable decisions for the benefit of other institutions referred to in the second subparagraph of Article 79(2) FR shall be implemented in accordance with the Internal Procedure provisions for the recovery of amounts receivable arising from direct management and the recovery of fines, lump sums and penalty payments under the Treaties, which are annexed to these Internal Rules.

Article 23

Provision of appropriations corresponding to assigned revenue

1. Competence and responsibility

Each authorising officer by delegation shall be responsible for the underlying operations (estimates and establishment of amounts receivable) and shall assume responsibility for compliance with Article 21 FR and for automatically providing appropriations on the budget line shown in the recovery order as soon as the revenue is received.

⁶³ OJ L 145, 31.5.2001, p. 43.

⁶⁴ OJ L 345, 29.12.2001, p. 94.

2. Appropriations relating to the JRC's participation in contracts and grants

The Director-General of the Joint Research Centre (JRC) shall assume responsibility for the provision of commitment appropriations under Article 183(2) FR and the related payment appropriations. These commitment appropriations shall be provided as soon as the amount receivable has been estimated, and the payment appropriations as soon as the revenue has been received, on the budget line shown in the estimate of the amount receivable or in the recovery order, as appropriate.

3. Revenue from investment by the Research Fund for Coal and Steel

As regards revenue from investment by the Research Fund for Coal and Steel⁶⁵, the Director-General for Research shall be responsible for automatically providing the commitment appropriations on receipt of the estimate of the amount receivable and the payment appropriations on entry of the revenue on the budget line shown in the estimate of the amount receivable or in the recovery order.

4. Financial contributions to certain external aid projects or programmes

As regards revenue from the financial contributions of the Member States and/or third countries to certain external aid projects or programmes referred to in Article 21(2)(b) FR, the commitment appropriations may be provided under the responsibility of the Director-General of DG DEVCO, the Director-General of DG NEAR, the Director-General of DG ECHO and Head of Service of FPI once the fund transfer agreement has been signed with the Member State, provided that the amounts are denominated in euros.

In the case of contributions made in a currency other than the euro, the authorising officer by delegation shall wait for the funds to be recovered and converted into euros or shall take the necessary contractual measures to cover the risk of fluctuations in the exchange rate.

5. Rules on subdelegation

The powers referred to in the preceding paragraphs may be subdelegated subject to the provisions in Articles 7 to 13.

In the cases referred to in paragraphs 1 to 4, the subdelegated powers to draw up estimates of amounts receivable and recovery orders shall empower the holders of these powers to perform the operations required to provide the corresponding appropriations.

TITLE III - IMPLEMENTATION OF EXPENDITURE

SECTION I: IMPLEMENTATION PROCEDURE

Article 24 ***Financing decision***

1. Principle

Measures for the implementation of expenditure shall be taken by the authorising officer by delegation on the basis of a financing decision, within the meaning of

⁶⁵ Under Decisions 2003/76/EC to 2003/78/EC (OJ L 29, 5.2.2003, pp. 22-39).

Article 84 FR and Article 94 RAP, adopted by the Commission or by the authorities which it has empowered or to which it has delegated powers in accordance with its Rules of Procedure⁶⁶.

2. Exception

The appropriations for the operation of the Commission referred to in Article 54(2)(e) FR shall be exempt from such a decision.

3. Commitment of expenditure

After adoption of the financing decision by the Commission or by the authorities to which it has delegated powers, the authorising officer by delegation or subdelegation may commit the expenditure in accordance with Articles 85 to 87 FR.

Decisions on the transfer of budget funds to a trust fund set up pursuant to Article 187 FR shall be taken by the authorising officer by delegation or subdelegation performing at least the function of Director, after the financing decision has been adopted by the Commission.

4. Decision on the award of a grant, public contract or prize

Authorising officers by delegation or subdelegation shall adopt, under their own responsibility, individual decisions awarding the public contracts, grants or prizes provided for in Articles 113, 131 and 138 FR pursuant to the financing decision referred to in Article 84 FR.

5. Lump sums, unit costs and flat-rate financing

In accordance with Article 124 FR, decisions on the use of lump sums, unit costs or flat-rate financing shall be taken by the Commission. Such decisions shall include the information described in the form in Annex 3 part 2/2.

Where the maximum amount per grant does not exceed the amount of a low value grant, the authorisation may be given by the authorising officer responsible.

6. Specific procedure for building projects

Building projects involving building contracts referred to in Article 121(1) RAP, works contracts concerning the construction or structural renovation of buildings, the sale of land and buildings and the loan contracts referred to in Article 203(8) FR shall be subject to the conditions and procedures set out in Annex 20.

Article 25

Financial instruments

1. Financing decision concerning financial instruments pursuant to Articles 139 and 140 FR

The adoption of the financing decision concerning financial instruments under direct or indirect management shall be preceded by an interservice consultation initiated by the DG responsible. The following DGs shall be consulted: the Secretariat-General, the Legal Service and at least DG BUDG, DG COMP, DG ECFIN and OLAF.

⁶⁶ A model financing decision is attached at Annex 3.

Such a decision must contain the information required under Article 84(2) and (3) FR and Article 94(2)(e) RAP, and in particular the identity of the delegated entity or person.

The information required under Article 140 FR and Article 224 RAP, including a copy of the *ex ante* evaluation, shall be presented in a document supporting the decision⁶⁷.

Interservice consultations on financing decisions relating to external facilities shall also include, as a supporting document, a detailed description of the actions which will be the subject of the delegation agreements referred to in the third subparagraph of paragraph 2 of this Article.

2. Signature of the agreement

In the case of direct management, the College of Commissioners shall approve the draft agreement with the financial intermediaries or the managers of the trust funds.

In the case of indirect management, the draft delegation agreement with the delegated entity pursuant to Article 58(1)(c)(ii), (iii), (v) and (vi) FR shall be the subject of an interservice consultation initiated by the DG responsible. The following DGs shall be consulted: the Secretariat-General, the Legal Service and at least DG BUDG, DG COMP, DG ECFIN and OLAF.

By way of exception to the preceding subparagraph, no such consultation shall be required for delegation agreements relating to external facilities⁶⁸, provided that they conform to the standard model delegation agreement. The above-mentioned DGs and services must be consulted on this model beforehand.

Delegation agreements under direct or indirect management may be signed by an authorising officer by delegation or subdelegation performing at least the function of Director.

3. Opening and closing of accounts

The fiduciary accounts shall be opened and closed under the responsibility of the authorising officer by delegation responsible for implementing the programme or action, in accordance with Article 68(7) FR.

The authorising officer by delegation or subdelegation performing at least the function of Director shall request the written agreement of the Commission's Accounting Officer before opening and closing these accounts.

Article 26
Trust funds

1. Establishment of a trust fund under Article 187 FR

The establishment of a trust fund, including the constitutive act and the rules on governance, shall be preceded by an interservice consultation initiated by the DG responsible. The following DGs shall be consulted: the Secretariat-General, the Legal Service and at least DG BUDG and OLAF.

⁶⁷ A document supporting the decision but which is not part of the decision. This document will not be translated or published.

⁶⁸ Such delegation agreements must be preceded by a financing decision adopted in accordance with paragraph 1 of this Article.

2. Financing decision

The decision establishing the fund may serve as a financing decision if it contains the information provided for in Article 94(2)(c) RAP.

Article 27
Financial impact statements

1. Legislative financial statement

In accordance with Article 31 FR, any proposal or legislative initiative submitted by a department for Commission approval by oral, written or empowerment procedure and likely to have a financial impact, including on operating appropriations, shall be accompanied by a legislative financial statement to be attached to each draft submitted for interservice consultation and corresponding to the model set out in Annexes 4 to 8:

- Model ‘4 – General’ including its explanatory annex (model 5);
- Model ‘6 Revenue’ for proposals having a budgetary impact exclusively limited to revenue side;
- Model ‘7 Agencies’ for any proposal or initiative concerning the bodies referred to in Article 208 FR;
- Model ‘8 – Agri’ only for agricultural legislative proposals or initiatives under the EAGF of a specific or technical nature with no impact on the number of posts or administrative appropriations,

2. Budgetary impact statement

Any draft financing decision shall be accompanied during the interservice consultation by a budgetary impact statement corresponding to the models set out in Annexes 9 and 10:

- Model 9: form to be used when the work programme constitutes a financing decision or in exceptional cases where the Commission needs to adopt an individual award decision.
- Model 10: form containing financial details for draft Commission regulations or decisions concerning EAGF funds.

3. Simplified financial statement

Any internal decision of general significance adopted by the Commission by oral, written or empowerment procedure and having an impact on administrative appropriations, including expenditure on staff, shall be accompanied by a simplified financial statement corresponding to the model set out in Annex 11 (model 11).

SECTION II: TRANSFERS

Article 28
Procedure for transfers of appropriations

1. Proposal to increase appropriations

When, in the process of implementing the budget, it is found that the appropriations need to be increased, the authorising officer by delegation responsible shall submit to

the Directorate-General for the Budget a proposal for increasing the appropriations for the budget line in question.

Whenever possible the authorising officer by delegation responsible shall specify in the proposal itself the line or lines from which the requisite appropriations are to be taken.

2. Subdelegation of the power to submit proposals to the Directorate-General for the Budget

The authorising officer by delegation may subdelegate to authorising officers by subdelegation in his department the power to submit to the Directorate-General for the Budget the proposals for increases in appropriations where there is no need for a procedure to inform or obtain authorisation from the budgetary authority. Where transfers concern expenditure within the 'global envelope' of the same Directorate-General (within a chapter), the authorising officers by delegation responsible may, in accordance with the principle set out in Article 18, authorise staff under their responsibility to submit the requests to the Directorate-General for the Budget in accordance with the detailed procedures laid down in Annex 1.

3. Appropriations for external staff within the global envelope

Where the transfers concern appropriations for external staff within the global envelope which are managed by central authorising officers by delegation, the Directorates-General in receipt of the global envelope shall submit their requests direct to the Directorate-General for the Budget under the terms laid down in Annex 1. At the request of the Directorate-General for the Budget, the authorising officer by delegation responsible shall carry out all the preliminary operations for implementing the transfer.

4. Requests for transfers under Article 179(1) FR

A request for a transfer under Article 179(1) FR must meet with the explicit agreement of the authorising officers responsible in all the Directorates-General concerned.

Agreement may be given in the note containing the request, in an additional note or by e-mail⁶⁹. In these last two cases it is up to the department which transmits the request to incorporate the agreement in the annex to the request.

5. Appropriations for external research staff

Transfers concerning appropriations for external research staff in administrative lines (xx.01.05.02 and xx.01.05.03) shall be subject to a 10 % limit on increases in appropriations for external staff (xx.01.05.02).

6. Content of the proposal and transmission arrangements

Every proposal for a transfer shall be accompanied by a detailed statement of the grounds for the requested increase. To be admissible, it must include the information needed to draw up the form in Annex 12.

The procedure for transmitting transfer requests to DG BUDG is set out in Annex 1(E), point 1.3.

⁶⁹ Including by means of an ARES screenshot containing the agreement of all the authorising officers responsible.

7. Failure to agree

If the authorising officer by delegation responsible and the Directorate-General for the Budget fail to agree on a proposal for a transfer concerning Section III (Commission), the proposal shall be referred to the College of Commissioners.

8. Deadline for transfer requests

Proposals for transfers must be transmitted by the responsible authorising officers by delegation to the Directorate-General for the Budget before 15 October of the financial year in question⁷⁰, save in exceptional circumstances which must be duly substantiated.

9. Adoption of the decision

Decisions relating to transfers shall be adopted by the Commission in accordance with the provisions laid down in Annex 1.

10. Information

The Directorate-General for the Budget shall inform all the Directorates-General and departments concerned as soon as a transfer decision has been adopted.

The Member of the Commission responsible for the budget shall keep the College regularly informed of transfer decisions and proposals for transfers sent to the budgetary authority.

Article 29

End-of-year transfer in response to natural disasters and humanitarian crises

1. Request to Directorates-General

With a view to possible transfers to be carried out after 1 December each year in order to respond to natural disasters and humanitarian crises, as provided for in Article 26(2)(b) FR, the Directorate-General for the Budget shall, before the end of November, ask the Directorates-General in charge of the budget titles falling under heading 4 of the multiannual financial framework to identify the unused commitment appropriations and payment appropriations under these titles.

2. Agreement on the lines to be used

The Director-General for the Budget shall then approach the authorising officers by delegation responsible for the main budget lines and reach agreement with them on the possible use of these lines for transfers to budget titles earmarked for crisis situations and humanitarian aid operations.

3. Arbitration in the absence of an agreement

If no agreement has been reached by 1 December between the authorising officers by delegation on the identification and possible use of unused funds, the Director-General for the Budget shall arbitrate as necessary.

4. Transfer requests

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The deadline is extended to 15 November for transfers to be decided by the Commission. With regard to the EAGF, proposals for transfers may be sent each year by 28 November (transfers between chapters of one title) or 17 December (transfers between articles of one chapter).

In exceptional cases of disasters and humanitarian crises occurring after 1 December of the budgetary year, the authorising officer responsible in the Directorate-General in charge either of the budget title for crisis situations or of the title for humanitarian aid shall submit a transfer request as soon as possible to the Directorate-General for the Budget.

The transfer request shall be accompanied by all the necessary supporting documentation.

5. Validation of transfers

On the basis of the duly documented and substantiated request, the transfers shall be validated by the Director-General or the subdelegated staff member in the Directorate-General for the Budget for the amount requested, up to the maximum specified in the prior agreements or arbitrations.

6. Cancellation of transfers

Initiated transfers which have not been validated by 31 December at the latest shall be cancelled.

7. Informing the budgetary authority

Once the transfers have been validated, the Directorate-General for the Budget shall immediately inform the budgetary authority.

Article 30

Rules applicable to the provisional twelfths arrangement

1. Arrangements

If the Union budget has not been adopted by 31 December of the previous year (n-1) and in order to apply the provisions laid down in Article 315 of the Treaty on the Functioning of the European Union (TFEU), the Director-General for the Budget shall publish on the DG BUDG website the rules for implementing provisional twelfths.

2. Extraordinary authorisation from the Council

The Director-General for the Budget may, on his initiative or at the request of one or more departments, propose that the Commission ask the Council for authorisation to carry out expenditure in excess of one twelfth, in accordance with the second and third paragraphs of Article 315 TFEU. The forms to be filled in by departments to make this request shall be published on the DG BUDG website.

3. Advance appropriations and provisional twelfths arrangement

The Director-General for the Budget may take all relevant measures to make the provisional twelfths arrangement compatible with the commitment in advance of administrative appropriations as provided for in Article 202 FR⁷¹ and of appropriations for EAGF expenditure as provided for in Article 170 FR. These measures shall be published on the DG BUDG website.

⁷¹ Whereas Article 202 FR allows, on certain conditions, the commitment of up to 25 % of the administrative appropriations in a budget line for the n-1 budget as from 15 October, the provisional twelfths arrangement imposes a limit of 8.3 % (1/12) of expenditure per chapter. The Commission must therefore ensure that these two provisions are compatible.

SECTION III: IMPREST ACCOUNTS

Article 31

General provisions on imprest accounts

1. Appointment

The imprest shall be created and the imprest administrator appointed by decision of the accounting officer on a reasoned proposal from the authorising officer responsible.

2. Principle

Imprest administrators shall perform their duties in accordance with the Charter of the tasks and responsibilities of imprest administrators (Annex 15 part 4/4). The Charter shall identify the tasks entrusted to imprest administrators, their rights, duties and the specific responsibilities they assume in this role.

3. Signature of the Charter

All imprest administrators shall sign the Charter on taking up their duties and whenever the provisions therein are amended.

Article 32

Specific rules on imprest administrators in EU Delegations

1. Appointment of Commission staff by the EEAS

In exceptional circumstances and for the purposes of continuity of service, the duties of administrator (or deputy administrator) of EEAS imprest accounts in the Union Delegations may be performed by a Commission official or a member of the Commission's temporary staff or a member of Commission staff covered by the Conditions of employment of other servants (hereinafter 'staff').

2. Appointment of EEAS staff by the Commission

Under the same conditions, the staff of the EEAS may be appointed administrators or deputy administrators of Commission imprest accounts in the Union Delegations.

3. Prior authorisation

In the case referred to in paragraph 1, the Head of Delegation shall obtain authorisation to appoint the member of staff in question from the Directorate-General to which the member of staff is attached. The Directorate-General must give grounds for any refusal to grant such authorisation.

The prior authorisation referred to in the previous subparagraph shall not be required for local and contract staff of the Commission assigned to the administrative sections of the Delegations.

4. Appointment procedure

Imprest administrators shall be appointed in accordance with the rules laid down in the RAP.

Article 33

Countersignature

1. Principle

To carry out bank transactions from the imprest account, in particular payments, the accounting officer shall require for security reasons the countersignature of a member of staff other than the imprest administrator.

2. Exceptions

As a temporary measure and in cases of extreme urgency only, the accounting officer may authorise the implementation of payments from bank accounts without a countersignature.

3. Appointment of countersignatory in EU Delegations

The countersignatory shall be appointed by the accounting officer, on a proposal from the authorising officer responsible, from officials or, should the need arise and only in duly substantiated cases, from other members of the institution's staff, subject to the specific rules applicable in EU Delegations.

For this purpose, the authorising officers by delegation shall place the appointed countersignatory at the disposal of the accounting officer.

4. Countersignatories who are part of the EEAS and vice versa

In exceptional circumstances and for the purposes of continuity of service, the duties of countersignatory (or deputy countersignatory) for the imprest accounts of the EEAS in Union Delegations may be carried out by a Commission official or a member of the Commission's temporary staff or a member of Commission staff covered by the Conditions of employment of other servants.

Subject to the same conditions, EEAS staff may be appointed countersignatories or deputy countersignatories for Commission imprest accounts in Union Delegations.

5. Incompatibility

The countersignatory may not be a subordinate of the imprest administrator. He may, however, be his superior.

6. Relations with the accounting officer

In carrying out his tasks, the countersignatory shall assist the accounting officer under the latter's responsibility.

In the event of a disagreement with the imprest administrator or doubts regarding the performance of his tasks, he shall immediately inform the accounting officer, who shall be his superior for such purposes.

In carrying out his duties, the countersignatory shall receive instructions only from the accounting officer and shall be answerable only to him.

7. Duties

The accounting officer shall define the rights and duties of the countersignatory on his appointment.

Before countersigning a bank payment order, the countersignatory shall verify the content of the payment instructions.

He shall check the following details against the order signed by the authorising officer responsible:

- the amount,
- the bank account used,

- the name and bank account of the payee,
- the subject matter of the transaction,
- the date of payment.

The accounting officer may add other formal verification obligations in the appointment decision.

8. Responsibility

The countersignatory shall not be responsible for either the legality or the appropriateness of the payment, for which the authorising officers bear sole responsibility.⁷²

TITLE IV: EXCLUSION AND PENALTIES

Article 34 Exclusions

1. Exclusion from participation in procedures

The decision to exclude candidates or tenderers from participation in procurement procedures, to exclude applicants from participation in grant award procedures or to exclude entrants from participation in prize contests, as provided for in Articles 106 (1) (b), (c) and (e), 109(1), 131 and 138 FR, including the decision on appropriate duration, shall be adopted by the authorising officer by delegation. Such decision shall be adopted following the centralised assessment by the Directorate-General for the Budget and the Legal Service. When the decision is based on information transmitted by OLAF, this assessment shall be made in close cooperation with OLAF.

2. Exclusion from a procurement procedure, a grant award procedure or a prize contest

The decision to exclude persons from a procurement or grant award procedure or from a prize contest, in accordance with Articles 106, 131 and 138 FR, shall be adopted by the authorising officer by delegation for the procurement or grant award procedure or contest.

Article 35 Administrative or financial penalties

Decisions to apply administrative or financial penalties in accordance with Articles 109, 131 and 138 FR shall be adopted by the authorising officer by delegation. The authorising officer by delegation shall also determine the duration of the exclusion or the amount of the financial penalty in accordance with Articles 142, 145 and 212 RAP. Such decisions shall be adopted following the centralised assessment by the the Directorate-General for the Budget and the Legal Service. When the decision is based on information transmitted by OLAF, this assessment shall be made in close cooperation with OLAF.

⁷² In EU Delegations the countersignatory may be the Head of Delegation, who also acts as an authorising officer. In this case, he is responsible as authorising officer by subdelegation.

Article 36
Subdelegation

1. Principle

The authorising officer by delegation referred to in Articles 34 ('Exclusions') and 35 ('Penalties') shall be the authorising officer whom the Commission has appointed in Annex 1 and to whom it has delegated its powers of budget implementation.

2. Rank

The authorising officer by delegation may subdelegate any decision to be taken under Articles 34 and 35 to officials or members of temporary staff performing at least the function of Director or Head of Delegation to a third country⁷³.

TITLE V: TRANSITIONAL AND FINAL PROVISIONS

Article 37
Amendment of the Internal Rules

1. Submission to the Commission

The Director-General for the Budget shall submit to the Commission, under the authority of the Member of the Commission responsible for the budget, any subsequent proposal to amend these Internal Rules.

2. Exceptions

However, he shall be authorised, without referring the matter to the Commission:

- (a) to make the adjustments to the Internal Rules deriving automatically from Commission decisions amending the areas of responsibility handled by its Members or the distribution of responsibilities between Directorates-General and Services;
- (b) to make the adjustments necessitated by changes to budget nomenclature provided that they do not relate to a new activity;
- (c) to adapt and supplement if necessary the various annexes, where appropriate after a decision by the Commission.

Any amendment to these Internal Rules shall be published on the Intranet site of the Directorate-General for the Budget.

3. Provisional application before publication

Any Commission decision entailing a change in the delegation of budget implementation powers laid down in the Internal Rules shall be applicable immediately even before these rules have been formally amended.

⁷³ As provided for in Article 2(b) of Decision 2014/792/EU of 13 November 2014 on the Early Warning System to be used by authorising officers of the Commission and by the executive agencies (OJ L 329, 14.11.2014, p. 68).

Article 38

Implementation of new lines

Until such time as the Commission adopts the Internal Rules for the next financial year, new lines entered in the budget for that financial year shall be implemented in accordance with the following criteria:

- (a) New lines for which the authorising officer by delegation is identifiable:

If, by analogy with previous or neighbouring lines, it is clear which Director-General or Head of Service should be recognised as responsible for the line in question, this person, following the agreement of the Directorate-General for the Budget, may either exercise his powers himself or subdelegate these powers to other officials or members of temporary staff. Exercise of these powers shall be subject to the prior adoption of the financing decisions referred to in Article 24 ('Financing decision') and shall be carried out in accordance with Articles 7 to 13.

- (b) New lines for which the authorising officer by delegation is not identifiable:

The Director-General for the Budget shall arbitrate between the Directorates-General concerned.

Where the arbitration produces a solution acceptable to all parties, the line in question may be implemented in accordance with point a) above until the Internal Rules are adopted.

Should this not be the case, the line may not be implemented until the Commission has designated the authorising officer by delegation for the line in question.

Article 39

Distribution of the Internal Rules

The Director-General for the Budget shall ensure the distribution of these Internal Rules.

Article 40

Notification to the other institutions

1. Notification of the Internal Rules

In accordance with Article 65(8) FR, the Directorate-General for the Budget shall inform the Court of Auditors, the European Parliament and the Council of the text of these Internal Rules and of all subsequent amendments.

2. Notification of the appointment and cessation of duties of internal auditors and accounting officers

In accordance with Article 65(8) FR, the Commission shall inform the Court of Auditors, the European Parliament and the Council when internal auditors and accounting officers are appointed and when they cease their duties. When an internal auditor is appointed or ceases his duties, the task of notification shall be delegated to the Member of the Commission with responsibility for audit; when an accounting officer is appointed or ceases his duties, it shall be delegated to the Member of the Commission with responsibility for the budget.

3. Notification of the appointment of authorising officers by delegation, imprest administrators and delegates of the accounting officer

In accordance with Article 65(9) FR, the Directorate-General for the Budget shall inform the Court of Auditors of the appointment of authorising officers by delegation and imprest administrators and of delegation decisions adopted by the Commission pursuant to Articles 69(1) and 70 RAP.

Article 41
Compliance with the Internal Rules

The Directorate-General for the Budget shall ensure that the Internal Rules are complied with.

Article 42
Repeal

Decision C(2014) 2784 of 30 April 2014 is hereby repealed.

Communication C(2006)735 on the Code of professional standards for the ex-ante financial verification function shall cease to apply.

Article 43
Entry into force

This Decision shall enter into force on the date of its adoption, except Annex 1, which shall enter into force on 1 January 2015.

Done at Brussels, 5.3.2015

For the Commission
Kristalina GEORGIEVA
Vice-President of the Commission