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ANNEX

Charter of tasks and responsibilities of authorising officers by delegation

to the

COMMISSION DECISION

**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**

ANNEX

Charter of tasks and responsibilities of authorising officers by delegation

1. PREAMBLE

1.1 *Principles*

This Charter, which has been drawn up in accordance with the provisions of the Staff Regulations, the Conditions of Employment of Other Servants, the Financial Regulation and its Rules of Application, identifies the tasks entrusted to authorising officers by delegation, their rights and duties, and the responsibilities they assume in their capacity as authorising officers by delegation. The Charter provides authorising officers by delegation with a framework within which they are empowered to develop reliable and effective management control systems while upholding the principle of zero tolerance of fraud. The general context is one of transparency designed to determine the responsibility of authorising officers by delegation in achieving the objectives set each year by the Commission. It is not an exhaustive or restrictive description of the duties of authorising officers by delegation.

1.2 *Objective*

The Charter aims to ensure that authorising officers by delegation are able to provide a reasonable assurance concerning sound financial management and the legality and regularity of operations for which they are responsible (see the ‘declaration of assurance’ relating to the annual activity report). The results obtained by authorising officers by delegation are evaluated in the light of the risks inherent in their activities and the resources they are provided with to achieve their objectives.

2. DEFINITIONS

An authorising officer by delegation is an official or member of the temporary staff to whom the Commission has delegated powers to perform operations, in accordance with the provisions of the Financial Regulation and the Staff Regulations, connected with the implementation of the general budget of the European Union or of other budgets managed by it.

Authorising officers by delegation are officials in grade AD16, AD15 or AD14; they hold the position of Director-General, Head of Service, Director of a European Office or an interinstitutional European Office or Director of Directorate A of the Internal Audit Service. Directors of the executive agencies are also authorising officers by delegation when they implement operational appropriations of the Commission¹.

¹ The Directors of the executive agencies are also authorising officers for administrative appropriations.

3. DESIGNATION OF AUTHORISING OFFICERS

3.1. *Annual designation by the Commission*

Each year the Commission shall designate one (or more) authorising officer(s) by delegation for each budget line.

The Commission has general powers of implementation under Article 291(2) of the Treaty on the Functioning of the European Union and powers of budget implementation under Article 317. The latter powers are delegated to authorising officers by delegation, without prejudice to the possibility the Commission enjoys of also delegating to the same authorising officers by delegation the power to take financing decisions prior to the commitment of expenditure in accordance with the guidelines for action and criteria ('framework') it has set in advance in order to safeguard the principle of collective responsibility; save where powers have been expressly delegated, the financing decisions are adopted by the Commission itself.

In this connection the authorising officer by delegation has the power to represent the Commission, may enter into commitments on behalf of the institution and may use the budget appropriations in accordance with the powers delegated.

3.2. *Proper training*

Officials assigned the role of authorising officer by delegation must have followed and completed an appropriate training course for the tasks and responsibilities to be assumed in this capacity. This training requirement may be waived if the official can demonstrate, by means of qualifications or appropriate professional experience, that he has sufficient knowledge, experience and skills for the tasks and responsibilities he must assume.

3.3. *Change of authorising officer*

In the event of a change of authorising officer by delegation (replacement or transfer of some activities from one authorising officer by delegation to another), the outgoing authorising officer by delegation shall draw up for the successor or replacement a declaration setting out the state of play in respect of ongoing cases. The incoming authorising officer by delegation may include observations on the cases transferred in the reservations contained in the 'declaration of assurance' relating to the annual activity report.

3.4. *Subdelegation*

An authorising officer by delegation may further delegate powers to authorising officers by subdelegation, save where the Commission decides otherwise in the Internal Rules. The hierarchical level at which subdelegation ultimately occurs must be proportional to the corresponding risks.

An authorising officer by subdelegation may not, without the express written agreement of the authorising officer by delegation, further subdelegate the powers received from this authorising officer by delegation (with the exception of cases of 'cross delegation', where the subdelegation is to another authorising officer by delegation; in such cases the authorising officer by delegation to whom powers have been subdelegated may in turn subdelegate these powers in accordance with the preceding paragraph). Authorising officers by delegation may, for operations of the same type, grant subdelegations at different hierarchical levels according to criteria they have set. Each instrument of subdelegation must specify the purpose and the

amount involved, as well as the regular reports which the authorising officer by delegation expects to receive; each subdelegation must comply with the limits set in the Internal Rules; in principle, an authorising officer by subdelegation who has received powers by subdelegation made up of a number of components should not further subdelegate these powers in full to one single member of staff.

4. MISSION OF AUTHORISING OFFICERS BY DELEGATION

4.1. *Principles*

Each authorising officer by delegation shall, in accordance with the Financial Regulation and the Staff Regulations, ensure that the tasks delegated to him by the Commission are performed as specified by the Internal Rules. The mission of the authorising officer by delegation thus covers the entire management process, which comprises:

- definition, on the basis of the policy decisions and the objectives set by the Commission, of the measures to be applied to achieve these objectives, the outcomes expected from application of these measures, and corresponding measurable indicators;
- implementation of these measures, including programming, planning and monitoring of operations prior to budget implementation, and of budget implementation proper;
- evaluation of these measures.

The powers delegated to the authorising officer by delegation involve an obligation to carry out the mission in accordance with the principles of legality, regularity, effectiveness, efficiency and economy.

4.2. *Establishment of the organisational structure and the internal control systems*

The authorising officer by delegation shall establish and maintain, in compliance with the minimum standards adopted by the institution and having due regard to the risks associated with the management environment and the nature of the measures financed, the organisational structure and the internal control systems suited to the performance of his duties. The establishment of such structure and systems shall be supported by a comprehensive risk analysis, which takes into account their cost-effectiveness. In the case of multi-annual programmes, the authorising officer by delegation shall establish a multi-annual control strategy, specifying the nature and extent of controls over the period and the manner in which the results are to be measured year-on-year for the annual assurance process.

Each operation shall be subject at least to an ex ante control, based on a desk review of documents and on the available results of controls already carried out, relating to the operational and financial aspects of the operation. The extent of the ex ante controls in terms of frequency and intensity shall be determined by the authorising officer responsible, taking into account risk-based and cost-effectiveness considerations. In case of doubt, the authorising officer responsible for validating the relevant payment shall request additional information or perform an on-the-spot control in order to obtain reasonable assurance as part of the ex ante control. For each transaction, the verification shall be carried out by staff other than those who

initiated the operation. The staff who carry out the verification shall not be subordinate to the members of staff who initiated the operation.

The authorising officer by delegation may put in place ex post controls to verify operations already approved following ex ante controls. Such controls may be organised on a sample basis according to risk. The ex ante controls shall be carried out by members of staff other than those responsible for the ex post controls. The members of staff responsible for the ex post controls shall not be subordinate to the members of staff responsible for the ex ante controls.

Where the authorising officer by delegation implements financial audits of beneficiaries as ex post controls, the related audit rules shall be clear, consistent and transparent, and shall respect the rights of both the Commission and the auditees. The outcomes of ex post controls shall be reviewed by the authorising officer by delegation at least once a year to identify any potential systemic issues. The authorising officer by delegation shall take measures to address such issues. The risk analysis referred to in Article 66(6) of the Financial Regulation shall be reviewed in the light of the results of controls and other relevant information.

All staff responsible for scrutinising the management of financial operations must have the necessary professional skills. They shall abide by a specific code of professional standards².

Authorising officers by delegation shall take whatever action is required to accomplish their tasks. To this end they shall make the necessary legal and budget commitments.

They shall also put in place procedures and systems for:

- evaluating risks deriving from the management environment and the nature of the operations;
- management and internal control complying with the internal control standards for effective management³ set by the Commission;
- avoiding a concentration of budget implementation at the end of the year, this being incompatible with sound financial management and efficient and effective internal control;
- satisfying the Commission's obligations concerning publicity and transparency;
- checking whether the objectives set have been achieved (evaluation of the relevance and impact of measures), whether the expected outcomes have been obtained (evaluation of the effectiveness of measures), and whether the implementation methods were appropriate (evaluation of efficiency).

4.3. ***Difficulties in carrying out the mission***

The authorising officer by delegation shall inform the Commission in good time of any matter of importance which might compromise the sound management of appropriations or prevent attainment of the objectives set, in particular as regards forecasts of utilisation of appropriations.

² See Annex 16 to the Internal Rules.

³ Communication to the Commission – Revision of the Internal Control Standards and Underlying Framework, SEC(2007) 1341.

In performing their functions, authorising officers by delegation may call on the Central Financial Service (CFS) to provide them with the necessary information and authorised advice; the assistance of the CFS should not, however, be regarded as prior approval of the decisions of the authorising officer by delegation.

4.4. ***Internal control standards for effective management***

The authorising officer by delegation is responsible for implementing the internal control systems which have been or are to be set up in the Directorate-General, Service, European Office or Executive Agency (hereinafter: 'Directorate-General') in accordance with the internal control standards for effective management. These systems shall be evaluated regularly by the Directorate-General and by the Internal Audit Service (IAS). The authorising officer by delegation shall have the management and internal control procedures described in a document accessible to all staff in the Directorate-General. The procedures shall be updated regularly.

4.5. ***Type of operations***

Operations connected with budget implementation for which the authorising officer by delegation is responsible shall include, *inter alia*:

- establishing budget and legal commitments and handling all the preliminaries for these commitments;
- transferring funds to a trust fund pursuant to Article 187 FR;
- validating and authorising expenditure;
- drawing up estimates of amounts receivable (including making financial corrections and extrapolating errors as provided for in Article 80(4) FR);
- establishing entitlements to be recovered and issuing recovery orders;
- sending debit notes to the institution's debtors;
- taking individual decisions awarding grants, prizes or public procurement contracts.

However, in cases of shared or indirect management through third countries or bodies designated by them, in accordance with the Financial Regulation, the legal basis shall define the correction mechanism for recovering amounts receivable and taking individual decisions awarding grants or public procurement contracts.

Where periodic payments are made with regard to services rendered or goods delivered, and subject to his risk analysis, the authorising officer by delegation/responsible may decide to use a direct debit system, via an imprest account.

The budget commitment and the corresponding legal commitment shall be signed by the same person (authorising officer by delegation or by subdelegation), with the exception of provisional budget commitments and certain other cases referred to in Article 97 of the Rules of Application of the Financial Regulation.

The authorising officer by delegation shall ensure that payment orders are issued in accordance with the rules, meaning that an appropriate validation decision has been

taken in advance in the form of a 'passed for payment' endorsement, that the beneficiary's particulars are correct and that the amount is due.

In cases of shared or indirect management, in accordance with the Financial Regulation, the authorising officer by delegation must, where no rules exist, lay down a framework which:

- states the objectives set by the Commission and defines the expected outcomes;
 - determines the management procedures, including in particular the obligation to put in place internal control systems which provide reasonable assurance as to the legality and regularity of the underlying transactions vis-à-vis the law and regulations applicable;
 - states the reporting obligation and lays down the corresponding procedures (content, frequency, deadlines);
- determines the means of remedial and corrective action, including financial action, (compatible with the relevant law and regulations) in cases of failure to comply with these provisions and in cases where the internal control systems of the bodies and entities defined at point 4.11 are inadequate or insufficient.

4.6. ***Asset management***

Where the authorising officer by delegation assumes, on behalf of the Commission, management of assets, he shall put in place appropriate management systems for keeping track of them, in agreement with the departments of the Accounting Officer, in order to provide the latter with all the information required to draw up the Commission's balance sheet. This information shall be certified by the authorising officer by delegation.

4.7. ***Use of resources***

With a view to using the appropriations for which he is responsible, the authorising officer by delegation must distribute the resources assigned to him among the different departments of his Directorate-General in the most effective manner possible by reference to the objectives set for him by the Commission, with due account for the findings of the analysis of resources deemed necessary to implement the measures in question, which was conducted when the Commission set these objectives. Each year he shall conduct a critical analysis of the use made of these resources, using in particular workload indicators and efficiency criteria.

4.8. ***Observations of the Court of Auditors and the Discharge Authority***

The authorising officer by delegation shall reply to the observations of the Court of Auditors, in cooperation with DG BUDG, and to the questions and reports of the European Parliament and the Council, in particular to questions on action taken in response to the discharge, which is coordinated by DG BUDG.

4.9. ***Annual activity report***

In connection with the powers delegated to him by the Commission, each authorising officer by delegation shall report to his Institution on the performance of his duties in the form of an annual activity report containing financial and management information, including the results of controls. This report shall be drawn up in

accordance with Article 66(9) of the Financial Regulation and the standing instructions for the preparation of annual activity reports issued by the Secretariat-General and the Directorate-General for Budget applicable to Commission authorising officers by delegation, including Directors of the Commission's executive agencies when they implement operational appropriations of the Commission⁴⁵. It shall include information on:

- the results of programmes, operations or measures by reference to the objectives set;
- the risks associated with these programmes, operations or measures;
- the use made of the resources allocated;
- the efficiency and effectiveness of the internal control systems;
- an overall assessment of the cost-effectiveness of controls.

The annual report shall also include:

- remarks on the action taken to follow up the observations made in connection with earlier discharges or reports by the Court of Auditors or internal auditors;
- remarks on action taken on any reservations contained in earlier declarations, where such qualifications pointed to measures taken or to be taken to remedy malfunctioning;
- an accounting annex based on the template prepared by the Commission's Accounting Officer and provided as part of the above-mentioned standing instructions.

4.10. *Annual activity report in the case of shared or indirect management*

In the case of budget implementation operations and tasks carried out by the bodies designated by the Member States in the context of shared management, or by entities and persons in the context of indirect management (hereinafter 'bodies and entities'), in accordance with the provisions of the Financial Regulation, the annual activity report shall also include the following information:

- A description of the monitoring and supervisory checks⁶ carried out by the authorising officer by delegation to determine to what extent the bodies and entities have put in place effective and efficient internal control systems, to determine to what extent these systems provide reasonable assurance as to the legality and regularity of the underlying transactions vis-à-vis the law and

⁴ The Directors of the executive agencies are also authorising officers for administrative appropriations.

⁵ See Article 9 of Council Regulation No 58/2003 laying down the Financial Regulation for the executive agencies (OJ L 11, 16.1.2003, p.1).

⁶ These checks shall include in particular the assessment by the authorising officer by delegation of the accounts, the management declarations and the annual summaries of the final audit reports and of controls carried out, and the opinion of an independent audit body, as required by the Financial Regulation and by sector-specific rules, as well as any other monitoring and supervisory checks that have been put in place, such as ex post audits carried out by the Commission and direct participation in the governance structure of the entities concerned.

regulations applicable, and to verify that the amounts declared are complete and accurate;

- a summary of the findings of the monitoring and supervisory checks;
- information on any interruption of payment deadlines made on the basis of monitoring and supervisory checks indicating that the internal control systems of these bodies and entities are inadequate;
- information on any suspension of payments, financial corrections and/or recoveries made where the internal control systems of these bodies and entities are found to be inadequate;
- a summary of cases where the accounts of these bodies and entities have not been accepted or have proved to be incomplete, inaccurate or untrue.

In the context of shared or indirect management, the authorising officers by delegation should clarify the nature of their responsibilities in the annual activity report in order to ensure that the declaration is free of any ambiguities.

4.11. *Declaration of assurance*

When sending the annual activity report to the Commission, the authorising officer by delegation shall sign a ‘declaration of assurance’ relating to the annual report, drawn up on the basis of the assessment of the functioning of the internal control systems conducted within his department. The authorising officer by delegation shall declare that, unless otherwise specified in any reservations related to defined areas of revenue and expenditure, he has reasonable assurance that the information contained in the report presents a true and fair view; that the resources assigned to the activities described in the report have been used for their intended purpose and in accordance with the principle of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions (see template attached to this Charter).

The ‘declaration of assurance’ may contain reservations designed to highlight issues or weaknesses in the internal control systems associated with the operations and actions managed by the Directorate-General. These reservations may contain observations by the authorising officer by delegation concerning the management of cases taken over from his predecessor(s). They should not make the declaration meaningless, but may point to malfunctioning in the design or application of internal control systems; in this case there should also be an indication of the impact on the declaration as a whole and the remedial measures taken or planned by the authorising officer by delegation.

4.12. *Cross subdelegation*

In accordance with the guidelines mentioned above, in cases of cross subdelegation (where powers are subdelegated to another authorising officer by delegation), a written understanding shall spell out the conditions governing the subdelegation, in particular the frequency of the reports and the controls to be carried out by the authorising officer by subdelegation, who shall inform the authorising officer by

delegation in writing of the management problems encountered and the solutions proposed to remedy them.

The authorising officer by delegation must include in his annual report the activities covered by cross subdelegation; where appropriate the ‘declaration of assurance’ relating to this report shall set out whatever reservations (and solutions) seem appropriate on the basis of the regular reports received from the authorising officer by subdelegation. Where the authorising officer by subdelegation fails to meet his obligation to report regularly on the management of the subdelegated funds, he shall be held liable for this breach of the understanding with the authorising officer by delegation, who will indicate this in his declaration relating to the annual activity report.

In cases of cross subdelegation, where powers are subdelegated to another authorising officer by delegation, the latter remains entirely responsible for implementing the internal control systems established in his departments, while abiding by the specific conditions agreed with the authorising officer by delegation.

4.13. ***Application of the Charter by analogy***

The provisions of this Charter shall apply *mutatis mutandis* to all cases in which the Commission authorising officer by delegation is required to perform his tasks, also in the management of trust funds.

5. LIABILITY OF AUTHORISING OFFICERS BY DELEGATION

5.1. ***Liability arising from the Staff Regulations***

The liability of authorising officers by delegation shall be governed by the provisions of the Staff Regulations of Officials (in particular Articles 11, 11a, 12, 12a, 21, 21a, 22, 22a and 86 and Annex IX) and the corresponding provisions of the Conditions of Employment of Other Servants. It shall be measured against the risks inherent in their work and the resources provided to achieve their objectives.

In accordance with Article 22 of the Staff Regulations, an authorising officer by delegation may be required to make good, in whole or in part, any damage suffered by the Union as a result of serious misconduct on his part. The obligation to pay compensation shall apply in particular in the cases referred to in Article 73(2) of the Financial Regulation.

The authorising officer by delegation may be held liable in the event of serious negligence, in particular where the wrongdoing was made possible by inadequacies in the internal control systems devised and put in place under his responsibility (although it is understood that the obligations relating to risk detection concern the means to be employed and not the results to be achieved).

In cases that do not involve intentional wrongdoing such as fraud, corruption, misappropriation of funds or theft, the Commission shall base its decision to initiate the procedure for finding an authorising officer by delegation liable for disciplinary action and payment of compensation on the opinion of the panel referred to in Article 73(6) of the Financial Regulation.

5.2. ***Duty of supervision***

Delegation of powers to authorising officers by subdelegation does not affect the liability of authorising officers by delegation, who must exercise supervision to ensure the effectiveness and efficiency of the activities delegated and who remain answerable for the powers they have subdelegated.

5.3. ***Instructions that are irregular or contrary to sound financial management***

Authorising officers by delegation who believe that an instruction on which they are required to act is irregular or contrary to the principles of sound financial management or professional rules, or that the measure cannot be implemented with the resources provided, must inform the delegating authority in writing. If the instruction is confirmed in writing and the confirmation is received in good time and is sufficiently clear, in that it refers explicitly to the points which the authorising officer by delegation has challenged, the authorising officer by delegation shall not be held liable; in this case he must carry out the instructions, unless they are manifestly illegal or constitute a breach of the relevant safety standards.

The same shall apply where an authorising officer by delegation learns, when acting on instructions he has been given, that the circumstances of the case may give rise to an irregular situation.

5.4. ***Duty to inform the authorities of illegal activities, fraud or corruption***

In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, the authorising officer shall inform the authorities and bodies designated by the applicable legislation.

In accordance with Article 66(8) of the Financial Regulation, contracts with external auditors carrying out audits of the financial management of the Union shall provide for an obligation of the external auditor to inform the authorising officer by delegation of any suspected illegal activity, fraud or corruption which may harm the interests of the Union.

5.5 ***Commission's duty of care***

In carrying out their duties, authorising officers by delegation benefit from the Commission's duty of care towards its employees.

6. **FRAUD, CORRUPTION, CONFLICT OF INTERESTS**

6.1. ***Principles***

The provisions of this Charter are without prejudice, in cases of fraud or corruption, to the liability under criminal law of the authorising officer by delegation as laid down in the national law applicable and in the provisions in force concerning the protection of the financial interests of the European Union and Euratom and the fight against corruption involving officials of the European Union or of the Member States of the European Union.

6.2. *Conflicts of interest*

There is a conflict of interests where the impartial and objective performance of the duties of a financial officer or other person involved in the implementation and management of the budget, including the relevant preparatory work, and in auditing or controls, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.

Where such a risk exists, the person in question shall refrain from such action and shall refer the matter to the authorising officer by delegation, who shall confirm in writing whether a conflict of interests exists. The person in question shall also inform his hierarchical superior. Where a conflict of interests is found to exist, the person in question shall cease all activities in the matter. The authorising officer by delegation shall personally take any further appropriate action.

Any measures of budget implementation which may give rise to a conflict of interest between the authorising officer by delegation or staff for whom he is responsible and a third party supplying revenue or receiving expenditure shall be prohibited. If a case of this kind arises, the authorising officer by delegation shall refrain from acting and shall refer the matter to his hierarchical superior.

In accordance with Article 11a of the Staff Regulations and the corresponding provisions of the Conditions of Employment of Other Servants, an authorising officer by delegation shall not, in the performance of duties, deal with a matter in which, directly or indirectly, he has any personal interest, in particular family and financial interests, which would impair his independence. However, any authorising officer by delegation to whom it falls to deal with such a matter shall immediately inform the appointing authority⁷, which shall take any appropriate measure and may in particular relieve the official from responsibility in this matter.

7. **DISQUALIFICATION**

In the event of failure to comply with the rules contained in this Charter, authorising officers by delegation may be suspended from their duties by the Commission, without prejudice to any disciplinary action.

Brussels,

(Signature of the authorising officer by delegation)

⁷

See the appointing authority tables adopted by the Commission and published in the Administrative Notices.

**MODEL DECLARATION OF ASSURANCE BY THE AUTHORISING OFFICER BY
DELEGATION
RELATING TO THE ANNUAL ACTIVITY REPORT**

I, the undersigned,

Director-General of

Head of Service

Director of ... [*European office, executive agency, Internal Audit Service*]

in my capacity as authorising officer by delegation,⁸

Declare that the information contained in this report gives a true and fair view⁹.

State that I have a reasonable assurance that the resources assigned to the activities described in this report have been used for the purposes intended in accordance with the principle of sound financial management and that the control procedures put in place provide satisfactory guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, the ex post controls, the work of the internal audit structure, [the observations of the Internal Audit Service]¹⁰ [and the lessons learnt from the reports of the Court of Auditors]¹¹ for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported which could harm the interests of the institution.¹²

However, the following reservations should be noted: [*delete if not applicable*]

Place, date

Signed:

⁸ The executive agencies shall replace ‘authorising officer by delegation’ by ‘authorising officer for the administrative budget and authorising officer by delegation for the operational budget’.

⁹ ‘True and fair view’ in this context means a reliable, complete and correct picture of the state of affairs in the department.

¹⁰ Delete if not applicable.

¹¹ Delete if not applicable.

¹² Executive agencies should replace ‘the institution’ with ‘[the name of the executive agency] or those of the Commission’.