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ANNEX 15 – PART 2/4

## **ANNEX**

**Charter of tasks and responsibilities of authorising officers by subdelegation**

*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 subdelegation**

## **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 subdelegation, their rights and duties, and the responsibility for assisting the authorising officer by delegation, incumbent on them in this role.

The Charter provides authorising officers by subdelegation with a framework within which they can assume their responsibility for assisting the authorising officer by delegation, which is particularly significant in the areas of compliance with the principles of sound financial management and devising and putting in place efficient and effective management and control systems, while upholding the principle of zero tolerance of fraud. It is not an exhaustive or restrictive description of the duties of authorising officer by subdelegation.

### ***1.2. Objective***

The results obtained by authorising officers by subdelegation shall be evaluated in the light of the risks inherent in their activities, the resources assigned to them and compliance with the internal control systems and procedures laid down by the authorising officer by delegation for achieving their objectives.

## **2. Definitions**

### ***2.1. Authorising officer by subdelegation***

An authorising officer by subdelegation is an official or member of the temporary staff or, in the European Offices, the delegations to third countries and the representations in Member States, a member of the contract staff in Categories III or IV to whom powers have been subdelegated by an authorising officer by delegation or subdelegation to perform, on his behalf and in accordance with the provisions of the Financial Regulation and its Rules of Application and the Staff Regulations, certain operations connected with the implementation of the general budget of the European Union or other budgets managed by it.

### ***2.2. Authorising officers by subdelegation in Union delegations***

Within the meaning of Title IV of Part I of the Financial Regulation, a head of delegation of the European External Action Service who is in charge of an EU delegation to a third country, under the authority of the High Representative of the Union for Foreign Affairs and Security Policy, shall assume the role of Commission authorising officer by subdelegation for the management of operational appropriations from the 'Commission' section of the EU budget.

### **2.3. *Special rules***

The Internal Rules may lay down, for certain operations connected with budget implementation, minimum levels of category and/or grade for authorising officers by subdelegation. As a rule, authorising officers by subdelegation receiving powers concerning commitments shall belong to a management category; the same shall apply, as far as possible, for authorising officers by subdelegation receiving powers concerning the authorisation of recoveries or payments involving substantial risk (such as certain payments of advances and final payments).

## **3. Designation of authorising officers by subdelegation**

### **3.1. *Designation***

Authorising officers by delegation shall designate one or more authorising officers by subdelegation for certain operations connected with the implementation of each budget line for which they are responsible. Authorising officers by subdelegation shall be designated directly by means of a written subdelegation instrument signed by the authorising officer by delegation (or in certain cases indirectly, by means of the explicit written agreement of the authorising officer by delegation to a proposal for a subdelegation instrument drawn up by one of his authorising officers by subdelegation - see 3.4 below).

In this connection an authorising officer by subdelegation belonging to a management category may, in accordance with the terms of the powers subdelegated and within the limits of the subdelegation instrument, have the power to represent the Commission, enter into commitments on behalf of the institution and use budget appropriations within the framework of the powers subdelegated.

### **3.2. *Appropriate training***

Staff assigned the role of authorising officer by subdelegation must have followed - or follow as soon as possible after receiving the delegation - an appropriate training course in the financial sector for the tasks and responsibilities they must assume as authorising officer by subdelegation. 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 by subdelegation***

In the event of a change of authorising officer by subdelegation (replacement or transfer of some activities from one authorising officer by subdelegation to another), the outgoing authorising officer by subdelegation shall draw up for the successor or replacement and for the authorising officer by delegation, a declaration setting out the state of ongoing cases. The incoming authorising officer by subdelegation taking over the cases may send the authorising officer by delegation observations on the cases received or transferred.

### **3.4. *Further subdelegation***

An authorising officer by subdelegation may himself subdelegate the powers he has received from the authorising officer by delegation, subject to the explicit written consent of the authorising officer by delegation.

Powers subdelegated in this way may be granted for operations of the same type at different hierarchical levels, according to criteria established by the authorising officer by subdelegation.

The hierarchical level at which subdelegation finally occurs must be proportional to the corresponding risks. Each instrument of subdelegation must specify the purpose and the amount involved, as well as the regular reports which the authorising officer by subdelegation who granted the subdelegation 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.

The subdelegation of powers by authorising officers by subdelegation does not affect their liability, and they remain answerable for the powers they have subdelegated.

## **4. Mission of authorising officers by subdelegation**

### **4.1. *Principles***

Each authorising officer by subdelegation shall, in accordance with the Financial Regulation, the Rules of Application and the Staff Regulations, ensure that the tasks subdelegated to him are performed as specified by the Internal Rules and within the limits set in the instrument of subdelegation.

If the authorising officer by subdelegation belongs to a management category, his mission covers the entire management process, which comprises:

- definition, on the basis of the policy decisions and the objectives set by the Commission and the instructions given by the authorising officer by delegation, of the measures to be applied to achieve these objectives, the outcomes expected from application of these measures and the 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 mission of the authorising officer by subdelegation may alternatively cover only part of this management process or comprise only some of the programming, planning and monitoring operations or some of the operations prior to budget implementation or some of the budget implementation proper.

The powers subdelegated to the authorising officer by subdelegation involve in all cases an obligation to carry out this mission in accordance with the principles of legality, regularity, effectiveness, efficiency and economy.

## **4.2. Acts reserved for management**

If the authorising officer by subdelegation belongs to a management category, he may be requested, within the framework of the mission and within the limits and conditions set in the instrument of subdelegation, to make legal and/or budget commitments, and/or to assist the authorising officer by delegation in devising and putting in place procedures and systems for:

- evaluating risks deriving from the management environment and the nature of the operations;
- management and internal control which comply with the internal control standards for effective management<sup>1</sup> 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 subdelegation shall inform the authorising officer by delegation 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.

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

## **4.4. Type of operations**

Operations connected with budget implementation which may be placed under the responsibility of the authorising officer by subdelegation shall include *inter alia*:

- establishing budget and legal commitments and handling all the preliminaries for these commitments;
- validating and authorising expenditure;
- drawing up estimates of amounts receivable (including making financial corrections and extrapolating errors as provided for in Article 80(4) of the Financial Regulation);
- 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;

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<sup>1</sup> Communication to the Commission – Revision of the Internal Control Standards and Underlying Framework, SEC(2007) 1341.

- making proposal to the Directorate-General for the Budget for transfer of appropriations where there is no need for a procedure to inform or obtain authorisation from the budgetary authority;
- validation of transfers of appropriations by the secondary authorising officer concerning budget lines subject to a co-delegation.

However, in cases of shared or indirect management through third countries or the bodies they have designated, the legal base shall define the correction mechanism for recovering amounts receivable and taking individual decisions awarding grants or public procurement contracts.

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 Regulation on the Rules of Application of the Financial Regulation. In all cases, a person signing a legal commitment must first have checked that the corresponding budget commitment has been authorised by himself or by another authorising officer by delegation or subdelegation.

The authorising officer by subdelegation 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 subdelegation 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 or 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 or regulations), in cases of failure to comply with these provisions and in cases where the internal control systems of the bodies and entities defined by the authorising officer by delegation are inadequate or insufficient.

#### **4.5. *Asset management***

Where the authorising officer by subdelegation is responsible for the management of assets on behalf of the Commission under powers subdelegated by the authorising officer by delegation, he shall assist the authorising officer by delegation in putting in place appropriate management systems for keeping track of them, in agreement with the departments of the Accounting Officer, in order to provide the Accounting Officer with all the information required to draw up the Commission's

balance sheet. This information shall be certified by the authorising officer by delegation.

#### **4.6. *Use of resources***

With a view to using the appropriations for which he is responsible by virtue of the powers subdelegated to him, the authorising officer by subdelegation must assist the authorising officer by delegation in distributing the resources assigned to the authorising officer by delegation among the different departments and staff in the most effective manner possible by reference to the specific objectives set by the authorising officer by delegation for the authorising officer by subdelegation, with due account for the findings of the analysis of resources deemed necessary to implement the measures in question, which was conducted when the authorising officer by delegation 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.

#### **4.7. *Observations of the Court of Auditors and the Discharge Authority***

The authorising officer by subdelegation shall assist the authorising officer by delegation in providing replies 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.

#### **4.8. *Reporting and assistance to the authorising officer by delegation***

The authorising officer by subdelegation shall assist the authorising officer by delegation in drafting the 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 DG Budget.

The authorising officer by subdelegation shall report regularly to the authorising officer by delegation on the implementation of programmes, operations or measures in respect of which powers have been subdelegated to him. These regular reports, which shall also be used in the preparation of the annual activity report of the authorising officer by delegation, 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 provided.

They shall also contain:

- 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 expressed by the authorising officer by delegation in earlier declarations, where such qualifications pointed to measures taken or to be taken to remedy malfunctioning.

#### **4.9. *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 subdelegation is required to perform his tasks, including in the management of trust funds.

### **5. Liability of authorising officers by subdelegation**

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

The liability of authorising officers by subdelegation, including heads of delegation, shall be governed by the provisions of the Staff Regulations applicable to 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 available resources assigned to them by the authorising officer by delegation and compliance with the internal control systems and procedures laid down by the authorising officer by delegation.

In accordance with Article 22 of the Staff Regulations, an authorising officer by subdelegation 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 subdelegation may be held liable in the event of serious negligence, in particular where the wrongdoing was made possible by failure to comply with the internal control systems devised and put in place by the authorising officer by delegation (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 subdelegation or head of delegation, where he is acting in the capacity of Commission authorising officer by subdelegation, 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. *Instructions that are irregular or contrary to sound financial management***

Authorising officers by subdelegation who believe that an instruction they are required to act on 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 subdelegation has challenged, the authorising officer by subdelegation 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 subdelegation learns, when acting on instructions he has been given, that the circumstances of the case may give rise to an irregular situation.

### **5.3. *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 by subdelegation 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.

### **5.4. *Commission's duty of care***

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

## **6. *Fraud, corruption and conflicts of interest***

### **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 subdelegation 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 subdelegation 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 subdelegation 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 subdelegation shall not, in the performance of duties, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests. However, any authorising officer by subdelegation to whom it falls to deal with such a matter shall immediately inform the appointing authority<sup>2</sup>, which shall take any appropriate measure and may in particular relieve the official from responsibility in this matter. He shall also inform his hierarchical superior and the authorising officer by delegation if he is not that hierarchical superior.

## **7. Disqualification**

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

## **8. Supplementary provisions specifically applicable to heads of delegation assuming the role of Commission authorising officer by subdelegation<sup>3</sup>**

### ***8.1. Appropriate training***

Before accepting the subdelegation of powers of budget implementation by the authorising officer by delegation, the head of delegation must have successfully completed a training programme appropriate to the tasks and responsibilities as authorising officer by subdelegation which he is required to assume. This training requirement may be waived if the head of delegation can demonstrate, by means of qualifications or appropriate professional experience, that he has the knowledge, experience and skills for the tasks and responsibility he is required to assume, in accordance with Article 50 of the Rules of Application.

### ***8.2. Further subdelegation***

A head of delegation may not, without the express written agreement of the authorising officer by delegation, further subdelegate the powers received from this authorising officer by delegation. An authorising officer by subdelegation to whom powers have been subdelegated by the head of delegation may not in turn subdelegate these powers.

### ***8.3. Duty of loyal cooperation***

A head of delegation acting as Commission authorising officer by subdelegation must cooperate closely with the authorising officer by delegation to ensure the

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<sup>2</sup> See the appointing authority tables adopted by the Commission and published in the Administrative Notices.

<sup>3</sup> Provisions supplementing the general provisions of the Charter to be incorporated in the Charter to be signed by the head of delegation when the authorising officer by delegation first subdelegates powers.

correct implementation of the appropriations which he has been subdelegated to manage, in order to guarantee, in particular, the legality and regularity of the financial operations, compliance with the principle of sound financial management and the effective protection of the European Union's financial interests.

The head of delegation shall take the measures necessary to prevent any situation liable to jeopardise the Commission's responsibility for implementing the budget, which has been subdelegated to him, as well as any conflict of priorities that might affect the implementation of the financial management tasks subdelegated to him.

If a situation or conflict of the type referred to in the previous subparagraph arises, the head of delegation shall immediately inform the competent Commission Director-General and the High Representative of the Union for Foreign Affairs and Security Policy.

#### **8.4. *Reporting and assistance to Commission authorising officer by delegation***

A head of delegation acting as Commission authorising officer by subdelegation shall be responsible for the introduction and effective operation of internal control systems, in accordance with the instructions of the authorising officer by delegation, and the implementation of the programmes, operations or measures in respect of which powers have been subdelegated to him.

The head of delegation shall report to the authorising officer by delegation each year, by 10 February at the latest, on the responsibilities referred to in the previous subparagraph. The report provided by the head of delegation shall be annexed to the annual activity report of the authorising officer by delegation.

A head of delegation acting as Commission authorising officer by subdelegation must respond to any request by the Commission's authorising officer by delegation.

#### **8.5. *Assistance for the declaration of assurance***

Each year, by 10 February at the latest, the head of delegation must also provide the authorising officer by delegation with an assurance concerning the internal control systems and the implementation of the measures and operations in respect of which powers have been subdelegated to him, and the results achieved, in order to enable the authorising officer by delegation to draw up his own declaration of assurance.

#### **8.6. *Assistance for the discharge***

In connection with the discharge, a head of delegation acting as Commission authorising officer by subdelegation must cooperate closely with the institutions involved in the discharge procedure and, where necessary, supply any additional information required. In particular, he must reply to requests by the European Parliament and the Council. In this context, the head of delegation may also be required to attend meetings of the competent European Parliament committee in the company of the competent authorising officer, whom he must assist.

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

If a head of delegation believes that a decision he is being required by his superior to apply or accept is irregular or contrary to the principles of sound financial management or to the professional rules by which he is bound, he must inform the delegating authority accordingly. If the head of delegation informs the delegating authority in writing, that authority shall reply in writing. If the delegating authority fails to take action or confirms the initial decision or instructions and the head of delegation believes that such confirmation does not constitute a reasonable response to his concern, he shall inform the authorising officer by delegation in writing. If that officer fails to take action, the member of staff shall inform the relevant panel referred to in Article 73(6).

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

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.

Brussels,

**(Signature of the authorising officer by subdelegation)**