

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (repealed)

PART ONE

COMMON PROVISIONS

TITLE IV

IMPLEMENTATION OF THE BUDGET

CHAPTER 1

*General provisions*

*Article 53*

**Budget implementation in accordance with the principle of sound financial management**

- 1 The Commission shall implement the revenue and expenditure of the budget in accordance with this Regulation, under its own responsibility and within the limits of the appropriations authorised.
- 2 The Member States shall cooperate with the Commission so that the appropriations are used in accordance with the principle of sound financial management.
- 3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the implementation of the budget in accordance with the principle of sound financial management, and on information on transfers of personal data for audit purposes.

*Article 54*

**Basic act and exceptions**

- 1 A basic act shall first be adopted before the appropriations entered in the budget for any action by the Union may be used.
- 2 By way of derogation from paragraph 1 the following may be implemented without a basic act provided the actions which they are intended to finance fall within the competences of the Union:
  - a appropriations for pilot projects of an experimental nature designed to test the feasibility of an action and its usefulness. The relevant commitment appropriations may be entered in the budget for not more than two consecutive financial years.

The total amount of appropriations for the pilot projects shall not exceed EUR 40 000 000 in any financial year;

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- b appropriations for preparatory actions in the field of application of the TFEU and the Euratom Treaty, designed to prepare proposals with a view to the adoption of future actions. The preparatory actions shall follow a coherent approach and may take various forms. The relevant commitment appropriations may be entered in the budget for not more than three consecutive financial years. The procedure for the adoption of the relevant basic act shall be concluded before the end of the third financial year. In the course of that procedure, the commitment of appropriations shall correspond to the particular features of the preparatory action with regard to the activities envisaged, the aims pursued and the recipients. Consequently, the means implemented shall not correspond in volume to those envisaged for financing the definitive action itself.

The total amount of appropriations for new preparatory actions referred to under this point shall not exceed EUR 50 000 000 in any financial year, and the total amount of appropriations actually committed for preparatory actions shall not exceed EUR 100 000 000;

- c appropriations for preparatory measures in the field of Title V of the TEU. Such measures shall be limited to a short period of time and shall be designed to establish the conditions for Union action in fulfilment of the objectives of the CFSP and for the adoption of the necessary legal instruments.

For the purpose of Union crisis management operations, preparatory measures shall be designed, inter alia, to assess the operational requirements, to provide for a rapid initial deployment of resources, or to establish the conditions on the ground for the launching of the operation.

Preparatory measures shall be agreed by the Council, on a proposal by the High Representative.

In order to ensure the rapid implementation of preparatory measures, the High Representative shall inform the European Parliament and the Commission as early as possible of the Council's intention to launch a preparatory measure and, in particular, of the estimated resources required for this purpose. The Commission shall take all the measures necessary to ensure a rapid disbursement of the funds.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules for the financing of preparatory measures in the field of the CFSP;

- d appropriations for one-off actions, or even actions for an indefinite duration, carried out by the Commission by virtue of tasks resulting from its prerogatives at institutional level pursuant to the TFEU and the Euratom Treaty, other than its right of legislative initiative referred to in point (b), and under specific powers directly conferred on it by those Treaties, a list of which is to be given in the delegated acts adopted pursuant to this Regulation;
- e appropriations for the operation of each institution under its administrative autonomy.

When the draft budget is presented, the Commission shall submit a report to the European Parliament and the Council on the actions referred to in points (a) and (b) of the first subparagraph which shall also contain an assessment of results and the follow-up envisaged.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the basic act and the exceptions enumerated in paragraph 2 of this Article.

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## Article 55

### **Implementation of the budget by institutions other than the Commission**

The Commission shall confer on the other institutions the requisite powers for the implementation of the sections of the budget relating to them.

Detailed arrangements may be agreed between the EEAS and the Commission in order to facilitate the implementation of Union Delegations' administrative appropriations. Such arrangements shall not contain any derogation from this Regulation or the delegated acts adopted pursuant to this Regulation.

## Article 56

### **Delegation of budget implementation powers**

1 The Commission and each of the other institutions may, within their departments, delegate their powers of budget implementation in accordance with the conditions laid down in this Regulation and by their internal rules and within the limits which they lay down in the instrument of delegation. Those so empowered shall act within the limits of the powers expressly conferred upon them.

2 However, the Commission may delegate its powers of budget implementation concerning the operational appropriations of its own section to the Heads of Union Delegations. It shall, at the same time, inform the High Representative thereof. When Heads of Union Delegations act as subdelegated authorising officers of the Commission, they shall apply the Commission rules for the implementation of the budget and shall be subject to the same duties, obligations and accountability as any other subdelegated authorising officer of the Commission.

The Commission may withdraw the delegation in accordance with its own rules.

For the purposes of the first subparagraph, the High Representative shall take the measures necessary to facilitate cooperation between Union Delegations and Commission departments.

## Article 57

### **Conflict of interests**

1 Financial actors and other persons involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action which may bring their own interests into conflict with those of the Union.

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 or her 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.

2 For the purposes of paragraph 1, a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph

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1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 setting out what is likely to constitute a conflict of interests together with the procedure to be followed in such cases.

## CHAPTER 2

### *Methods of implementation*

#### *Article 58*

#### **Methods of implementation of the budget**

- 1 The Commission shall implement the budget in the following ways:
- a directly ('direct management'), by its departments, including its staff in the Union Delegations under the authority of their respective Head of Delegation, in accordance with Article 56(2), or through executive agencies as referred to in Article 62;
  - b under shared management with Member States ('shared management'); or
  - c indirectly ('indirect management'), where this is provided for in the basic act or in the cases referred to in points (a) to (d) of the first subparagraph of Article 54(2), by entrusting budget implementation tasks to:
    - (i) third countries or the bodies they have designated;
    - (ii) international organisations and their agencies;
    - (iii) the EIB and the European Investment Fund;
    - (iv) bodies referred to in Articles 208 and 209;
    - (v) public law bodies;
    - (vi) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
    - (vii) bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
    - (viii) persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
- 2 The Commission remains responsible for the implementation of the budget in accordance with Article 317 TFEU and shall inform the European Parliament and the Council of the operations carried out by the entities and persons entrusted pursuant to point (c) of paragraph 1 of this Article. Where the entrusted entity or person is identified in a basic act, the financial statement provided for in Article 31 shall include a full justification for the choice of that particular entity or person.
- 3 The entities and persons entrusted pursuant to point (c) of paragraph 1 of this Article shall fully cooperate in the protection of the Union's financial interests. Delegation agreements

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shall provide for the right of the Court of Auditors and the European Anti-Fraud Office (OLAF) to comprehensively exert their competences under the TFEU in the audit of funds.

The Commission shall entrust budget implementation tasks to entities and persons under point (c) of paragraph 1 of this Article provided that transparent, non-discriminatory, efficient and effective review procedures concerning the actual implementation of such tasks are in place.

4 All delegation agreements shall be made available to the European Parliament and the Council at their request.

5 Entities and persons entrusted pursuant to point (c) of paragraph 1 of this Article shall ensure, in accordance with Article 35(2), appropriate annual *ex post* publication of information on recipients. The Commission shall be notified of the measures taken in this regard.

6 Entities and persons entrusted pursuant to point (c) of paragraph 1 shall not have the status of authorising officer by delegation.

7 The Commission shall not entrust executive powers to third parties, where such powers involve a large measure of discretion implying political choices.

[<sup>F18</sup> The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the methods of implementation of the budget, including direct management, the exercise of powers delegated to executive agencies, and specific provisions for indirect management with international organisations, with bodies referred to in Articles 208 and 209, with public law bodies or bodies governed by private law with a public service mission, with bodies governed by the private law of a Member State and entrusted with the implementation of a public-private partnership and with persons entrusted with the implementation of specific actions in the CFSP. The Commission shall also be empowered to adopt delegated acts in accordance with Article 210 concerning criteria for assimilating non-profit organisations to international organisations.]

#### Textual Amendments

- F1** Substituted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

### Article 59

#### Shared management with Member States

1 Where the Commission implements the budget under shared management, implementation tasks shall be delegated to Member States. The Commission and the Member States shall respect the principles of sound financial management, transparency and non-discrimination and shall ensure the visibility of Union action when they manage Union funds. To this end, the Commission and the Member States shall fulfil their respective control and audit obligations and assume the resulting responsibilities laid down in this Regulation. Complementary provisions shall be laid down in sector-specific rules.

2 When executing tasks relating to the implementation of the budget, Member States shall take all the necessary measures, including legislative, regulatory and administrative measures, to protect the Union's financial interests, namely by:

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- a ensuring that actions financed from the budget are implemented correctly and effectively and in accordance with the applicable sector-specific rules and, for that purpose, designating in accordance with paragraph 3, and supervising bodies responsible for the management and control of Union funds;
- b preventing, detecting and correcting irregularities and fraud.

In order to protect the Union's financial interests, Member States shall, respecting the principle of proportionality, and in compliance with this Article, and the relevant sector-specific rules, carry out *ex ante* and *ex post* controls including, where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions. They shall also recover funds unduly paid and bring legal proceedings where necessary in this regard.

Member States shall impose effective, dissuasive and proportionate penalties on recipients where provided for in sector-specific rules and in specific provisions in national legislation.

As part of its risk assessment and in accordance with sector-specific rules, the Commission shall monitor the management and control systems established in the Member States. The Commission shall, in its audit work, respect the principle of proportionality and shall take into account the level of assessed risk in accordance with the sector-specific rules.

3 In accordance with the criteria and procedures laid down in sector-specific rules, Member States shall, at the appropriate level, designate bodies to be responsible for the management and control of Union funds. Such bodies may also carry out tasks not related to the management of Union funds and may entrust certain of their tasks to other bodies.

When deciding on the designation of bodies, Member States may base their decision on whether the management and control systems are essentially the same as those already in place for the previous period and whether they have functioned effectively.

If audit and control results show that the designated bodies no longer comply with the criteria set out in the sector-specific rules, Member States shall take the measures necessary to ensure that deficiencies in the implementation of the tasks of these bodies are remedied, including by ending the designation in accordance with the sector-specific rules.

The sector-specific rules shall define the role of the Commission in the process set out in this paragraph.

- 4 Bodies designated pursuant to paragraph 3 shall:
  - a set up and ensure the functioning of an effective and efficient internal control system;
  - b use an accounting system that provides accurate, complete and reliable information in a timely manner;
  - c provide the information required under paragraph 5;
  - d ensure *ex post* publication in accordance with Article 35(2). Any processing of personal data shall comply with national provisions implementing Directive 95/46/EC.

5 Bodies designated pursuant to paragraph 3 shall, by 15 February of the following financial year, provide the Commission with:

- a their accounts on the expenditure that was incurred, during the relevant reference period as defined in the sector-specific rules, in the execution of their tasks and that was presented to the Commission for reimbursement. Those accounts shall include pre-financing and sums for which recovery procedures are underway or have been

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completed. They shall be accompanied by a management declaration confirming that, in the opinion of those in charge of the management of the funds:

- (i) the information is properly presented, complete and accurate,
  - (ii) the expenditure was used for its intended purpose, as defined in the sector-specific rules,
  - (iii) the control systems put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;
- b an annual summary of the final audit reports and of controls carried out, including an analysis of the nature and extent of errors and weaknesses identified in systems, as well as corrective action taken or planned.

The accounts referred to in point (a) of the first subparagraph and the summary referred to in point (b) of the first subparagraph shall be accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the accounts give a true and fair view, whether expenditure for which reimbursement has been requested from the Commission is legal and regular, and whether the control systems put in place function properly. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration referred to in point (a) of the first subparagraph.

The deadline of 15 February may exceptionally be extended by the Commission to 1 March, upon communication by the Member State concerned.

Member States may, at the appropriate level, publish the information referred to in this paragraph.

In addition, Member States may provide declarations signed at the appropriate level based on the information referred to in this paragraph.

- 6 In order to ensure that Union funds are used in accordance with the applicable rules, the Commission shall:
- a apply procedures for the examination and acceptance of the accounts of the designated bodies, ensuring that the accounts are complete, accurate and true;
  - b exclude from Union financing expenditure for which disbursements have been made in breach of applicable law;
  - c interrupt payment deadlines or suspend payments where provided for in the sector-specific rules.

The Commission shall end all or part of the interruption of payment deadlines or suspension of payments after a Member State has presented its observations and as soon as it has taken any necessary measures. The annual activity report referred to in Article 66(9) shall cover all the obligations under this subparagraph.

7 Sector-specific rules shall take account of the needs of European Territorial Cooperation programmes as regards, in particular, the content of the management declaration, the process set out in paragraph 3 and the audit function.

8 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on shared management with Member States, including the compilation of a register of bodies responsible for the management and control of Union funds, and on measures to promote best practices.

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## Article 60

### Indirect management

1 Entities and persons entrusted with budget implementation tasks pursuant to point (c) of Article 58(1) shall respect the principles of sound financial management, transparency and non-discrimination and shall ensure the visibility of Union action when they manage Union funds. They shall guarantee a level of protection of the financial interests of the Union equivalent to that required under this Regulation when they manage Union funds, with due consideration for:

- a the nature of the tasks entrusted to them and the amounts involved;
- b the financial risks involved;
- c the level of assurance stemming from their systems, rules and procedures together with the measures taken by the Commission to supervise and support the implementation of the tasks entrusted to them.

2 In order to protect the financial interests of the Union, the entities and persons entrusted pursuant to point (c) of Article 58(1) shall, in accordance with the principle of proportionality:

- a set up and ensure the functioning of an effective and efficient internal control system;
- b use an accounting system that provides accurate, complete and reliable information in a timely manner;
- c be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the entity or person concerned;
- [<sup>F1</sup>d apply appropriate rules and procedures for providing financing from Union funds through procurement, grants, prizes and financial instruments, including the obligations set out in Article 108(12);]
- e ensure, in accordance with Article 35(2), the *ex post* publication of information on recipients;
- f ensure a reasonable protection of personal data, as laid down in Directive 95/46/EC and Regulation (EC) No 45/2001.

Persons entrusted pursuant to point (viii) of Article 58(1)(c) shall adopt their financial rules with the Commission's prior consent. They shall satisfy the requirements laid down in points (a) to (e) of this paragraph no later than six months after the start of their mandate. Where, at the end of this period, they comply with those requirements only in part, the Commission shall take appropriate remedial measures to supervise and support the implementation of the tasks entrusted to them.

[<sup>F13</sup> The entities and persons entrusted pursuant to point (c) of Article 58(1) shall prevent, detect, correct and notify the Commission of irregularities and fraud when executing tasks relating to the implementation of the budget. To that end, they shall carry out, in accordance with the principle of proportionality, *ex ante* and *ex post* controls including, where appropriate, on-the-spot checks on representative and/or risk-based samples of transactions, to ensure that the actions financed from the budget are effectively carried out and implemented correctly. They shall also recover funds unduly paid, exclude from access to Union funds or impose financial penalties and bring legal proceedings where necessary in that regard.]

4 The Commission may suspend payments to entities and persons entrusted pursuant to point (c) of Article 58(1), in particular when systemic errors are detected which call into



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question the reliability of the internal control systems of the entity or person concerned or the legality and regularity of the underlying transactions.

Notwithstanding Article 92, the authorising officer responsible may interrupt payments to such entities or persons fully or partially for the purpose of carrying out further checks where:

- (i) information comes to the notice of the authorising officer responsible indicating a significant deficiency in the functioning of the internal control system or that the expenditure certified by the entity or person concerned is linked to a serious irregularity and has not been corrected;
- (ii) the interruption is necessary to prevent significant damage to the financial interests of the Union.

5 Without prejudice to paragraph 7, the entities and persons entrusted pursuant to point (c) of Article 58(1) shall provide the Commission with:

- a a report on the implementation of the tasks entrusted to them;
- b their accounts drawn up for the expenditure incurred in the execution of the tasks entrusted to them. Those accounts shall be accompanied by a management declaration confirming that, in the opinion of those in charge of the management of the funds:
  - (i) the information is properly presented, complete and accurate,
  - (ii) the expenditure was used for its intended purpose, as defined in the delegation agreements or, where applicable, in the relevant sector-specific rules,
  - (iii) the control systems put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;
- c a summary of the final audit reports and of controls carried out, including an analysis of the nature and extent of errors and weaknesses identified in systems, as well as corrective action taken or planned.

The documents referred to in the first subparagraph shall be accompanied by an opinion of an independent audit body, drawn up in accordance with internationally accepted audit standards. That opinion shall establish whether the accounts give a true and fair view, whether the control systems put in place function properly, and whether the underlying transactions are legal and regular. The opinion shall also state whether the audit work puts in doubt the assertions made in the management declaration under point (b) of the first subparagraph.

The documents referred to in the first subparagraph shall be provided to the Commission no later than 15 February of the following financial year. The opinion referred to in the second subparagraph shall be provided to the Commission no later than 15 March.

The obligations set out in this paragraph shall be without prejudice to agreements concluded with international organisations and third countries. Such agreements shall include at least the obligation of those international organisations and third countries to provide the Commission annually with a statement that, during the financial year concerned, the Union contribution was used and accounted for in compliance with the requirements set out in paragraph 2 and with the obligations laid down in such agreements.

6 Without prejudice to paragraph 7, the Commission shall:

- a supervise the fulfilment by those persons and entities of their responsibilities, in particular by carrying out audits and evaluations on the programme implementation;

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- b apply procedures for the examination and acceptance of the accounts of the entrusted entities and persons, ensuring that the accounts are complete, accurate and true;
- c exclude from Union financing expenditure disbursements which have been made in breach of the applicable rules.

[<sup>F17</sup> Paragraphs 5 and 6 shall not apply to the contribution of the Union to entities which are subject to a separate discharge procedure under Articles 208 and 209.

8 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on indirect management, including the establishment of the conditions under indirect management according to which the systems, rules and procedures of entities and persons are to be equivalent to those of the Commission, management declarations and compliance statements, and the procedures for the examination and acceptance of the accounts, the obligation to notify the Commission of detected fraud and irregularities, the exclusion from Union financing of expenditure incurred in breach of the applicable rules and the imposition of financial penalties.]

#### Textual Amendments

- F1** Substituted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

### Article 61

#### Ex ante assessments and delegation agreements

1 Before the Commission entrusts tasks of budget implementation to entities or persons pursuant to point (c) of Article 58(1), it shall obtain evidence that the requirements set out in points (a) to (d) of the first subparagraph of Article 60(2) are being fulfilled.

Where substantial changes are made to the systems or rules of an entity or person entrusted pursuant to point (c) of Article 58(1), or to the procedures that relate to the management entrusted to that entity or person of Union funds, the entity or person concerned shall inform the Commission thereof without delay. The Commission shall review the delegation agreements concluded with the entity or person concerned in order to ensure continued fulfilment of the requirements set out in points (a) to (d) of the first subparagraph of Article 60(2).

2 Unless the entrusted entity is identified in the basic act, the Commission shall select an entity from one of the categories listed in points (ii), (v), (vi) and (vii) of Article 58(1)(c) taking due account of the nature of the tasks to be entrusted to the entity, as well as the experience and the operational and financial capacity of the entities concerned. The selection shall be transparent, justified on objective grounds and shall not give rise to a conflict of interests.

3 Delegation agreements shall set out the requirements laid down in points (a) to (d) of the first subparagraph of Article 60(2). They shall clearly define the tasks entrusted to the entity and contain an undertaking by the entities or persons concerned to fulfil the obligations laid down in points (e) and (f) of the first subparagraph of Article 60(2), and to refrain from any action which may give rise to a conflict of interests.

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4 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the *ex ante* assessment of rules and procedures under indirect management and the content of delegation agreements.

#### *Article 62*

### **Executive agencies**

1 The Commission may delegate powers to the executive agencies to implement all or part of a Union programme or project, on its behalf and under its responsibility, in accordance with 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<sup>(1)</sup>. The executive agencies shall be created by means of a Commission Decision and shall be legal persons under Union law.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the exercise of powers delegated to the executive agencies.

2 The director of the executive agency shall implement the corresponding operational appropriations under direct management.

#### *Article 63*

### **Limits to delegation of powers**

1 The Commission shall not entrust tasks relating to implementation of Union funds, including payment and recovery, to external private sector entities or bodies, except in the case referred to in points (v), (vi) and (vii) of Article 58(1)(c), or in specific cases where the payments involved:

- (i) are to be made to payees determined by the Commission;
- (ii) are subject to conditions and amounts fixed by the Commission; and
- (iii) do not involve the exercise of discretion by the entity or body making the payments.

2 The Commission may entrust the following tasks by contract to external private sector entities or bodies that do not have a public service mission: technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary powers of judgment.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on entrusting tasks to certain external private sector entities or bodies in accordance with the procurement rules set out in Title V of Part One.

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## CHAPTER 3

### **Financial actors**

#### *Section 1*

#### **Principle of segregation of duties**

##### *Article 64*

#### **Segregation of duties**

- 1 The duties of authorising officer and accounting officer shall be segregated and mutually exclusive.
- 2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the rights and obligations of all financial actors.

#### *Section 2*

#### **Authorising officer**

##### *Article 65*

#### **The authorising officer**

- 1 Each institution shall perform the duties of authorising officer.
- 2 For the purposes of this Title, the term "staff" refers to persons covered by the Staff Regulations.
- 3 Each institution shall delegate, in compliance with the conditions in its rules of procedure, the duties of authorising officer to staff of an appropriate level. It shall indicate, in its internal administrative rules, the staff to whom it delegates those duties, the scope of the powers delegated and whether the persons to whom those powers are delegated may subdelegate them.
- 4 The powers of authorising officer shall be delegated or subdelegated only to staff.
- 5 Authorising officers responsible shall act within the limits set by the instrument of delegation or subdelegation. The authorising officer responsible may be assisted by one or more members of staff entrusted, under his or her responsibility, with carrying out certain operations necessary for implementing the budget and presenting the accounts.
- 6 Where Heads of Union Delegations act as authorising officers by subdelegation in accordance with Article 56(2), they shall be subject to the Commission as the institution responsible for the definition, exercise, monitoring and appraisal of their duties and responsibilities as authorising officers by subdelegation. The Commission shall, at the same time, inform the High Representative thereof.
- 7 The authorising officer responsible may be assisted by staff entrusted, under his or her responsibility, with certain tasks required for the implementation of the budget and production

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of the financial and management information. Staff assisting authorising officers responsible shall be subject to Article 57.

8 Each institution shall inform the Court of Auditors, the European Parliament and the Council of the appointment and release of authorising officers by delegation, internal auditors and accounting officers, and of any internal rules it adopts in respect of financial matters.

9 Each institution shall inform the Court of Auditors of the appointment of imprest administrators and of delegation decisions under Article 69(1) and Article 70.

10 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the assistance provided to authorising officers responsible and the internal provisions governing delegations.

#### Article 66

### **Powers and duties of the authorising officer**

1 The authorising officer shall be responsible in each institution for implementing revenue and expenditure in accordance with the principle of sound financial management and for ensuring compliance with the requirements of legality and regularity.

2 For the purposes of paragraph 1, the authorising officer by delegation shall, in accordance with Article 32 and the minimum standards adopted by each institution and having due regard to the risks associated with the management environment and the nature of the actions financed, put in place the organisational structure and the internal control systems suited to the performance of his or her duties. The establishment of such structure and systems shall be supported by a comprehensive risk analysis, which takes into account their cost-effectiveness.

3 To implement expenditure, the authorising officer responsible shall make budgetary and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminary steps for the implementation of appropriations.

4 Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements, where appropriate.

5 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.

*Ex ante* controls shall comprise the initiation and the verification of an operation.

For a given 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.

6 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 staff other than those responsible for the *ex post* controls. The staff responsible for the *ex post* controls shall not be subordinate to the members of staff responsible for the *ex ante* controls.

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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.

7 Staff responsible for controlling the management of financial operations shall have the necessary professional skills. They shall respect a specific code of professional standards established by each institution.

8 If a member of staff, involved in the financial management and control of transactions, considers that a decision he or she is required by his or her superior to apply or to agree to is irregular or contrary to the principle of sound financial management or the professional rules which that member of staff is required to observe, he or she shall inform his or her hierarchical superior accordingly. If the member of staff does so in writing, the hierarchical superior shall reply in writing. If the hierarchical superior fails to take action or confirms the initial decision or instruction and the member of staff believes that such confirmation does not constitute a reasonable response to his or her concern, the member of staff 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 member of staff 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.

9 The authorising officer by delegation shall report to his or her institution on the performance of his or her duties in the form of an annual activity report containing financial and management information, including the results of controls, declaring that, except as otherwise specified in any reservations related to defined areas of revenue and expenditure, he or she has reasonable assurance that:

- a the information contained in the report presents a true and fair view;
- b 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;
- c the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

[<sup>F1</sup>The activity report shall indicate the results of the operations by reference to the objectives set, the risks associated with those operations, the use made of the resources provided and the efficiency and effectiveness of internal control systems, including an overall assessment of the costs and benefits of controls. It shall also include information on the overall performance of those operations, as well as an assessment of the extent to which the operational expenditure authorised has contributed to policy achievements and generated Union added value.]

No later than 15 June each year, the Commission shall send to the European Parliament and the Council a summary of the annual activity reports for the preceding year. The annual activity report of each authorising officer by delegation shall also be made available to the European Parliament and the Council.

[<sup>F2</sup>The annual activity reports of the authorising officers and, where applicable, authorising officers by delegation of the institutions, offices, bodies and agencies shall be published on the internet site of the respective institution, office, body or agency in an easily accessible way no later than 1 July each year for the preceding year, subject to duly justified confidentiality and security considerations.]

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10 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on *ex ante* and *ex post* controls, the keeping of supporting documents, on the code of professional standards, the failure of the authorising officer to act, transmission of information to the accounting officer, and reports on negotiated procedures.

#### Textual Amendments

- F1** Substituted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)
- F2** Inserted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

### Article 67

#### Powers and duties of Heads of Union Delegations

1 Where Heads of Union Delegations act as authorising officers by subdelegation in accordance with Article 56(2), they shall cooperate closely with the Commission with regard to the proper implementation of the funds, in order to ensure, in particular, the legality and regularity of financial transactions, respect for the principle of sound financial management in the management of the funds and the effective protection of the financial interests of the Union.

To this effect, they shall take the measures necessary to prevent any situation susceptible to put at stake the responsibility of the Commission for the implementation of the budget subdelegated to them, as well as any conflict of priorities which is likely to have an impact on the implementation of the financial management tasks subdelegated to them.

Where a situation or conflict referred to in the second subparagraph arises, the Heads of Union Delegations shall inform the Directors-General responsible of the Commission and of the EEAS thereof without delay. Those Directors-General shall take appropriate steps to remedy the situation.

2 If Heads of Union Delegations find themselves in a situation as referred to in Article 66(8), they shall refer the matter to the specialised financial irregularities panel set up pursuant to Article 73(6). In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, they shall inform the authorities and bodies designated by the applicable legislation.

3 Heads of Union Delegations acting as authorising officers by subdelegation in accordance with Article 56(2) shall report to their authorising officer by delegation so that the latter can integrate their reports in his or her annual activity report referred to in Article 66(9). The reports of the Heads of Union Delegations shall include information on the efficiency and effectiveness of internal control systems put in place in their Delegation, as well as on the management of operations subdelegated to them, and provide the assurance referred to in the third subparagraph of Article 73(5). Those reports shall be annexed to the annual activity report of the authorising officer by delegation, and shall be made available to the European Parliament and the Council having due regard, where appropriate, to their confidentiality.

The Heads of Union Delegations shall fully cooperate with institutions involved in the discharge procedure and provide, as appropriate, any necessary additional information.

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In this context, they may be requested to attend meetings of the relevant bodies and assist the authorising officer by delegation responsible.

4 Heads of Union Delegations acting as authorising officers by subdelegation in accordance with Article 56(2) shall reply to any request by the Commission's authorising officer by delegation at the Commission's own request or, in the context of discharge, at the request of the European Parliament.

5 The Commission shall ensure that subdelegating powers are not detrimental to the discharge procedure under Article 319 TFEU.

### *Section 3*

#### ***Accounting officer***

#### *Article 68*

#### **Powers and duties of the accounting officer**

1 Each institution shall appoint an accounting officer who shall be responsible in each institution for the following:

- a properly implementing payments, collecting revenue and recovering amounts established as being receivable;
- b preparing and presenting the accounts in accordance with Title IX of Part One;
- c keeping the accounts in accordance with Title IX of Part One;
- d laying down the accounting procedures and the chart of accounts, in accordance with Title IX of Part One;
- e laying down and validating the accounting systems and where appropriate validating systems laid down by the authorising officer to supply or justify accounting information; in this respect, the accounting officer shall be empowered to verify at any time compliance with validation criteria;
- f treasury management.

The responsibilities of the accounting officer of the EEAS shall concern only the EEAS section of the budget as implemented by the EEAS. The accounting officer of the Commission shall remain responsible for the entire Commission section of the budget, including accounting operations relating to appropriations subdelegated to Heads of Union Delegations.

The accounting officer of the Commission shall, subject to Article 213, also act as the accounting officer of the EEAS in respect of the implementation of the EEAS section of the budget.

2 The accounting officer of the Commission shall be responsible for laying down the accounting rules and the harmonised charts of accounts in accordance with Title IX of Part One.

3 The accounting officers shall obtain from authorising officers all the information necessary for the production of accounts which give a true and fair view of the institutions' financial situation and of budgetary implementation. The authorising officers shall guarantee the reliability of that information.

4 Before the adoption of the accounts by the institution, or body referred to in Article 208, the accounting officer shall sign them off, thereby certifying that he or she has reasonable



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assurance that the accounts present a true and fair view of the financial situation of the institution or body referred to in Article 208.

For that purpose, the accounting officer shall verify that the accounts have been prepared in accordance with the accounting rules, referred to in Article 143, and the accounting procedures, referred to in point (d) of paragraph 1 of this Article, and that all revenue and expenditure is entered in the accounts.

The authorising officers by delegation shall forward any information that the accounting officer needs in order to fulfil his or her duties.

The authorising officers shall remain fully responsible for the proper use of the funds they manage, the legality and regularity of the expenditure under their control and the completeness and accuracy of the information forwarded to the accounting officer.

5 The accounting officer shall be empowered to check the information received as well as to carry out any further checks he or she deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

6 Except as otherwise provided for in this Regulation, only the accounting officer shall be empowered to manage cash and cash equivalents. The accounting officer shall be responsible for their safekeeping.

7 Within the implementation of a programme or an action, fiduciary accounts may be opened in the name of the Commission and on its behalf in order to allow their management by an entity entrusted pursuant to points (ii), (iii), (v) or (vi) of Article 58(1)(c).

Such accounts shall be opened under the responsibility of the authorising officer in charge of the implementation of the programme or action in agreement with the accounting officer of the Commission.

Such accounts shall be managed under the responsibility of the authorising officer.

8 The accounting officer of the Commission shall lay down rules for the opening, management and closure of fiduciary accounts and their use.

9 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the powers and duties of the accounting officer, including his or her appointment and termination of duties, his or her opinion on accounting and inventory systems, treasury and bank account management, signatures on accounts, management of account balances, transfer and conversion operations, methods of payment, legal entity files and the keeping of supporting documents.

#### *Article 69*

#### **Powers which may be delegated by the accounting officer**

1 The accounting officer may, in the performance of his or her duties, delegate certain tasks to subordinate staff.

The instrument of delegation shall set out those tasks.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on persons empowered to administer accounts in a local unit.

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#### *Section 4*

### ***Imprest administrator***

#### *Article 70*

### **Imprest accounts**

1 Imprest accounts may be set up for the collection of revenue other than own resources and for the payment of small sums as defined in the delegated acts adopted pursuant to this Regulation.

However, in the field of crisis management aid and humanitarian aid operations within the meaning of Article 128, imprest accounts may be used without any limitation on the amount, while respecting the level of appropriations decided by the European Parliament and the Council on the corresponding budget line for the current financial year.

2 Imprest accounts shall be endowed by the institution's accounting officer and shall be placed under the responsibility of imprest administrators designated by the institution's accounting officer.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the conditions for imprest accounts, including maximum amounts to be paid by imprest administrators and rules also for external actions, including rules regarding the choice of imprest administrators, the endowment of imprest accounts, checks by authorising and accounting officers and the respect of procurement procedures. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the creation of imprest accounts and imprest administrators in Union Delegations.

## *CHAPTER 4*

### ***Liability of financial actors***

#### *Section 1*

### ***General rules***

#### *Article 71*

### **Withdrawal of delegation and suspension of duties given to financial actors**

1 Authorising officers responsible may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them.

2 The accounting officer or imprest administrators, or both, may at any time be suspended temporarily or definitively from their duties by the authority which appointed them.

3 This Article shall be without prejudice to any disciplinary action taken in respect of the financial actors referred to in paragraphs 1 and 2.

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## Article 72

### **Liability of the authorising officer for illegal activity, fraud or corruption**

1 This Chapter is without prejudice to any liability under criminal law which the financial actors referred to in Article 71 may incur as provided for in applicable national law and in the provisions in force concerning the protection of the Union's financial interests and the fight against corruption involving Union officials or officials of Member States.

2 Without prejudice to Articles 73, 74 and 75 of this Regulation, each authorising officer responsible, accounting officer or imprest administrator shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations. In the event of illegal activity, fraud or corruption which may harm the interests of the Union, the matter shall be submitted to the authorities and bodies designated by the applicable legislation, in particular to OLAF.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of the authorising officers, the accounting officers and the imprest administrators in the event of illegal activity, fraud or corruption.

## Section 2

### **Rules applicable to authorising officers responsible**

## Article 73

### **Rules applicable to authorising officers**

1 The authorising officer responsible shall be liable for payment of compensation as laid down in the Staff Regulations.

2 The obligation to pay compensation shall apply in particular if the authorising officer responsible, whether intentionally or through gross negligence on his or her part:

- a determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation or the delegated acts adopted pursuant to this Regulation;
- b omits to draw up a document establishing an amount receivable, neglects to issue a recovery order or is late in issuing it or is late in issuing a payment order, thereby rendering the institution liable to civil action by third parties.

3 An authorising officer by delegation or subdelegation who considers that a decision, which is his or her responsibility to take, is irregular or contrary to the principle of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the authorising officer by delegation or subdelegation to take that decision, that authorising officer shall not be held liable.

4 In the event of subdelegation within his or her service, the authorising officer by delegation shall continue to be responsible for the efficiency and effectiveness of the internal management and control systems put in place and for the choice of the authorising officer by subdelegation.

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5 In the event of subdelegation to the Heads of Union Delegations, the authorising officer by delegation shall be responsible for the definition of the internal management and control systems put in place, as well as their efficiency and effectiveness. The Heads of Union Delegations shall be responsible for the adequate setting up and functioning of those systems, in accordance with the instructions of the authorising officer by delegation, and for the management of the funds and the operations they carry out within the Union Delegation under their responsibility. Before taking up their duties, they shall complete specific training courses on the tasks and responsibilities of authorising officers and the implementation of the budget.

Heads of Union Delegations shall report on their responsibilities pursuant to the first subparagraph of this paragraph in accordance with Article 67(3).

Each year, Heads of Union Delegations shall provide to the Commission's authorising officer by delegation assurance on the internal management and control systems put in place in their Delegation, as well as on the management of operations subdelegated to them, and the results thereof, in order to allow the authorising officer to make the statement of assurance provided for in Article 66(9).

6 Each institution shall set up a specialised financial irregularities panel or participate in a joint panel established by several institutions. The panels shall function independently and determine whether a financial irregularity has occurred and what the consequences, if any, should be.

On the basis of the opinion of this panel, the institution shall decide whether to initiate proceedings for disciplinary action or payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer and to the authorising officer by delegation, unless the latter is the person involved, as well as to the internal auditor.

7 Where Heads of Union Delegations act as authorising officers by subdelegation in accordance with Article 56(2), the specialised financial irregularities panel set up by the Commission pursuant to paragraph 6 of this Article shall be competent for cases referred to in Article 56(2).

If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer, the High Representative and the Commission's authorising officer by delegation, unless the latter is the person involved, as well as to the internal auditor.

On the basis of the opinion of the panel, the Commission may request the High Representative to initiate, in the High Representative's capacity as appointing authority, proceedings for disciplinary action or payment of compensation against authorising officers by subdelegation if irregularities concern the competences of the Commission subdelegated to them. In such a case, the High Representative shall take appropriate action in accordance with the Staff Regulations in order to enforce decisions on disciplinary action or the payment of compensation, as recommended by the Commission.

The Member States shall fully support the Union in the enforcement of any liability, under Article 22 of the Staff Regulations, of temporary staff to whom point (e) of Article 2 of the Conditions of Employment of Other Servants of the European Communities applies.

8 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules applicable to authorising officers by delegation, including confirmation of instructions and the role of the Financial Irregularities Panel.

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### Section 3

#### **Rules applicable to accounting officers and imprest administrators**

##### Article 74

#### **Rules applicable to accounting officers**

1 An accounting officer shall be liable to disciplinary action and payment of compensation, as laid down in, and in accordance with, the procedures in the Staff Regulations. An accounting officer may, in particular, become liable as a result of any of the following forms of misconduct on his or her part:

- a losing or damaging funds, assets or documents in his or her keeping;
- b wrongly altering bank accounts or postal giro accounts;
- c recovering or paying amounts which are not in conformity with the corresponding recovery or payment orders;
- d failing to collect revenue due.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of accounting officers in the event of other forms of misconduct.

##### Article 75

#### **Rules applicable to imprest administrators**

1 An imprest administrator officer shall be liable to disciplinary action and payment of compensation, as laid down in, and in accordance with, the procedures in the Staff Regulations. An imprest administrator may in particular become liable as a result of any of the following forms of misconduct on his or her part:

- a losing or damaging funds, assets or documents in his or her keeping;
- b not providing proper supporting documents for the payments he or she has made;
- c making payments to persons other than those entitled to such payments;
- d failing to collect revenue due.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the liability of imprest administrators in the event of other forms of misconduct.

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## CHAPTER 5

### **Revenue operations**

#### *Section 1*

#### **Making own resources available**

##### *Article 76*

#### **Own resources**

1 An estimate of revenue constituted by own resources, as referred to in Decision 2007/436/EC, Euratom, shall be entered in the budget in euro. It shall be made available in accordance with Regulation (EC, Euratom) No 1150/2000.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules applicable to own resources.

#### *Section 2*

#### **Estimate of amounts receivable**

##### *Article 77*

#### **Estimate of amounts receivable**

1 When the authorising officer responsible has sufficient and reliable information in respect of any measure or situation which may give rise to an amount owing to the Union, the authorising officer responsible shall make an estimate of the amount receivable.

2 The estimate of the amount receivable shall be adjusted by the authorising officer responsible as soon as he or she is aware of an event modifying the measure or the situation which gave rise to the estimate being made.

When establishing the recovery order on a measure or situation that had previously given rise to an estimate of amounts receivable, that estimate shall be adjusted accordingly by the authorising officer responsible.

If the recovery order is drawn up for the same amount as the original estimate of amounts receivable, that estimate shall be reduced to zero.

3 By way of derogation from paragraph 1, no estimate of the amount receivable shall be made before Member States make available to the Commission the amounts of own resources defined in Decision 2007/436/EC, Euratom which are paid at fixed intervals by the Member States. The authorising officer responsible shall issue a recovery order in respect of those amounts.

4 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the estimate of amounts receivable.

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### Section 3

#### **Establishment of amounts receivable**

##### Article 78

#### **Establishment of amounts receivable**

1 The establishment of an amount receivable is the act by which the authorising officer responsible:

- a verifies that the debt exists;
- b determines or verifies the reality and the amount of the debt;
- c verifies the conditions according to which the debt is due.

2 The own resources made available to the Commission and any amount receivable that is identified as being certain, of a fixed amount and due shall be established by a recovery order to the accounting officer followed by a debit note sent to the debtor, both drawn up by the authorising officer responsible.

3 Amounts wrongly paid shall be recovered.

4 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the establishment of amounts receivable, including procedures and supporting documents, and of default interest.

### Section 4

#### **Authorisation of recovery**

##### Article 79

#### **Authorisation of recovery**

1 The authorisation of recovery is the act by which the authorising officer responsible instructs the accounting officer, by issuing a recovery order, to recover an amount receivable which that authorising officer responsible has established.

2 The institution may formally establish an amount as being receivable from persons other than Member States by means of a decision which shall be enforceable within the meaning of Article 299 TFEU.

If the efficient and timely protection of the Union's financial interests so requires, the Commission may also, in exceptional circumstances, adopt such an enforceable decision for the benefit of other institutions at their request with respect to claims arising in relation to staff to whom the Staff Regulations apply.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the establishment of the recovery order.

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## Section 5

### Recovery

#### Article 80

##### Rules on recovery

1 The accounting officer shall act on recovery orders for amounts receivable duly established by the authorising officer responsible. The accounting officer shall exercise due diligence to ensure that the Union receives its revenue and shall ensure that the Union's rights are safeguarded.

The accounting officer shall recover amounts by offsetting them against equivalent claims that the Union has on any debtor who in turn has a claim on the Union. Such claims shall be certain, of a fixed amount and due.

2 Where the authorising officer by delegation plans to waive or partially waive recovery of an established amount receivable, he or she shall ensure that the waiver is in order and is in accordance with the principles of sound financial management and proportionality. The waiver decision shall be substantiated. The authorising officer may delegate the waiver decision.

The authorising officer by delegation may cancel an established amount receivable in full or in part. The partial cancellation of an established amount receivable does not imply a waiver of an established Union entitlement.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the manner of recovery, including recovery by offsetting, the recovery procedure failing voluntary payment, additional time for payment, recovery of fines and other penalties, waiver of recovery and cancellation of an established amount receivable.

3 The Member States shall in the first instance be responsible for carrying out controls and audits and for recovering amounts unduly spent, as provided for in the sector-specific rules. To the extent that Member States detect and correct irregularities on their own account, they shall be exempt from financial corrections by the Commission concerning those irregularities.

4 The Commission shall make financial corrections on Member States in order to exclude from Union financing expenditure incurred in breach of applicable law. The Commission shall base its financial corrections on the identification of amounts unduly spent, and the financial implications for the budget. Where such amounts cannot be identified precisely, the Commission may apply extrapolated or flat-rate corrections in accordance with the sector-specific rules.

The Commission shall, when deciding on the amount of a financial correction, take account of the nature and gravity of the breach of applicable law and the financial implications for the budget, including the case of deficiencies in management and control systems.

The criteria for establishing financial corrections and the procedure to be applied may be laid down in the sector-specific rules.

5 The methodology for applying extrapolated or flat-rate corrections shall be laid down in accordance with the sector-specific rules with a view to enabling the Commission to protect the financial interests of the Union.



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## *Article 81*

### **Limitation period**

1 Without prejudice to the provisions of specific regulations and the application of Decision 2007/436/EC, Euratom, entitlements of the Union in respect of third parties and entitlements of third parties in respect of the Union shall be subject to a limitation period of five years.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the limitation period.

## *Article 82*

### **National treatment for Union entitlements**

In the event of insolvency proceedings, Union entitlements shall be given the same preferential treatment as entitlements of the same nature due to public bodies in the Member States where the recovery proceedings are being conducted.

## *Article 83*

### **Fines, penalties and accrued interest imposed by the Commission**

1 Amounts received by way of fines, penalties and sanctions, and any accrued interest or other income generated by them shall not be recorded as budgetary revenue as long as the decisions imposing them may be overruled by the Court of Justice of the European Union.

2 The amounts referred to in paragraph 1 shall be recorded as budgetary revenue as soon as possible and at the latest in the year following the exhaustion of all legal remedies. Amounts that are to be returned to the entity that paid them, following a judgment of the Court of Justice of the European Union, shall not be recorded as budgetary revenue.

3 Paragraph 1 shall not apply to decisions on clearance of accounts or financial corrections.

4 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the amounts received by way of fines, penalties and accrued interest.

## *CHAPTER 6*

### ***Expenditure operations***

## *Article 84*

### **Financing decisions**

1 Every item of expenditure shall be committed, validated, authorised and paid.

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2 Except in the case of appropriations which can be implemented without a basic act in accordance with point (e) of the first subparagraph of Article 54(2), the commitment of expenditure shall be preceded by a financing decision adopted by the institution or the authorities to which powers have been delegated by the institution.

3 The financing decision referred to in paragraph 2 shall specify the objective pursued, the expected results, the method of implementation and its total amount. It shall also contain a description of the actions to be financed and an indication of the amount allocated to each action, and an indicative implementation timetable.

In the case of indirect management, the financing decision shall also specify the entity or person entrusted pursuant to point (c) of Article 58(1), the criteria used to select the entity or person and the tasks entrusted to that entity or person.

4 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on financing decisions.

### *Section 1*

## ***Commitment of expenditure***

### *Article 85*

## **Types of commitments**

1 A budgetary commitment is the operation by which the appropriation necessary to cover subsequent payments to honour legal commitments is reserved.

A legal commitment is the act whereby the authorising officer enters into or establishes an obligation which results in a charge.

Budgetary commitments and legal commitments shall be adopted by the same authorising officer, except in duly justified cases as provided for in the delegated acts adopted pursuant to this Regulation.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the types of commitment, adoption of global commitments, single signature, and administrative expenditure covered by provisional commitments.

3 Budgetary commitments shall fall into one of the following categories:

- a individual: the budgetary commitment is individual when the beneficiary and the amount of the expenditure are known;
- b global: the budgetary commitment is global when at least one of the elements necessary to identify the individual commitment is still not known;
- c provisional: the budgetary commitment is provisional when it is intended to cover the expenditure referred to in Article 170 or routine administrative expenditure and either the amount or the final payees are not definitively known.

4 Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments only where the basic act so provides or where they relate to administrative expenditure.

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: There are outstanding changes not yet made to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

## Article 86

### Rules applicable to commitments

1 In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible shall make a budgetary commitment before entering into a legal commitment with third parties or transferring funds to a trust fund on the basis of Article 187.

2 The obligation to make a budgetary commitment before entering into a legal commitment as provided for in paragraph 1, shall not be applicable to legal commitments concluded following a declaration of a crisis situation in the framework of a business continuity plan, in accordance with the procedures adopted by the Commission or by any other institution under its administrative autonomy.

3 In the case of humanitarian aid operations, civil protection operations and crisis management aid, the obligation set out in paragraph 1 shall not apply if efficient delivery of the Union's intervention requires that the Union enter into a legal commitment with third parties immediately and prior booking of the individual budgetary commitment is not possible. The booking of the budgetary commitment shall be done without delay after entering into a legal commitment with third parties.

4 Subject to the special provisions of Title IV of Part Two, global budgetary commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of year  $n + 1$ .

Subject to Articles 85(4) and 203(2), individual legal commitments relating to individual or provisional budgetary commitments shall be concluded by 31 December of year  $n$ .

At the end of the periods referred to in the first and second subparagraphs, the unused balance of such budgetary commitments shall be decommitted by the authorising officer responsible.

The amount of each individual legal commitment adopted following a global budgetary commitment shall, prior to signature, be registered by the authorising officer responsible in the budgetary accounts and booked to the global budgetary commitment.

5 The budgetary and legal commitments entered into for actions extending over more than one financial year shall, except in the case of staff expenditure, have a final date for implementation set, in accordance with the principle of sound financial management.

Any parts of such commitments which have not been executed six months after that date shall be decommitted in accordance with Article 15.

The amount of a budgetary commitment corresponding to a legal commitment for which no payment within the meaning of Article 90 has been made within two years of the signing of the legal commitment shall be decommitted, except where that amount relates to a case under litigation before judicial courts or arbitral bodies or where there are special provisions laid down in sector-specific rules.

6 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on budgetary and legal commitments including registration of individual commitments.

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## Article 87

### Checks applicable to commitments

- 1 When adopting a budgetary commitment, the authorising officer responsible shall ensure that:
  - a the expenditure has been charged to the correct item in the budget;
  - b the appropriations are available;
  - c the expenditure is in compliance with the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and all acts adopted pursuant to the Treaties and any other regulation;
  - d the principle of sound financial management is respected. The appropriateness of pre-financing payments, their amount and the overall payment schedule shall be commensurate with the planned duration, the progress in implementation and the financial risks that such prefinancing entails.
- 2 When registering a legal commitment by physical or electronic signature, the authorising officer shall ensure that:
  - a the commitment is covered by the corresponding budgetary commitment;
  - b the expenditure is regular and in compliance with the Treaties, the budget, this Regulation, the delegated acts adopted pursuant to this Regulation and with all acts adopted pursuant to the Treaties and any other regulation;
  - c the principle of sound financial management is respected.
- 3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the checks applicable to commitments.

## Section 2

### Validation of expenditure

## Article 88

### Validation of expenditure

- 1 The validation of expenditure is the act whereby the authorising officer responsible:
  - a verifies the existence of the creditor's entitlement;
  - b determines or verifies the reality and the amount of the claim;
  - c verifies the conditions according to which payment is due.
- 2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the establishment of detailed rules on validation of expenditure, including passing for payment of staff expenditure and for interim and balance payments of procurement contracts and grants, certified correct for pre-financing payments, and "passed for payment" and "certified correct" forms.

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### Section 3

#### **Authorisation of expenditure**

##### Article 89

#### **Authorisation of expenditure**

1 The authorisation of expenditure is the act by which the authorising officer responsible, having verified that the appropriations are available, instructs the accounting officer, by issuing a payment order, to pay an amount of expenditure which the authorising officer responsible has validated.

Where periodic payments are made with regard to services rendered, including rental services, or goods delivered, and subject to the authorising officer's risk analysis, the authorising officer may order the application of a direct debit system.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the authorisation of expenditure, including the establishment of mandatory details for payment orders, and on checks by the authorising officer of payment orders.

### Section 4

#### **Payment of expenditure**

##### Article 90

#### **Types of payments**

1 Payment shall be made on production of proof that the relevant action is in accordance with the provisions of the basic act or the contract and shall cover one or more of the following operations:

- a payment of the entire amount due;
- b payment of the amount due in any of the following ways:
  - (i) pre-financing, which may be divided into a number of payments after the signature of the delegation agreement, the contract or grant agreement or after notification of the grant decision;
  - (ii) one or more interim payments as a counterpart of a partial execution of the action;
  - (iii) payment of the balance of the amounts due where the action is completely executed.

2 A distinction shall be made in budgetary accounting between the different types of payment referred to in paragraph 1 at the time each payment is made.

3 The accounting rules referred to in Article 152 shall include the rules for clearing the pre-financing in the accounts and for the acknowledgment of the eligibility of costs.

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4 Pre-financing payments shall be cleared regularly by the authorising officer responsible, according to the economic nature and the timing of the underlying project.

Where the authorising officer responsible deems it inefficient to request a financial statement from beneficiaries and contractors, he or she shall, for grants or contracts above EUR 5 000 000, obtain information from them on cumulative spending at least once a year.

For the purposes of the second subparagraph, appropriate provisions shall be included in the contracts, grant decisions and agreements as well as in the delegation agreements

This paragraph is without prejudice to the specific rules laid down in Title IV of Part Two.

5 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the types of payments and supporting documents.

#### *Article 91*

#### **Payment limited to funds available**

Payment of expenditure shall be made by the accounting officer within the limits of the funds available.

#### *Section 5*

#### ***Time limits for expenditure operations***

#### *Article 92*

#### **Time limits**

- 1 Payments shall be made within:
  - a 90 calendar days for delegation agreements, contracts, grant agreements and decisions involving technical services or actions which are particularly complex to evaluate and for which payment depends on the approval of a report or a certificate;
  - b 60 calendar days for all other delegation agreements, contracts, grant agreements and decisions for which payment depends on the approval of a report or a certificate;
  - c 30 calendar days for all other delegation agreements, contracts, grant agreements and decisions.
- 2 The authorising officer responsible may suspend the time limit for payment where:
  - a the amount of the payment request is not due; or
  - b the appropriate supporting documents have not been produced.

If information comes to the notice of the authorising officer responsible which puts in doubt the eligibility of expenditure in a payment request, he or she may suspend the time limit for payment for the purpose of verifying, including by means of on-the-spot checks, that the expenditure is indeed eligible.

- 3 The creditors concerned shall be informed in writing of the reasons for that suspension.

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4 Where the suspension exceeds two months, the creditor may request a decision by the authorising officer responsible on whether the suspension is to be continued.

5 Except in the case of Member States, on expiry of the time limits laid down in paragraph 1, the creditor shall be entitled to interest.

6 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on time limits for payment and on the specification of the circumstances in which creditors in receipt of a late payment are entitled to receive default interest charged to the line from which the principal was paid.

## CHAPTER 7

### **IT systems and e-Government**

#### *Article 93*

#### **Electronic management of operations**

1 Where revenue and expenditure operations are managed by means of computer systems, documents may be signed by a computerised or electronic procedure.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the electronic management of operations.

#### *Article 94*

#### **Transmission of documents**

Subject to the prior agreement of the institutions and Member States concerned, any transmission of documents between them may be done by electronic means.

#### *Article 95*

#### **e-Government**

1 Under shared management, all official exchanges of information between the Member States and the Commission shall be carried out by means indicated in the sector-specific rules. Those rules shall provide for interoperability of data gathered or received, and transmitted in the management of the budget.

2 The institutions and the executive agencies, as well as the bodies referred to in Article 208, shall establish and apply uniform standards for the electronic exchange of information with third parties participating in procurement and grant procedures. In particular, they shall, to the greatest possible extent, design and implement solutions for the submission, storage and processing of data submitted in grant and procurement procedures, and to this end, shall put in place a single "electronic data interchange area" for applicants, candidates and tenderers.

3 The Commission shall report regularly to the European Parliament and the Council on progress in the implementation of e-Government.

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## CHAPTER 8

### **Administrative principles**

#### *Article 96*

#### **Good administration**

1 The authorising officer responsible shall make known without delay the need to supply evidence and/or documentation, their form and prerequisite content, as well as, where appropriate, the indicative timetable for completion of award procedures.

2 Where, due to an obvious clerical error on the part of the applicant or tenderer, the applicant or tenderer omits to submit evidence or to make statements, the evaluation committee or, where appropriate, the authorising officer responsible shall, except in duly justified cases, ask the applicant or tenderer to provide the missing information or clarify supporting documents. Such information or clarifications shall not substantially change the proposal or alter the terms of the tender.

#### *Article 97*

#### **Indication of means of redress**

Where a procedural act of an authorising officer adversely affects the rights of an applicant or tenderer, beneficiary or contractor, it shall contain an indication of the available means of administrative and/or judicial redress for challenging this act.

In particular, the nature of the redress, the body or bodies before which it can be brought, as well as time limits for their exercise shall be indicated.

## CHAPTER 9

### **Internal auditor**

#### *Article 98*

#### **Appointment of the internal auditor**

1 Each institution shall establish an internal auditing function which shall be performed in compliance with the relevant international standards. The internal auditor appointed by the institution shall be accountable to the latter for verifying the proper operation of budgetary implementation systems and procedures. The internal auditor may be neither authorising officer nor accounting officer.

2 For the purposes of the internal auditing of the EEAS, Heads of Union Delegations, acting as authorising officers by subdelegation in accordance with Article 56(2), shall be subject to the verifying powers of the internal auditor of the Commission for the financial management subdelegated to them.

The internal auditor of the Commission shall also act as the internal auditor of the EEAS in respect of the implementation of the EEAS section of the budget, subject to Article 213.



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3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the appointment of the internal auditor.

### *Article 99*

#### **Powers and duties of the internal auditor**

1 The internal auditor shall advise his or her institution on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

The internal auditor shall be responsible, in particular, for:

- a assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing policies, programmes and actions by reference to the risks associated with them;
- b assessing the efficiency and effectiveness of the internal control and audit systems applicable to each budgetary implementation operation.

2 The internal auditor shall perform his or her duties in relation to all the institution's activities and departments. He or she shall enjoy full and unlimited access to all information required to perform his or her duties, if necessary on the spot access, including in the Member States and in third countries.

The internal auditor shall take note of the annual report of the authorising officers and any other pieces of information identified.

3 The internal auditor shall report to the institution on his or her findings and recommendations. The institution shall ensure that action is taken with regard to recommendations resulting from audits. The internal auditor shall also submit to the institution an annual internal audit report indicating the number and type of internal audits carried out, the recommendations made and the action taken with regard to those recommendations.

[<sup>F23a</sup> Each year, the Commission shall, in the context of the discharge procedure and in accordance with Article 319 TFEU, forward on request its annual internal audit report within the meaning of paragraph 3 of this Article with due regard to confidentiality requirements.]

4 The institution shall make available the contact details of the internal auditor to any natural or legal person involved in expenditure operations, for the purposes of confidentially contacting the internal auditor.

5 Each year the institution shall forward a report to the European Parliament and the Council containing a summary of the number and type of internal audits carried out, the recommendations made and the action taken on those recommendations.

6 The reports and findings of the internal auditor, as well as the report of the institution, shall be accessible to the public only after validation by the internal auditor of the action taken for their implementation.

7 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the powers and duties of the internal auditor.

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#### Textual Amendments

- F2** Inserted by [Regulation \(EU, Euratom\) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation \(EU, Euratom\) No 966/2012 on the financial rules applicable to the general budget of the Union.](#)

### *Article 100*

#### **Independence of the internal auditor**

1 Special rules applicable to the internal auditor shall be laid down by the institution and shall be such as to guarantee that the internal auditor is totally independent in the performance of his or her duties, and to establish the internal auditor's responsibility.

If the internal auditor is a member of staff, he or she shall exercise exclusive audit functions in full independence and assume responsibility as laid down in the Staff Regulations and set out in the delegated acts adopted pursuant to this Regulation.

2 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the independence and the liability of the internal auditor, including the right for the internal auditor to bring an action before the Court of Justice of the European Union.

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(1) [OJ L 11, 16.1.2003, p. 1.](#)

**Status:**

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**Changes to legislation:**

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