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EUROPEAN COMMISSION

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Preliminary Draft

COMMISSION DECISION

**amending its Decision (1999/352/EC/ECSC, Euratom) of 28 April 1999 establishing the
European Anti-fraud Office**

COM(2011) 135 final

COMMISSION DECISION

amending its Decision (1999/352/EC/ECSC, Euratom) of 28 April 1999 establishing the European Anti-fraud Office

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 249 thereof;

Whereas:

- (1) [].
- (2) [...],

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision 1999/352/EC, ECSC, Euratom is amended as follows:

(1) Article 2 is amended as follows:

(a) In paragraph 1, sub-paragraph 2(b) is replaced by the following:

"to investigate to that end serious matters relating to the discharge of professional duties such as to constitute a dereliction of the obligations of officials and other servants of the European Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or members of the staff of institutions, bodies, offices or agencies not subject to the Staff Regulations of officials and the Conditions of employment of other servants of the European Union."

(b) The third subparagraph of paragraph 1 is replaced by the following:

"The Office shall exercise the Commission's powers in the above areas as they are defined in the provisions established in the framework of the Treaties and relevant regulations, and subject to the limits and conditions laid down therein. It shall act in the framework of its work programme and ensure that its resources are used efficiently so that the Union's financial interests are effectively protected. It shall ensure that the means employed are proportionate to the potential financial loss and to the facts in question. It shall inform the competent Commission departments of the action taken, in particular on the basis of Articles 4(4) and 10(2) of Regulation (EC) No 1073/1999."

(c) The fourth subparagraph of paragraph 1 is deleted.

(d) Paragraph 5(b) is replaced by the following:

“(b) ensuring the collection and analysis of information. In this connection, the Office shall carry out strategic anti-fraud analysis. It shall collect, evaluate, process and analyse data relating to fraud adversely affecting the Union's financial interests, in accordance with arrangements to be determined by Commission decision;”

(2) Article 5 is replaced by the following:

“Article 5

Director-General

1. The Office shall be headed by a Director-General. The Director-General shall be appointed by the Commission, in accordance with the procedure specified in paragraph 2. The term of office of the Director-General shall be seven years and shall not be renewable.

The Director-General shall be responsible for the Office's conduct of investigations.

2. In order to appoint a new Director-General, the Commission shall publish a call for applications in the Official Journal of the European Union. This publication shall take place at the latest six months before the end of the mandate of the Director-General in office. After having carried out a selection procedure, the Commission shall draw up a list of suitably qualified candidates, duly consult the European Parliament, the Council and as well as with the Supervisory Committee on the basis of this list and adopt its decision.

3. The Commission shall exercise, with regard to the Director-General, the powers conferred on the appointing authority. Any decision on a request for assistance lodged by the Director-General under Article 24 of the Staff Regulations or on initiating disciplinary proceedings under Article 3, Paragraph 1, point c of Annex IX to the Staff Regulations against the Director-General shall be taken by reasoned decision of the Commission, after consulting the Supervisory Committee. The decision shall be communicated for information to the European Parliament, the Council and the Supervisory Committee.”

(3) In Article 6, paragraphs 1 to 3 are replaced by the following:

“1. Regarding to the staff of the Office, powers of the appointing authority and of the authority empowered to conclude contracts of employment shall be delegated to the Director-General of the Office to the extent necessary to preserve the Office's independence as provided for in Article 3 of this Decision.

The Director-General is given delegation to lay down the conditions and detailed arrangements for recruiting at the Office, in particular as to the length of contracts and their renewals.

2. After consulting the Supervisory Committee, the Director-General shall send the Director-General for Budgets a preliminary draft budget to be entered in the annex concerning the Office to the Commission section of the general budget of the European Union.

3. The Director-General shall act as authorising officer for implementation of the appropriations entered in the annex concerning the Office to the Commission section of the general budget of the European Union and the appropriations entered under the anti-fraud budget headings for which powers are delegated to him in the internal rules on implementation of the general budget. He shall be permitted to subdelegate his powers to staff members subject to the Staff Regulations of Officials or Conditions of Employment of Other Servants in accordance with the abovementioned internal rules.”

(4) Articles 3 and 7 are amended as follows:

“Director” is replaced by “Director-General”.

(5) Article 2(1), sub-paragraph 1 and sub-paragraph 2(a), Article 4 and Article 6(4) are amended as follows:

“the Community” is replaced by “the Union”.

Article 2

This Decision shall take effect on the date of the entry into force of the Regulation amending Regulation (EC) No 1073/1999 and repealing Regulation (EURATOM) No 1074/1999.

Done at Brussels,

For the Commission

Member of the Commission