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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	31 March 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	Commission Decision of 31 March 2017 amending Decision C(2016) 769 on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments

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Delegations will find attached document C(2017) 2113 final.

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Encl.: C(2017) 2113 final



Brussels, 31.3.2017  
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**COMMISSION DECISION**

**of 31.3.2017**

**amending Decision C(2016) 769 on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments**

## COMMISSION DECISION

of 31.3.2017

### amending Decision C(2016) 769 on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>1</sup>, and in particular Articles 56 and 62 thereof,

Whereas:

- (1) Commission Decision C(2016)769<sup>2</sup> has been amended by Commission Decision C(2016)1782 in order to clarify the delegation of authorising officer powers with regard to contributions to trust funds and waiving of amounts receivable and to modify the Annex I on delegation of powers. Further amendments are necessary.
- (2) It is necessary to clarify who are the authorising officers directly concerned by the adjustments of appropriations during the year under type I co-delegation and further clarification is also needed concerning the agreements signed in case of a co-delegation.
- (3) It is also necessary to ensure sufficient traceability and reporting in the situations where the amount receivable is to be waived.
- (4) Following the delegation of the powers and corresponding responsibilities of an authorising officer with regard to the contributions to trust funds it is also necessary to extend such delegation to the revenue arising from interests in cases of late payments.
- (5) It is necessary to update the Annex I to Decision C(2016) 769 in order to take into account new budget lines and new co-delegations of authorising officer powers.
- (6) It is also appropriate to update the elements required in the Legislative Financial Statements in order to reflect the modification of the nomenclature and define the Union value.

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<sup>1</sup> OJ L 298, 26.10.2012, p.1.

<sup>2</sup> Commission Decision C(2016)769 of 12 February 2016 on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments.

- (7) It is necessary to ensure consistency of the scope of the tasks of the Accounting Officer as spelled out in the Charter of tasks and responsibilities of the Commission's Accounting Officer with the provisions of the Decision C(2013)2488<sup>3</sup>.
- (8) Guidance on the provision of services to other Union Institutions, Agencies and Bodies should be annexed to the Decision C(2016) 769,

HAS DECIDED AS FOLLOWS:

### *Article 1*

Decision C(2016)769 is amended as follows:

1. In Article 3, paragraphs 2, 3 and 4 are replaced by the following:

"2. Types of co-delegations

Type I and type II co-delegations shall consist of dividing the appropriations in a budget line between a number of authorising officers by delegation who implement their respective appropriations by making commitments, validating and authorising expenditure and, where applicable, making recoveries.

Type III co-delegation<sup>11</sup> shall consist of dividing between a number of authorising officers by delegation the various budget execution tasks relating to the same appropriations<sup>12</sup>.

The signature of agreements concluded for the co-delegations may be subdelegated in accordance with Article 7.

3. Type I co-delegation (co-delegation with appropriations implemented independently)

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

- (a) following a written agreement between the authorising officers by delegation. The agreement may be sent by e-mail and must be recorded in Ares. In this case, the appropriations in reserve remain unusable (unassigned)<sup>13</sup> until a written agreement setting out the internal organisation of the appropriations within the line has been concluded between the authorising officers by delegation and sent to DG BUDG. In case there is no agreement between the authorising officers by delegation, DG BUDG may assign provisionally the non-contested part of the appropriations. For the purposes of this point, "the non-contested amount" is the lowest amount agreed by the authorising officers by delegation.

Any changes to the internal organisation of the appropriations following the initial assignment of the appropriations<sup>14</sup> shall be subject of a written

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<sup>3</sup> Commission Decision C(2013)2488 on the internal procedure provisions for the recovery of amounts receivable arising from direct management and the recovery of fines, lump sums and penalty payments under the Treaties.

agreement between the authorising officers responsible for the Fund Management Centres releasing and receiving the appropriations which shall be sent to DG BUDG. The agreement may be sent by e-mail and must be recorded in Ares;

- (b) on the basis of a decision adopted by DG BUDG for expenditure in Heading V of the multiannual financial framework<sup>15</sup>.

Authorising officers by delegation shall implement their appropriations independently. Each authorising officer shall therefore be responsible when the draft budget is drawn up for requesting the appropriations he deems necessary, for their implementation and for preparing and carrying out the work programme. He must therefore also account for their use in his annual activity report. One authorising officer by delegation may present request for appropriations when the budget is drawn up on the basis of the needs confirmed by other authorising officers by delegation and communicated to that authorising officer.

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

#### 4. Type II co-delegation (co-delegation with primary authorising officer by delegation)

Type II co-delegation shall involve a primary authorising officer by delegation and a secondary authorising officer by delegation, whereby the primary authorising officer may hand over the performance of certain actions to another authorising officer by entrusting him with part of the budgetary implementation of the line<sup>16</sup>. The co-delegated line for the actions may be either administrative or operational.

All the appropriations available at the start of the year shall be made available to the primary authorising officer by delegation, who may co-delegate to the secondary authorising officer by delegation the task of implementing part of the line following a specific agreement between the two DGs concerned<sup>17</sup>. The specific agreement shall be automatically extended each year until it is revoked in writing by the authorising officer(s) by delegation concerned. The two authorising officers by delegation shall agree each time the co-delegated funds are made available in ABAC<sup>18</sup>.

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

The type II co-delegations shall be updated regularly and the specific agreement shall be filed electronically in accordance with the applicable E-Domec rules.

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<sup>11</sup> Formerly called vertical co-delegation.

<sup>12</sup> For example, under Article 279 RAP, the budgetary commitment is made by the authorising officer of a DG, whereas all subsequent acts may be co-delegated to the Directors of interinstitutional European offices. See also Annex 1 section C1 and C2.

<sup>13</sup> They are placed in reserve in the fund management centre (RESER FMC).

<sup>14</sup> Those are "REBALANCING" budgetary adjustments between two DGs/between one DG and an executive agency.

15 For Heading V lines, DG BUDG decides on the use of type I co-delegation in order to transfer  
appropriations in the same line between different DGs and departments (e.g. OIB, OIL and DIGIT).  
16 These actions will normally consist in support actions, such as organisation of conferences and  
interpreting services (SCIC), the provision of IT services, technical assistance actions financed from  
operational appropriations such as studies, meetings of experts and workshops, information and  
publications, software and databases, and communication activities.  
17 For the record, the co-delegation must be set out beforehand in Annex 1 to the Internal Rules. When  
requested, the specific agreement shall be sent to DG BUDG by the primary authorising officer.  
18 This agreement, which can be sent by e-mail, must be recorded in Ares. However, once the inter-DG  
workflow will be in place, agreement by the secondary authorising officer in ABAC is sufficient."

2. Article 4 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (iv) is replaced by the following:

"(iv) establishing amounts receivable (including making financial corrections and extrapolating errors as provided for in Article 80(4) FR and issuing recovery orders, lodging claims in insolvency proceedings and winding-up proceedings under national law, waiving recovery and cancelling established amounts receivable,";

(ii) point (vi) is replaced by the following:

"(vi) taking individual decisions on the award of grants, public contracts or prizes in accordance with Article 24 ('Financing decision'), as well as any preliminary steps related thereto<sup>22</sup>,

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<sup>22</sup> Such as measures concerning the certification of entities as a preliminary step to the latter applying for Union financial assistance.";

(iii) the following second subparagraph is inserted:

"For the purposes of point (iv) of the first subparagraph, if a lawyer is necessary under national law within the proceedings, the case shall be referred to the Legal Service of the Commission when the recovery order has been issued by a Directorate General/Service of the Commission";

(b) paragraph 3 is replaced by the following:

"3. Waiving the recovery of amounts receivable

Decisions on waiving the recovery of amounts receivable which are equal to or higher than the thresholds laid down in Article 91(4) RAP shall be reserved for the College of Commissioners<sup>23</sup>.

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

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

Where the authorising officer responsible establishes an amount receivable and considers with certainty that in the light of Article 91(1) RAP the recovery is not legally or materially possible, he shall issue simultaneously the recovery order, without sending the debit note to the debtor or to the liquidator, and the waiver recovery order. Where the waiver decision has to be taken by the College, the authorising officer responsible shall launch without delay the procedure for the adoption of such a decision after issuing the recovery order.

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<sup>23</sup> Article 91(4) RAP reads: *'The waiving of recovery of an established amount receivable may not be delegated by the institution in any of the following cases: a) where the amount to be waived is EUR 1 000 000 or more; b) where the amount to be waived is EUR 100 000 or more, where this represents 25 % or more of the established amount receivable. Beneath the thresholds set out in the first subparagraph, each institution shall lay down in its internal rules the conditions and procedure for delegating the power to waive recovery of an established debt.'*;

(c) new paragraph 6 is inserted as follows:

"6. Powers of the authorising officer exercised by the Directors-General and Heads of Service for the provision of services, supplies, works or implementation of building contracts to other departments, Union institutions, agencies and bodies

For the purposes of signature and implementation of agreements with other departments, Union institutions, agencies and bodies for provision of services, supplies, works or building contracts, and the implementation measures relating to the corresponding revenue, the authorising officer by delegation shall be the authorising officer by delegation for expenditure of the same nature or, failing that, the authorising officer by delegation responsible for the area of activity with which the revenue is connected.";

3. in Article 7(2), point (5) is replaced by the following:

"(5) the waiving of recovery of an established amount receivable exceeding EUR 15 000. However, the authorising officer by delegation may subdelegate this power to another authorising officer by delegation in the context of cross subdelegation;"

4. In Article 8 first subparagraph of paragraph 4 is replaced by the following:

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

5. In Article 19(1) point (a) is replaced by the following:

"(a) own resources and financial contributions from the Member States, including contributions to the measures under Article 122 TFUE; contributions in the framework of European Union trust funds; default interest on those contributions;"

6. Article 34 is amended as follows:

(a) paragraph 3 is replaced by the following:

"3. The procedure laid down in paragraphs 1 and 2 shall also apply in cases where the authorising officer responsible envisages the renewal or the removal of a case of early detection. It shall not apply where the authorising officer decides to extend the retention period following a request to the Panel referred to in Article 108 FR to issue a recommendation in an exclusion case.";

(b) paragraph 4 is replaced by the following:

"4. The authorising officer by delegation may subdelegate the power to decide to enter information in the database at the stage of early detection in accordance with Article 36.";

7. Annex I is replaced by the text in Annex I to this Decision;

8. Annex IV is amended as follows:

(a) the title of point 1.2. is replaced by the following:

"Policy area(s) concerned";

(b) the title of point 1.4.2. and the text inside a box are replaced by the following:

"Specific objective(s)" and "Specific objective No [ ]";

(c) point 1.5.2 is replaced by the following:

"1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante) [...]  
Expected generated EU added value (ex-post) [...]"

9. Annex VII is amended as follows:

(a) the title of point 1.2. is replaced by the following:

"Policy area(s) concerned";

(b) the title of point 1.4.2. and the text inside a box are replaced by the following:

"Specific objective(s)" and "Specific objective No [ ]";

(c) point 1.5.2 is replaced by the following:

"1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante) [...]



Expected generated Union added value (ex-post) [...]";

10. In Annex XV part 3, point 4.10.7 is replaced by the following:

"The accounting officer shall, at the end of each quarter, send the authorising officers an age-based balance of recovery orders together with reports including estimates of revenue and other relevant indicators for analysis on which to base decisions on whether to recover or waive an established entitlement, or whether to issue a recovery order."

11. Annex XXI is added as set out in Annex II to this Decision.

#### *Article 2*

The Director-General for Budget shall establish a consolidated version of Decision C(2016)769 in electronic form.

#### *Article 3*

Point (7) of Article 1 shall apply from 1 January 2017.

Done at Brussels, 31.3.2017

*For the Commission*  
*Günther OETTINGER*  
*Member of the Commission*