



EUROPEAN UNION INTELLECTUAL PROPERTY OFFICE

CB/15/S48/4/AN1/REV1/EN(O)

***REGULATION NO CB-1-15  
OF THE BUDGET COMMITTEE  
OF THE EUROPEAN UNION INTELLECTUAL  
PROPERTY OFFICE  
of 26 November 2015  
laying down the financial provisions  
applicable to the Office  
("Financial Regulation")***

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REGULATION No CB-1-15 OF THE BUDGET COMMITTEE OF THE  
EUROPEAN INTELLECTUAL PROPERTY OFFICE  
of 26 November 2015  
laying down the financial provisions applicable to the Office  
("Financial Regulation")

**THE BUDGET COMMITTEE,**

Having regard to Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark, as last amended by Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015, hereinafter "the EUTMR", establishing the European Union Intellectual Property Office<sup>1</sup>, hereinafter "the Office", and in particular Article 143 thereof,

Having regard to the opinion of the European Court of Auditors,

Having regard to the opinion of the Commission,

Whereas the above-mentioned Regulation lays down the basic rules governing the management of the Office, the presentation and adoption of the budget and the controls to which the Office is subject;

Whereas the Budget Committee attached to the Office, set up by Article 138 of the EUTMR, is the Office's budgetary authority;

Whereas the Financial Regulation applicable to the general budget of the European Communities was recast following the adoption of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012<sup>2</sup>;

Whereas, in accordance with Article 143 of the EUTMR, the financial provisions governing the Office must, to the extent that they are compatible with the particular nature of the Office, be based on the financial regulations adopted for other bodies set up by the Union;

Whereas, the Commission adopted Delegated Regulation No 1271/2013 of 30 September 2013<sup>3</sup>, establishing the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012, of the European Parliament and of the Council;

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<sup>1</sup> OJEU No L 341 of 24 December 2015, p. 21

<sup>2</sup> OJEU No L 298 of 26 October 2012, p.1

<sup>3</sup> OJEU No L 328 of 7 December 2013, p.42

Whereas this Financial Regulation confines itself to stating the broad principles and basic rules governing the whole budgetary sector concerned, while detailed provisions will subsequently be adopted by the Office in order to make their financial rules easier to read;

Whereas, for the purposes of establishing and implementing the budget, the five fundamental principles of budgetary law (unity, accuracy, universality, specification and annuality), and the principles of equilibrium, unit of account, sound financial management and transparency must be reasserted;

Whereas the financial rules of the Office need to be aligned with the new provisions of its constituent act;

**HAS ADOPTED THIS REGULATION:**

# TITLE I

## GENERAL PROVISIONS

### *Article 1* *Subject matter*

This Regulation lays down the principles and rules governing the establishment and implementation of the Office's budget.

### *Article 2* *Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- “constituent act” means Council Regulation (EC) No 207/2009 of 26 February on the Community trade mark, as amended by Regulation (EU) No 2015/2424 of the European Parliament and of the Council of 16 December 2015;
- “Management Board” means the internal body of the Office that has the functions established in the constituent act, in particular, those mentioned in Article 124 thereof;
- “Budget Committee” means the internal body of the Office that has the functions established in the constituent act, in particular, those mentioned in Title XII, Section 5 thereof;
- “Executive Director” means the person responsible for the management of the Office and has the functions listed in the constituent act, in particular in Article 128 thereof;
- “authorising officer” means exclusively the Executive Director”;
- “responsible authorising officer” means the Executive Director, an authorising officer by delegation or an authorising officer by subdelegation;
- “Council” means the Council of the European Union;
- “general Financial Regulation” means 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, as last amended;

- “general Rules of Application” means Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of 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, as last amended;
- “implementing rules” means the Regulation of the Budget Committee laying down rules for the implementation of certain provisions of the Financial Regulation, in accordance with Article 112 of this Financial Regulation;
- “Staff Regulations” means the Staff Regulations of Officials and Conditions of Employment of Other Servants of the European Union;
- “budget” means the instrument which, for each financial year, forecasts and authorises in advance, the revenue and expenditure of the Office. It includes, both as to revenue and expenditure, separate headings for activities financed by third parties.

*Article 3*  
*Periods, dates and time limits*

Unless otherwise provided, Regulation (EEC, Euratom) No 1182/71 of the Council<sup>4</sup> shall apply to deadlines set by this Regulation.

*Article 4*  
*Protection of personal data*

This Regulation is without prejudice to the requirements of Directive 95/46/EC of the European Parliament and of the Council<sup>5</sup> and of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>6</sup>.

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<sup>4</sup> Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

<sup>5</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

<sup>6</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

*Article 5*  
*Respect for budgetary principles*

The budget of the Office shall be established and implemented in accordance with the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management which requires effective and efficient internal control, and transparency as set out in this Regulation.

**TITLE II**  
**BUDGETARY PRINCIPLES**

**CHAPTER 1**  
**PRINCIPLES OF UNITY AND OF BUDGET ACCURACY**

*Article 6*  
*Scope of the budget of the Office*

1. The budget of the Office shall comprise:
  - (a) revenue consisting of all fees and charges which the Office is authorised to collect by virtue of the tasks entrusted to it;
  - (b) revenue consisting of any other type of income, such as interest, revenue from exchange rate fluctuations, extraordinary income;
  - (c) revenue made up of any financial contributions of the host Member State;
  - (d) revenue assigned to specific items of expenditure in accordance with Article 21;
  - (e) balance from the previous financial year;



- (f) revenue consisting, to the extent necessary, of a subsidy granted by the Union, as provided for in Article 139(3) of the constituent act;
  - (g) the expenditure of the Office, including administrative expenditure.
2. For the purposes of Article 123c(5) of the constituent act, yearly revenue shall be the estimated revenue under (a) and (b) of paragraph 1 for that financial year only.
  3. For the purposes of Article 139(5), (7) and (8) of the constituent act, yearly revenue shall be the revenue collected under (a) and (b) of paragraph 1 in that financial year only.

#### *Article 7*

#### *Specific rules on the principles of unity and budgetary accuracy*

1. No revenue shall be collected and no expenditure effected unless booked to an item in the Office's budget.
2. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget of the Office.
3. An appropriation may be entered in the budget of the Office only if it is for an item of expenditure considered necessary.
4. Interests generated by pre-financing payments made from the budget of the Office shall not be due to the Office.

## **CHAPTER 2 PRINCIPLE OF ANNUALITY**

#### *Article 8*

#### *Definition*

The appropriations entered in the budget of the Office shall be authorised for a financial year which shall run from 1 January to 31 December.

*Article 9  
Use of appropriations*

1. The budget of the Office shall contain non-differentiated appropriations.
2. With the exception of activities financed by third parties, appropriations may not be authorised for a period extending beyond the financial year.
3. Administrative expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the budget of the Office of the financial year in which it is effected.

*Article 10  
Accounting for revenue and appropriations*

1. The revenue of the Office referred to in Article 6(1) shall be entered in the accounts for the financial year on the basis of the amounts collected during that financial year.
2. The appropriations authorised for a financial year shall be used solely to cover expenditure committed and paid in that financial year, and to cover amounts due against commitments from preceding financial years and for which no appropriation was carried forward.
3. Commitments shall be entered in the accounts on the basis of the legal commitments entered into up to 31 December.
4. Payments shall be entered in the accounts for a financial year on the basis of the payments effected by the accounting officer by 31 December of that year.

*Article 11  
Commitment of appropriations*

The appropriations entered in the budget of the Office may be committed with effect from 1 January, once the budget of the Office has been definitively adopted.

*Article 12*  
*Cancellation and carry-over of appropriations*

1. Appropriations which have not been used by the end of the financial year for which they were entered shall, as a rule, be cancelled. However, appropriations that have not been committed before 31 December may, by a decision of the Budget Committee taken not later than 15 February, be carried over to the next financial year only. Other appropriations may be carried over to the next financial year in accordance with paragraphs 3 and 4.
2. Appropriations relating to staff expenditure may not be carried over.
3. Appropriations to cover payments still outstanding at 31 December corresponding to obligations duly contracted at the end of the financial year shall be carried over automatically to the next financial year only.
4. Amounts corresponding to appropriations relating to building projects, for which most of the preparatory stages of the commitment procedure have been completed by 31 December may be carried over. The preparatory stage of the commitment procedure shall be specified in the rules implementing this Financial Regulation.

Such amounts may be committed up to 31 March of the following year.

5. Appropriations carried over which have not been committed by 31 March of year N+1 shall be automatically cancelled and shall be identified in the accounts.

*Article 13*  
*Carry-over rules for assigned revenue*

Carry-overs of the assigned revenue referred to in Article 21, and of appropriations not used and available at 31 December arising from such revenue, shall comply with the following rules:

- (a) external assigned revenue shall be carried over automatically and shall be fully used by the time all the operations relating to the programme or action to which it is assigned have been carried out; external assigned revenue received during the last year of the programme or action may be used in the first year of the succeeding programme or action;

- (b) internal assigned revenue shall be carried over for one year only, with the exception of internal assigned revenue defined in point (f) of Article 21(3), which shall be carried over automatically.

*Article 14*  
*Decommitment of appropriations*

Where appropriations are decommitted in any financial year after that in which the appropriations were entered in the budget of the Office as a result of total or partial non-implementation of the actions for which they were earmarked, the appropriations concerned shall be cancelled.

*Article 15*  
*Commitments*

1. As from 15 October of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments shall not, however, exceed one quarter of the appropriations decided by the Budget Committee on the corresponding budget item for the current financial year. They shall not apply to new expenditure of a kind not yet approved in principle in the last budget of the Office duly adopted.
2. Expenditure which shall be paid in advance, for example rents, may give rise to payments from 1 December onwards to be charged to the appropriations for the following financial year. In this case, the limit referred to in paragraph 1 shall not apply.

*Article 16*  
*Rules applicable in the event of late adoption of the budget of the Office*

1. If the budget of the Office has not been definitively adopted at the beginning of the financial year, the rules set out in paragraphs 2 to 6 shall apply.
2. Commitments and payments may be made within the limits laid down in paragraph 3.

3. Commitments may be made per chapter up to a maximum of one quarter of the total appropriations authorised in the relevant chapter of the previous financial year plus one twelfth for each month which has elapsed.

The limit of the appropriations provided for in the statement of estimates of revenue and expenditure shall not be exceeded.

Payments may be made monthly per chapter up to a maximum of one twelfth of the appropriations authorised in the relevant chapter of the previous financial year. That sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter in the statement of estimates of revenue and expenditure.

4. The appropriations authorised in the relevant chapter of the previous financial year, as specified in paragraphs 2 and 3, shall be understood as referring to the appropriations voted in the budget of the Office, including by amending budgets, and after adjustment for the transfers made during that financial year.
5. At the request of the Executive Director, if the continuity of action by the Office and management needs so require, the Budget Committee may authorise expenditure in excess of one provisional twelfth but not exceeding the total of four provisional twelfths, except in duly justified cases, both for commitments and for payments over and above those automatically made available in accordance with paragraphs 2 and 3.

The additional twelfths shall be authorised in full and shall not be divisible.

6. If, for a given chapter, the authorisation of four provisional twelfths granted in accordance with paragraph 5 is not sufficient to cover the expenditure necessary to avoid a break in continuity of action by the Office in the area covered by the chapter in question, authorisation may exceptionally be given to exceed the amount of the appropriations entered in the corresponding chapter of the budget of the Office of the previous financial year. The Budget Committee shall act in accordance with the procedures provided for in paragraph 5. However, the overall total of the appropriations available in the budget of the Office of the previous financial year or in the draft budget of the Office, as proposed, may in no circumstances be exceeded.

## **CHAPTER 3**

### **PRINCIPLE OF EQUILIBRIUM**

#### *Article 17*

##### *Definition and scope*

1. The Office's budget revenue and expenditure shall be in balance.
2. Appropriations may not exceed the amount of revenue and any other income referred to in Article 6(1).
3. Fees should be set at a level such as to avoid a significant accumulation of surplus. Where a significant positive or negative budget result, within the meaning of Article 96, becomes recurrent, the level of the fees and charges shall be revised in accordance with the provisions of the constituent act.
4. The Office may not raise loans within the framework of its budget.
5. Where the Office receives a subsidy from the Union budget, this shall constitute for the budget of the Office a balancing subsidy and may be divided into a number of payments.
6. The Office shall implement rigorous cash management.  
Where the Office receives a subsidy from the Union budget, the Office shall submit with the payment requests to the Commission detailed and updated forecasts on its real cash requirements throughout the year, including information on assigned revenue.
7. In accordance with the provisions of Article 139(8) of the constituent act, where a substantive surplus is generated over five consecutive years, the Budget Committee, upon a proposal from the Office and in accordance with the annual work programme and multiannual strategic programme, shall decide by a two-thirds majority, on the transfer of the surplus to the budget of the Union.

*Article 18*  
*Budget result from financial year*

1. If the budget result within the meaning of Article 96(2) is positive, it shall be entered in the budget of the Office for the following year as revenue.

Where the Office receives the subsidy referred to in point (f) of Article 6(1) and if the budget result is positive, it shall be repaid to the Commission up to the amount of the subsidy paid during the year. The Office shall provide, no later than 31 January of the year N, an estimate of the budget result from the year N-1, which is to be returned to the Union budget later in year N, in order to complete the information already available concerning the budget result of the year N-2.

The difference between the subsidy entered in the budget and that actually paid to the Office shall be cancelled.

2. If the budget result within the meaning of Article 96(2) is negative, it shall be entered in the budget of the Office for the following financial year as expenditure or, where appropriate, offset against a positive budget result of the Office in the following financial years.
3. The revenue or expenditure shall be entered in the budget of the Office during the budgetary procedure using the letter of amendment procedure set out in Article 31(4) or, while implementation of the budget is under way, by means of an amending budget.

**CHAPTER 4**  
**PRINCIPLE OF UNIT OF ACCOUNT**

*Article 19*  
*Use of euro*

The budget of the Office shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for cash-flow purposes, the accounting officer and, in the case of imprest accounts, the imprest administrators shall be authorised to carry out operations in other currencies as laid down in the implementing rules.

## **CHAPTER 5**

### **PRINCIPLE OF UNIVERSALITY**

#### *Article 20* *Definition and scope*

Without prejudice to Article 21, total revenue shall cover total expenditure. Without prejudice to Article 23, all revenue and expenditure shall be entered in full without any adjustment against each other.

#### *Article 21* *Assigned revenue*

1. External assigned revenue and internal assigned revenue shall be used to finance specific items of expenditure.
2. The following shall constitute external assigned revenue:
  - (a) financial contributions from Member States and third countries, including in both cases their public agencies, entities or natural persons, to certain activities of the Office, insofar as this is provided for in the agreement concluded between the Office and the Member States, third countries or the public agencies, entities or natural persons in question;
  - (b) revenue earmarked for a specific purpose, such as income from foundations, gifts and bequests;
  - (c) financial contributions, not covered by point (a), to Union bodies' activities from third countries or various non-Union bodies;
  - (d) internal assigned revenue referred to in paragraph 3, to the extent that it is ancillary to the other revenue referred to in points (a) and (b) of this paragraph;
  - (e) funds received from the Union budget in order to finance EU-funded projects. Such funds shall not constitute contributions from the Union budget in the meaning of Article 208 of the general Financial Regulation.



3. The following shall constitute internal assigned revenue:
  - (a) revenue from third parties in respect of goods, services or work supplied at their request, with the exception of fees and charges referred to in point (a) of Article 6(1);
  - (b) proceeds from the sale of vehicles, equipment, installations, materials, and scientific and technical apparatus which are replaced or scrapped when the book value is fully depreciated;
  - (c) revenue arising from the repayment, in accordance with Article 60, of amounts wrongly paid;
  - (d) proceeds from the supply of goods, services and works for Union institutions or other Union bodies;
  - (e) insurance payments received;
  - (f) revenue from lettings;
  - (g) revenue from the sale of publications and films, including those on an electronic medium;
  - (h) revenue arising from the subsequent reimbursement of taxes pursuant to point (b) of Article 23(3).
4. The constituent act may also assign the revenue for which it provides to specific items of expenditure. Unless specified otherwise in the constituent act, such revenue shall constitute internal assigned revenue.
5. All items of revenue within the meaning of points (a) and (b) of paragraph 2 and points (a) and (d) of paragraph 3 shall cover all direct or indirect expenditure incurred by the activity or purpose in question.
6. The budget of the Office shall include items to accommodate external assigned revenue and internal assigned revenue and, wherever possible, shall indicate the amount.

Assigned revenue may be included in the estimate of revenue and expenditure only for the amounts which are certain at the date of the establishment of the estimate.

*Article 22*  
*Donations*

1. The Executive Director may accept any donation made to the Office, such as foundations, gifts and bequests.
2. Acceptance of donations which may involve a financial charge shall be subject to the prior authorisation of the Budget Committee, which shall take a decision within two months of the date on which the request is submitted to it. If the Budget Committee fails to take a decision within that period, the donation shall be deemed accepted.

*Article 23*  
*Rules on deductions and exchange  
rate adjustments*

1. The following deductions may be made from payment requests which shall then be passed for payment of the net amount:
  - (a) penalties imposed on parties to procurement contracts or beneficiaries;
  - (b) discounts, refunds and rebates on individual invoices and cost statements;
  - (c) adjustments for amounts unduly paid.

The adjustments referred to in point (c) of the first subparagraph may be made, by means of direct deduction, against a new interim payment or payment of a balance to the same payee under the chapter, article and financial year in respect of which the excess payment was made.

Union accounting rules shall apply to the deductions referred to in point (c) of the first subparagraph.

2. The cost of products or services provided to the Office incorporating taxes refunded by the Member States pursuant to the Protocol on the Privileges and Immunities of the European Union shall be charged to the budget of the Office for the ex-tax amount provided that it applies to the Office.

3. The cost of products or services provided to the Office incorporating taxes refunded by third countries on the basis of relevant agreements may be charged to the budget of the Office for any of the following:
  - (a) the ex-tax amount;
  - (b) the tax-inclusive amount. In such a case, subsequently reimbursed taxes shall be treated as internal assigned revenue.
4. Any national taxes temporarily borne by the Office under paragraphs 2 and 3 shall be entered in a suspense account until they are refunded by the State concerned.
5. Any negative budget result shall be entered in the budget of the Office as expenditure.
6. Adjustments may be made in respect of exchange differences occurring in the implementation of the budget of the Office. The final gain or loss shall be included in the budget result for the year.

## **CHAPTER 6**

### **PRINCIPLE OF SPECIFICATION**

#### *Article 24*

#### *General provisions*

Appropriations shall be earmarked for specific purposes by title and chapter. The chapters shall be further subdivided into articles and items.

#### *Article 25*

#### *Transfers*

1. The Executive Director may transfer appropriations:
  - (a) from one chapter to another and from one article to another, within the same title, without limit;
  - (b) from one title to another up to a maximum of 10% of the appropriations for the year shown on the item from which the transfer is made.

2. Beyond the limit referred in paragraph 1, the authorising officer may propose to the Budget Committee transfers of appropriations from one title to another. The Budget Committee shall have three weeks to oppose such transfers. After that time-limit they shall be deemed to be adopted.
3. Proposals for transfers and transfers carried out under paragraphs 1 and 2 shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.
4. The authorising officer shall inform the Budget Committee as soon as possible of all transfers made.

*Article 26*  
*Specific rules on transfers*

1. Appropriations may only be transferred to items in the budget of the Office which have authorised appropriations or which carry a token entry "*pro memoria*" (p.m.).
2. Appropriations corresponding to assigned revenue may be transferred only if such revenue is used for the purpose for which it is assigned.

**CHAPTER 7**  
**PRINCIPLE OF SOUND FINANCIAL MANAGEMENT**

*Article 27*  
*Principles of economy, efficiency and effectiveness/Principle of sound financial management*

1. Appropriations shall be used in accordance with the principle of sound financial management, namely in accordance with the principles of economy, efficiency and effectiveness.
2. The principle of economy requires that the resources used by the Office in the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price.

The principle of efficiency concerns the best relationship between resources employed and results achieved.

The principle of effectiveness concerns the attainment of the specific objectives set and the achievement of the intended results.

3. The Office shall carry out a benchmarking exercise.

The benchmarking exercise shall include:

- a review of the efficiency of the Office's horizontal services;
- a cost-benefit analysis of sharing services or transferring them entirely to another Union body or the Commission.

When carrying out the benchmarking exercise referred to in the first and the second subparagraph the Office shall make the necessary arrangements to avoid any conflict of interests.

4. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget of the Office. The achievement of those objectives shall be monitored by performance indicators for each activity, and the information shall be provided to the Management Board by the Executive Director. That information shall be provided annually and at the latest in the documents accompanying the draft budget of the Office.
5. In order to improve decision-making, the Office shall undertake both *ex-ante* and *ex-post* evaluations. Such evaluations shall be applied to all programmes and activities which entail significant spending and evaluation results shall be sent to the Management Board.
6. The Executive Director shall prepare an action plan to follow up on the conclusions of the evaluations, as referred to in Article 128(4)(i) of the constituent act, and report on its progress twice a year to the Management Board and to the Commission.
7. The Management Board shall scrutinise the implementation of the action plan, as referred to in Article 124(1)(k) of the constituent act.

*Article 28*  
*Internal control of budget implementation*

1. The budget of the Office shall be implemented in compliance with effective and efficient internal control.
2. For the purposes of the implementation of the budget of the Office, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives:
  - (a) effectiveness, efficiency and economy of operations;
  - (b) reliability of reporting;
  - (c) safeguarding of assets and information;
  - (d) prevention, detection, correction and follow-up of fraud and irregularities;
  - (e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned.
3. Effective internal control shall be based on best international practices and include, in particular, the following:
  - (a) segregation of tasks;
  - (b) an appropriate risk management and control strategy including control at recipient level;
  - (c) avoidance of conflicts of interests;
  - (d) adequate audit trails and data integrity in data systems;
  - (e) procedures for monitoring of performance and for follow-up of identified internal control weaknesses and exceptions;
  - (f) periodic assessment of the sound functioning of the internal control system.

4. Efficient internal control shall be based on the following elements:
  - (a) the implementation of an appropriate risk management and control strategy coordinated among appropriate actors involved in the control chain;
  - (b) the accessibility for all appropriate actors in the control chain of the results of controls carried out;
  - (c) reliance, where appropriate, on independent audit opinions, provided that the quality of the underlying work is adequate and acceptable and that it was performed in accordance with agreed standards;
  - (d) the timely application of corrective measures including, where appropriate, dissuasive penalties;
  - (e) the elimination of multiple controls;
  - (f) improving the cost-benefit ratio of controls.

## **CHAPTER 8**

### **PRINCIPLE OF TRANSPARENCY**

#### *Article 29* *Publication of accounts, budgets and reports*

1. The budget of the Office shall be established and implemented and the accounts presented in accordance with the principle of transparency.
2. Information about the budget and any amending budgets, as definitively adopted, shall be published in the *Official Journal of the European Union* within three months of their adoption.

The Executive Director shall approve any other measure for publicising the budget of the Office.

3. The budget of the Office including the establishment plan and amending budgets of the Office, as finally adopted, as well as an indication of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and seconded national experts, shall be transmitted for information to the European Parliament and the Council, the Court of Auditors and the Commission, and shall be published on the Internet site of the Office within four weeks of their adoption.

4. The Office shall make available on its internet site no later than 30 June of the following financial year information on the recipients of funds deriving from its budget, including experts contracted pursuant to Article 86, in accordance with paragraphs 2, 3 and 4 of Article 21 of the general Rules of Application following a standard presentation. The published information shall be easily accessible, transparent and comprehensive. The information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data laid down in Regulation (EC) No 45/2001.

### **TITLE III ESTABLISHMENT AND STRUCTURE OF THE BUDGET OF THE OFFICE**

#### **CHAPTER 1 ESTABLISHMENT OF THE BUDGET**

##### *Article 30 Annual and multiannual programming*

1. In accordance with the provisions of the constituent act, the Executive Director shall draw up a programming document containing multiannual and annual programming and, after consulting the Commission, shall submit it to the Management Board for approval.

The Management Board shall adopt the programming document, taking into account the opinion of the Commission.

2. The multiannual programme shall set out:
  - overall strategic programming including objectives, expected results and performance indicators;
  - resource programming including a multiannual budget and a multiannual staff policy plan.



The resource programming shall include qualitative and quantitative information on the human resource and budgetary matters for the reporting purposes, in particular:

- for the years N-1 and N, the information on the number of officials, temporary and contract staff as defined in the Staff Regulations, as well as seconded national experts.
- for the year N-1 an estimate of the budgetary operations within the meaning of Article 96 and information on contributions in kind granted by the host Member State to the Office;
- for the year N+1 an estimate of the number of officials, temporary and contract staff as defined in the Staff Regulations;
- for the following years, an indicative budget and staff resource programming.

The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the overall evaluations referred to in the constituent act.

3. The annual work programme of the Office shall comprise detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the amount of financial and human resource allocated to each action. The annual work programme shall be coherent with the multiannual programme referred to in paragraph 1.

It shall clearly indicate which tasks of the Office have been added, changed or deleted in comparison with the previous financial year.

4. Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial work programme, in accordance with the provisions of paragraph 1.

The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the authorising officer of the Office.

### *Article 31 Establishment of the budget*

1. The Executive Director shall draw up each year an estimate of revenue and expenditure of the Office for the following year and shall send it to the Budget Committee by 31 March at the latest.

2. The estimate of revenue and expenditure of the Office shall include:
  - (a) an establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations, by grade and by category;
  - (b) where there is a change in the number of persons in post, a statement justifying any request for new posts;
  - (c) a quarterly estimate of cash payments and receipts;
  - (d) information on the achievement of all previously set objectives for the various activities. Evaluation results shall be consulted and referred to as evidence of the likely merits of an increase or decrease of the proposed budget of the Office in comparison with its budget for year N.
3. The Management Board shall forward the adopted programming document referred to in Article 30 to the European Parliament, the Council and the Commission no later than 31 January each year, as well as any later updated version of that document.
4. Before the Budget Committee adopts the budget, the Executive Director may present to the Budget Committee a letter amending the estimates.
5. The budget of the Office and the establishment plan shall be adopted by the Budget Committee before the beginning of the financial year.
6. When entrusting new tasks to the Office, the Commission shall, without prejudice to the legislative procedures for the modification of the constituent act, submit to the European Parliament and to the Council the necessary information to assess impact of the new tasks on the resources of the Office so as to review, where necessary, its financing.

*Article 32*  
*Amending budgets*

Any amendment to the budget of the Office, including the establishment plan, shall be the subject of an amending budget adopted by the same procedure as the initial budget of the Office, in accordance with the provisions of the constituent act and Article 31 of this Regulation.

**CHAPTER 2**  
**STRUCTURE AND PRESENTATION OF THE BUDGET OF THE OFFICE**

*Article 33*  
*Structure of the budget of the Office*

The budget of the Office shall consist of a statement of revenue and a statement of expenditure.

*Article 34*  
*Budget nomenclature*

In so far as it is justified by the nature of the Office's activities, the statement of expenditure must be set out on the basis of a nomenclature with a classification by purpose. That nomenclature shall be determined by the Executive Director and shall make a clear distinction between administrative appropriations and operating appropriations.

*Article 35*  
*Presentation of the budget of the Office*

The budget of the Office shall show:

1. in the statement of revenue:
  - (a) the estimated revenue of the Office for the financial year concerned ('year N');
  - (b) the estimated revenue for the preceding financial year and the revenue for year N-2;
  - (c) appropriate remarks on each revenue item.
2. in the statement of expenditure:
  - (a) the appropriations for year N;
  - (b) the appropriations for the preceding financial year, and the expenditure committed and the expenditure paid in year N-2, plus carryovers;
  - (c) appropriate remarks on each subdivision.

*Article 36*  
*Rules on the establishment plans for staff*

1. The establishment plan, adopted by the Budget Committee and annexed to the budget, shall show next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled. It shall constitute an absolute limit for the Office. No appointment may be made in excess of the limit set.
2. By derogation from paragraph 1, the effects of part-time work authorised in accordance with the Staff Regulations may be offset by other appointments. Where a staff member requests the withdrawal of the authorisation before expiry of the granted period, the Office shall take appropriate measures to respect the limit referred to in paragraph 1 as soon as possible.

**TITLE IV**  
**IMPLEMENTATION OF THE BUDGET OF THE OFFICE**

**CHAPTER 1**  
**GENERAL PROVISIONS**

*Article 37*  
*Budget implementation in accordance with the*  
*principle of sound financial management*

1. The Executive Director shall perform the duties of authorising officer. He or she shall implement the revenue and expenditure of the budget in accordance with the financial rules of the Office and with the principle of sound financial management under his or her own responsibility and within the limits of the appropriations authorised.
2. Without prejudice to the responsibilities of the authorising officer as regards prevention and detection of fraud and irregularities, the Office shall participate in the fraud prevention activities of the European Anti-fraud Office.

*Article 38*  
*Delegation of budget implementation powers*

1. The Executive Director may delegate the powers of budget implementation to staff of the Office covered by the Staff Regulations, in accordance with the conditions laid down in the financial rules of the Office adopted by the Budget Committee. Those so empowered may act only within the limits of the powers expressly conferred upon them.
2. The delegatee may subdelegate the powers received as provided for in the rules implementing this Regulation referred to in Article 112. Each act of subdelegation shall require the explicit agreement of the Executive Director.

*Article 39*  
*Conflict of interests*

1. Financial actors within the meaning of Chapter 2 of this Title 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 Office.

Where such a risk exists, the person in question shall refrain from such action and shall refer the matter to the competent authority who shall confirm in writing whether a conflict of interests exists. Where a conflict of interest is found to exist, the person in question shall cease all activities in the matter. The competent authority shall take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 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 competent authority referred to in paragraph 1 shall be the immediate superior of the member of staff concerned. If the member of staff is the Executive Director, the competent authority shall be the Management Board.
4. The Management Board shall adopt rules on the prevention and management of conflict of interests.

*Article 40*  
*Method of implementation of the budget of the Office*

1. The budget of the Office shall be implemented by the Executive Director in the departments placed under his or her authority.
2. Technical expertise tasks and administrative, preparatory or ancillary tasks not involving the exercise of public authority or the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities or bodies, in compliance with the principle of sound financial management.

**CHAPTER 2**  
**FINANCIAL ACTORS**

**SECTION 1**  
**PRINCIPLE OF SEGREGATION OF DUTIES**

*Article 41*  
*Segregation of duties*

The duties of authorising officer and accounting officer shall be segregated and mutually exclusive.

**SECTION 2**  
**AUTHORISING OFFICER**

*Article 42*  
*Powers and duties of authorising officer*

1. The authorising officer shall be responsible 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 shall, in accordance with the minimum standards adopted by the Budget Committee, on the basis of equivalent standards laid down by the Commission for its own departments, and having due regard to the risks associated with the management environment and the nature of the action financed, put in place the organisational structure and the internal control systems suited to the performance of the duties of authorising officer.

The establishment of such structure and systems shall be supported by a comprehensive risk analysis, which takes into account their cost-effectiveness.

The authorising officer may establish within his or her departments an expertise and advice function to help him or her control the risks involved in his or her activities.

3. To implement expenditure, the authorising officer 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. The authorising officer shall conserve the supporting documents relating to operations carried out for a period of five years from the date of the decision granting discharge in respect of implementation of the budget of the Office. Personal data contained in supporting documents shall be deleted where possible when those data are not necessary for budgetary discharge, control and audit purposes. In any event, as regards the conservation of traffic data, Article 37(2) of Regulation (EC) No 45/2001 shall apply.

*Article 43*  
*Ex-ante controls*

1. Each operation referred to in Article 42 shall be subject at least to an *ex ante* control. The scope of this control shall depend on the level of risk of the operation concerned.

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

2. Initiation of an operation shall be understood as all the operations which are preparatory to the adoption of the acts implementing the budget of the Office by the authorising officers referred to in Articles 37 and 38.
3. *Ex-ante* verification of an operation shall be understood as all the *ex-ante* checks put in place by the authorising officer in order to verify the operational and financial aspects.
4. *Ex-ante* controls shall verify the coherence among supporting documents requested and any other information available. The extent in terms of frequency and intensity of the *ex-ante* controls shall be determined by the authorising officer responsible taking into account risk-based and cost-effectiveness considerations. In case of doubt, the authorising officer responsible for validating the relevant payment shall request complementary information or perform an on-the-spot control in order to obtain reasonable assurance as part of the *ex-ante* control.

The purpose of the *ex-ante* controls shall be to ascertain that:

- (a) the expenditure is in order and complies with the provisions applicable;
- (b) the principle of sound financial management set out in Article 27 has been applied.

For the purpose of controls, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer to constitute a single operation.

5. 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.



*Article 44*  
*Ex-post controls*

1. The authorising officer 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.
2. The *ex-post* controls may be carried out on the basis of documents and, where appropriate, on the spot.

The *ex-post* controls shall verify that operations financed by the budget of the Office are correctly implemented and in particular that the criteria referred to in Article 43(4) are complied with.

The outcomes of *ex-post* controls shall be reviewed by the authorising officer at least annually to identify any potential systemic issues. The authorising officer shall take measures to address those issues.

The risk analysis referred to in paragraph 1 shall be reviewed in the light of the results of internal controls and other relevant information.

In the case of multiannual programmes, the authorising officer shall establish a multiannual control strategy, specifying the nature and extent of controls over the period and the manner how the results are to be measured year-on-year for the annual assurance process.

3. 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.

Where the authorising officer 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 Office and the auditees.

4. Staff responsible for controlling the management of the financial operations referred to in paragraph 3 shall have the necessary professional skills. They shall respect a specific code of professional standards adopted by the Office and based on standards laid down by the Commission for its own departments.

*Article 45*  
*Consolidated Annual Activity Report*

1. The authorising officer shall report to the Management Board on the performance of his or her duties in the form of a consolidated annual activity report containing:
  - (a) information on:
    - the implementation of the Office's annual work programme, budget and staff resources referred to in Article 36;
    - management and internal control systems including the summary of number and type of internal audits carried out by the internal auditor, the recommendations made and the action taken on these recommendations and on the recommendations of previous years, as referred to in Article 80;
    - any observations of the Court of Auditors and the actions taken on these observations;
    - the accounts and the report on budgetary and financial management without prejudice to Articles 91, 95 and 96.
  - (b) a declaration of the authorising officer stating whether he has a reasonable assurance that, unless otherwise specified in any reservations related to defined areas of revenue and expenditure:
    - the information contained in the report presents a true and fair view;
    - 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;
    - the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

The consolidated annual activity report shall indicate the results of the operations by reference to the objectives set, the risks associated with the operations, the use made of the resources provided and the efficiency and effectiveness of the internal control systems, including an overall assessment of the costs and benefits of controls.

2. The Management Board shall adopt the consolidated annual activity report and shall forward it no later than 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors.
3. Additional reporting requirements may be provided in the constituent act in duly justified cases, in particular when it is required by the nature of the field in which the Office operates.

#### *Article 46*

##### *Protection of Union's financial interests*

1. 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 the Executive Director in writing who shall reply in writing. If the Executive Director 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 relevant panel referred to in Article 52(5) and the Budget Committee in writing.
2. 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.

#### *Article 47*

##### *Delegation of budget implementation*

Where powers of budget implementation are delegated or subdelegated in accordance with Article 38, Article 42(1), (3) and (4) shall apply *mutatis mutandis* to the authorising officers by delegation or subdelegation.

**SECTION 3**  
**ACCOUNTING OFFICER**

*Article 48*  
*Powers and duties of the accounting officer*

1. At the proposal of the Executive Director, the Budget Committee shall appoint an accounting officer, covered by the Staff Regulations, who shall be totally independent in the performance of his or her duties. The accounting officer shall be responsible in the Office for:
  - (a) properly implementing payments, collecting revenue and recovering amounts established as being receivable;
  - (b) preparing and presenting the accounts in accordance with Title X;
  - (c) keeping the accounts in accordance with Title X;
  - (d) implementing, in accordance with Title X, the accounting rules and the chart of accounts, ensuring as far as is necessary compatibility with the provisions adopted by the Commission's accounting officer;
  - (e) laying down and validating the accounting systems and, where appropriate, validating systems laid down by the authorising officers 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.
2. The Office's accounting officer may act as, or assume part of the tasks of, the accounting officer of another Union body.

The Office and the Union body concerned shall make the necessary arrangements in order to avoid any conflict of interests.

In such a case, an agreement shall be signed between the Office and the Union body concerned establishing the conditions for such collaboration.

The Budget Committee shall be informed of any agreement signed pursuant to the third subparagraph.

3. The accounting officer shall obtain from the authorising officers all the information necessary for the production of accounts which give a true and fair view of the Office's 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 Executive Director, the accounting officer shall sign them off, thereby certifying that the accounting officer has reasonable assurance that the accounts present a true and fair view of the financial situation of the Office.

For the purposes of the first subparagraph, the accounting officer shall verify that the accounts have been prepared in accordance with the accounting rules referred to in Article 143 of the general Financial Regulation, and that all revenue and expenditure is entered in the accounts.

The authorising officers 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. Subject to paragraph 7 of this Article and to Article 49, only the accounting officer shall be empowered to manage cash and cash equivalents. The accounting officer shall be responsible for their safekeeping.
7. The accounting officer may, in the performance of his or her duties, delegate certain tasks to subordinate staff subject to the Staff Regulations, where this is indispensable for the performance of his or her duties.
8. The act of delegation shall lay down the tasks entrusted to the delegates and their rights and obligations.

**SECTION 4**  
**IMPREST ADMINISTRATOR**

*Article 49*  
*Imprest accounts*

Where it proves indispensable for the payment of small sums and for the collection of other revenue referred to in Article 6, imprest accounts may be set up. Imprest accounts shall be endowed by the accounting officer and shall be placed under the responsibility of imprest administrators designated by him or her.

The maximum amount of each item of expenditure or revenue that can be paid by the imprest administrator to third parties shall not exceed the amount to be specified by the Office for each item of expenditure or revenue. Payments from imprest accounts may be made by bank credit transfer, including the direct debit system referred to in Article 72(1), cheque or other means of payment, in accordance with the instructions laid down by the accounting officer.

**CHAPTER 3**  
**LIABILITY OF FINANCIAL ACTORS**

**SECTION 1**  
**GENERAL RULES**

*Article 50*  
*Withdrawal of delegation and suspension of duties given to financial actors*

1. Authorising officers by delegation and subdelegation may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them. The authorising officer may at any time withdraw his or her agreement to a specific subdelegation.
2. The accounting officer may at any time be suspended temporarily or definitively from his or her duties by the Budget Committee. In such a case, the Budget Committee shall appoint an interim accounting officer.

3. The imprest administrators may at any time be suspended temporarily or definitively from their duties by the accounting officer or the Budget Committee.
4. Paragraphs 1 to 3 shall be without prejudice to any disciplinary action taken in respect of the financial actors referred to in those paragraphs.

#### *Article 51*

#### *Liability of the financial actors for illegal activity, fraud or corruption*

1. Articles 50 to 54 are without prejudice to any liability under criminal law which the financial actors referred to in Article 50 may incur as provided for in the 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 52, 53 and 54, each authorising officer, 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 the European Anti-Fraud Office.

### **SECTION 2**

#### **RULES APPLICABLE TO AUTHORISING OFFICERS**

#### *Article 52*

#### *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 and, where appropriate, with its implementing rules;
  - (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 Office 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 delegation, the authorising officer 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 delegation.
5. The Office shall make use of the specialised financial irregularities panel set up by the Commission in accordance with Article 73(6) of the general Financial Regulation, unless the Budget Committee decides to set up a functionally independent panel, or to participate in a joint panel established by several Union bodies. For cases submitted by Union bodies, the specialised financial irregularities panel set up by the Commission shall include one staff member of a Union body.

On the basis of the opinion of the panel referred to in the first subparagraph, the Executive Director 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 Office's internal auditor. If the opinion implicates the Executive Director, the panel shall send it to the Budget Committee and the Office's internal auditor. The Executive Director shall refer, in anonymous form, to opinions of the panel in his or her consolidated annual activity report and indicate the follow-up measures taken.



6. Any member of staff may be required to compensate, in whole or in part, any damage suffered by the Office as a result of serious misconduct on his or her part in the course of or in connection with the performance of his or her duties. The appointing authority shall take a reasoned decision, after completing the formalities laid down by the Staff Regulations with regard to disciplinary matters.

**SECTION 3**  
**RULES APPLICABLE TO ACCOUNTING OFFICERS AND IMPREST ADMINISTRATORS**

*Article 53*  
*Rules applicable to accounting officers*

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 or causing them to be lost or damaged by his or her negligence;
- (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.

*Article 54*  
*Rules applicable to imprest administrators*

An imprest administrator 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 and documents in his or her keeping or causing them to be lost or damaged by his or her negligence;

- (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.

## **CHAPTER 4 REVENUE OPERATIONS**

### *Article 55 Request for payment of Union subsidy*

In the event that the Office needs a subsidy from the general budget of the European Union, the Office shall present to the Commission requests for payment of all or part of the Union subsidy pursuant to Article 17(5) under the terms and at the intervals agreed with the Commission.

### *Article 56 Treatment of interest*

The funds paid to the Office shall bear interest for the benefit of the budget of the Office.

Where the Office receives a subsidy from the Union budget, the interest generated by funds paid to the Office by the Commission by way of the subsidy shall not be due to the Union budget.

### *Article 57 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 Office, 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.

*Article 58*  
*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. 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 of these documents shall be drawn up and sent by the authorising officer responsible.
3. Amounts wrongly paid shall be recovered.
4. Any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with the general Rules of Application.
5. In duly substantiated cases, certain routine revenue items may be established provisionally. Provisional establishment shall cover the recovery of several individual amounts which need not therefore be established individually. Before the end of the financial year, the authorising officer shall amend the amounts established provisionally to ensure that they correspond to the amounts receivable actually established.

*Article 59*  
*Authorisation of recovery*

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 has established.

*Article 60*  
*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 Office receives its revenue and shall ensure that its rights are safeguarded.
2. If actual recovery has not taken place by the due date stipulated in the debit note, the accounting officer shall inform the authorising officer responsible and immediately launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting and, if this is not possible, by enforced recovery.
3. The accounting officer shall recover amounts by offsetting them against equivalent claims that the Office has on any debtor who in turn has a claim on the Office. Such claims shall be certain, of a fixed amount and due.
4. Where the authorising officer 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 waiver decision shall state what action has been taken to secure recovery and the points of law and fact on which it is based.

5. The authorising officer responsible shall cancel an established amount receivable in full or in part when the discovery of a mistake reveals that the amount had not been correctly established. Such cancellation shall be by decision of the authorising officer responsible and shall be suitably substantiated.

*Article 61*  
*Collection formalities*

1. Upon actual recovery of the sum due, the accounting officer shall make an entry in the accounts and shall inform the authorising officer responsible.
2. A receipt shall be issued in respect of all cash payments made to the accounting officer.
3. Partial reimbursement by a debtor subject to several recovery orders shall first be posted on the oldest entitlement unless otherwise specified by the debtor.

Any partial payments shall first cover the interest.

*Article 62*  
*Additional time for payment*

1. The accounting officer, in collaboration with the authorising officer responsible, may allow additional time for payment only at the written request of the debtor, with due indication of the reasons, and provided that the following two conditions are fulfilled:
  - (a) the debtor undertakes to pay interest at the rate specified in Article 83 of the general Rules of Application for the entire additional period allowed, starting from the deadline referred to in Article 80(3)(b) of the general Rules of Application;
  - (b) in order to safeguard the rights of the Office, the debtor lodges a financial guarantee covering the debt outstanding in both the principal sum and the interest, which is accepted by Office's accounting officer.

The guarantee referred to in point (b) of the first subparagraph may be replaced by a joint and several guarantee by a third party approved by the Office's accounting officer.

2. In exceptional circumstances, following a request by the debtor, the accounting officer may waive the requirement of a guarantee referred to in point (b) of the first subparagraph of paragraph 1 when, on the basis of his or her assessment, the debtor is willing and able to make the payment in the additional time period but is not able to lodge such guarantee and is in a distressed situation.

*Article 63*  
*List of entitlements*

1. The accounting officer shall keep a list of amounts due to be recovered. The Office's entitlements shall be grouped in the list according to the date of issue of the recovery order. The accounting officer shall also indicate decisions to waive or partially waive recovery of established amounts. The list shall be added to the Office's report on budgetary and financial management.
2. The Office shall establish a list of the Office's entitlements stating the names of the debtors and the amount of the debt, where the debtor has been ordered to reimburse by a court decision that has the force of *res judicata* and where no or no significant reimbursement has been made for one year following its pronouncement. The list shall be published, with due regard to the protection of personal data in accordance with the requirements of Regulation (EC) No 45/2001.

As far as personal data referring to natural persons are concerned, the information published shall be removed once the amount of the debt has been fully reimbursed. The same shall apply to personal data referring to legal persons for whom the official title identifies one or more natural persons.

The decision to include the debtor on the list of Office entitlements shall be taken in compliance with the principle of proportionality and shall take into account, in particular the significance of the amount.

*Article 64*  
*Limitation period*

Entitlements of the Office in respect of third parties and entitlements of third parties in respect of the Office shall be subject to a limitation period of five years.

*Article 65*  
*Specific provisions applicable to fees and charges*

An overall provisional estimate of the fees or charges within the meaning of point (a) of Article 6(1) shall be made at the beginning of each financial year.

Where fees and charges are entirely determined by legislation, the authorising officer may abstain from issuing recovery orders and directly draw up debit notes after having established the amount receivable. In this case all details of the Office's entitlement shall be registered. The accounting officer shall keep a list of all debit notes and provide the number of the debit notes and the global amount in the Office's report on budgetary and financial management.

Where the Office uses a separate invoicing system, the accounting officer shall regularly, and at least on a monthly basis, enter the accumulated sum of fees and charges received into the accounts.

The Office shall provide services by virtue of the tasks entrusted to it only after the corresponding fee or charge has been paid in its entirety. However, in exceptional circumstances, a service may be provided without prior payment of the corresponding charge or fee. In cases where service has been provided without prior payment of the corresponding charge or fee, Articles 58 to 64 shall apply.

**CHAPTER 5**  
**EXPENDITURE OPERATIONS**

*Article 66*  
*Financing decisions*

1. Every item of expenditure shall be committed, validated, authorised and paid.
2. Every commitment of expenditure shall be preceded by a financing decision.
3. The annual work programme of the Office shall be equivalent to a financing decision for the activities it covers, provided that the elements set out in Article 30(3) are clearly identified.
4. Administrative appropriations may be implemented without a prior financing decision.

*Article 67*  
*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.
2. A legal commitment is the act whereby the authorising officer responsible enters into or establishes an obligation which results in a charge.
3. Budgetary commitments shall fall into one of the following three categories:
  - (a) individual: the budgetary commitment is individual when the recipient 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 routine administrative expenditure and either the amount or the final payees are not definitively known.

The provisional budgetary commitment shall be implemented either by the conclusion of one or more individual legal commitments giving rise to an entitlement to subsequent payments or, in exceptional cases relating to expenditure on staff management, directly by payments.

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 constituent act or basic act so provides or where they relate to administrative expenditure.

*Article 68*  
*Rules applicable to commitments*

1. In respect of any measure which may give rise to expenditure chargeable to the budget of the Office, the authorising officer responsible shall make a budgetary commitment before entering into a legal commitment with third parties.
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 Office.



3. 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 9(2) and 67(4) 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 the 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.

4. 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 the date referred to in the first subparagraph of this paragraph shall be decommitted in accordance with Article 14.

The amount of a budgetary commitment corresponding to a legal commitment for which no payment within the meaning of Article 73 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 the basic act.

#### *Article 69*

#### *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 of the Office;
  - (b) the appropriations are available;

- (c) the expenditure is in compliance with the applicable provisions, in particular those of the constituent act, the financial rules of the Office and all acts adopted pursuant to them;
  - (d) the principle of sound financial management is respected.
2. When registering a legal commitment by physical or electronic signature, the authorising officer responsible shall ensure that:
- (a) the commitment is covered by the corresponding budgetary commitment;
  - (b) the expenditure is legal and regular and in compliance with the applicable provisions, in particular those of the constituent act, the financial rules of the Office and all acts adopted pursuant to them;
  - (c) the principle of sound financial management is respected.

*Article 70*  
*Validation of expenditure*

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.

*Article 71*  
*Validation and material form of 'passing for payment'*

1. Validation of any expenditure shall be based on supporting documents attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered or work actually carried out, or on the basis of other documents justifying payment, including recurring payments of subscriptions or training courses.

2. The authorising officer responsible shall personally check the supporting documents or shall, on his own responsibility, ascertain that this has been done, before taking the decision validating the expenditure.
3. The validation decision shall be expressed by the signing of a 'passed for payment' voucher by the authorising officer responsible.
4. In a non-computerised system, 'passed for payment' shall take the form of a stamp incorporating the signature of the authorising officer responsible.

In a computerised system, 'passed for payment' shall take the form of validation using the personal password of the authorising officer responsible.

*Article 72*  
*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 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 responsible may order the application of a direct debit system.

2. The payment order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer. The supporting documents shall be kept by the authorising officer in accordance with Article 42(5).
3. Where appropriate, the payment order sent to the accounting officer shall be accompanied by a document certifying that the goods have been entered in the inventories referred to in Article 105(1).

*Article 73*  
*Types of payments*

1. Payment shall be made on production of proof that the relevant action has been carried out in accordance with the provisions of the basic act or the contract or grant agreement, and shall cover one of the following operations:
  - (a) payment of the entire amount due;
  - (b) payment of the amount due in any of the following ways:
    - 1) pre-financing, which may be divided into a number of payments after the signature of the contract or grant agreement or after notification of the grant decision.
    - 2) one or more interim payments as a counterpart of a partial execution of the action;
    - 3) payment of the balance of the amounts due where the action is completely executed.

Pre-financing shall provide a float. It may be split into a number of payments in accordance with sound financial management.

An interim payment, which may be repeated, may cover expenditure incurred for the implementation of the decision or agreement or to pay for services, supplies or works completed and/or delivered at interim stages of the contract. It may clear pre-financing in whole or in part, without prejudice to the provisions of the basic act.

The closure of the expenditure shall take the form of the payment of the balance which may not be repeated and which clears all preceding expenditure, or a recovery order.

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

*Article 74*  
*Payment limited to funds available*

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

*Article 75*  
*Time limits*

The payment of expenditure shall be carried out within the time limits specified in, and in accordance with the general Financial Regulation and its Rules of Application.

**CHAPTER 6**  
**IT SYSTEMS**

*Article 76*  
*Electronic management of operations*

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

*Article 77*  
*e-Government*

The Office 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.

## **CHAPTER 7**

### **GOOD ADMINISTRATION**

#### *Article 78*

##### *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 79*

##### *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 that 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 8 INTERNAL AUDITOR**

### *Article 80*

#### *Appointment and powers and duties of the internal auditor*

1. The Office shall have an internal auditing function which shall be performed in compliance with the relevant international standards.
2. The internal auditor shall be appointed by the Executive Director in accordance with the provisions of the constituent act. The internal auditor shall be responsible for verifying the proper operation of budget implementation systems and procedures of the Office. The internal auditor may be neither authorising officer nor accounting officer.
3. The internal auditor shall advise the Executive Director 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 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 operation for implementation of the budget of the Office.
4. The internal auditor shall perform his or her duties in relation to all the Office's activities and departments. The internal auditor shall enjoy full and unlimited access to all information required to perform his or her duties.
  5. The internal auditor shall take note of the consolidated annual activity report of the authorising officer and any other pieces of information identified.
  6. The internal auditor shall draw up an annual audit plan taking into consideration *inter alia* the Executive Director's assessment of risk in the Office.

7. The internal auditor shall report to the Executive Director on his or her findings and recommendations.

The internal auditor shall also report in any of the following cases:

- critical risks and recommendations have not been addressed;
  - there are significant delays in the implementation of the recommendations made in previous years.
8. The internal auditor shall make the internal audit reports available to the Management Board and shall submit to the Management Board and the Executive Director an annual audit report setting out *inter alia* the number and type of internal audits conducted, the recommendations made and the action taken on these recommendations.
  9. The Management Board shall ensure adequate follow-up to the findings and recommendations stemming from the internal audit reports.
  10. The Office 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.
  11. The reports and findings of the internal auditor shall be accessible to the public only after validation by the internal auditor of the action taken for their implementation.

*Article 81  
Independence of the internal auditor*

The internal auditor shall enjoy complete independence in the conduct of the audits.

He or she may not be given any instructions nor be restricted in any way as regards the performance of the functions which, by virtue of his or her appointment, are assigned to him or her under the Financial Regulation.

The independence of the internal auditor, his or her liability for action taken in the performance of his or her duties and the right for the internal auditor to bring action before the Court of Justice of the European Union shall be determined in accordance with Article 100(1) of the general Financial Regulation.



*Article 82*  
*Sharing of internal audit function*

1. The Office's internal auditor may act as, or assume part of the tasks of the internal audit capability for another Union body where the internal audit capability is not cost-effective or is not able to meet international standards.

In such cases, the Executive Director shall agree on the practical modalities of the shared internal audit function.

2. The internal audit actors shall cooperate efficiently through exchanging information and audit reports and, where appropriate, establishing joint risk assessments, and carrying out joint audits.

**TITLE V**  
**PROCUREMENT**

*Article 83*  
*General provisions*

1. As regards procurement, Title V of the general Financial Regulation and of its Rules of Application shall apply subject to Article 84.
2. The Office may be associated, at its request, as contracting authority, in the award of Commission, interinstitutional or interagency contracts and with the award of contracts of other Union bodies.
3. The Office shall participate in the early detection and exclusion system set up and operated by the Commission pursuant to Article 108 of the general Financial Regulation.

*Article 84*  
*Procurement Procedures*

1. The Office may conclude a contract, without having recourse to a public procurement procedure, with the Commission, the interinstitutional offices, the Translation Centre for bodies of the European Union established by Council Regulation (EC) No 2965/94<sup>7</sup>, and with other Union bodies, for the supply of goods, provision of services or performance of work that the latter provide.
2. The Office may use joint procurement procedures with contracting authorities of the host Member State to cover its administrative needs. In such cases, Article 133 of the general Rules of Application shall apply *mutatis mutandis*.

**TITLE VI**  
**BUILDING PROJECTS**

*Article 85*  
*Building projects*

1. Where the Office foresees changes to its building policy which have a financial implication, it shall provide the Budget Committee, by 1 July, with a working document on its building policy, which shall incorporate the following information:
  - (a) for each building, the expenditure and surface area covered by the appropriations of the corresponding lines in the budget of the Office;
  - (b) the expected evolution of the global programming of surface area and locations for the coming years with a description of the building projects in planning phase which are already identified;
  - (c) the final terms and costs, as well as relevant information regarding project implementation of new building projects previously submitted to the Budget Committee under the procedure established in paragraph 2 and not included in the preceding year's working documents.

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<sup>7</sup> Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union (OJ L 314, 7.12.1994, p. 1).

2. For any building project likely to have significant financial implications for the budget of the Office, the Office shall inform the Budget Committee as early as possible about the building surface area required and provisional planning before any prospecting of the local market takes place, in the case of building contracts, or before invitations to tender are issued, in the case of building works.
3. For any building project likely to have significant financial implications for the budget of the Office, the Office shall present the building project, including its detailed estimated costs and its financing, as well as a list of draft contracts intended to be used, and shall request the approval of the Budget Committee before contracts are concluded. At the request of the Office, documents submitted relating to the building project shall be treated confidentially

Except in cases of force majeure, the Budget Committee shall deliberate upon the building project within four weeks of its receipt by the Budget Committee.

The building project shall be deemed approved at the expiry of this four-week period, unless the Budget Committee takes a decision contrary to the proposal within this period of time.

If the Budget Committee raises duly justified concerns within that four-week period, that period shall be extended once by two weeks.

If the Budget Committee takes a decision contrary to the building project, the Office shall withdraw its proposal and may submit a new one.

4. In cases of force majeure, the information provided for in paragraph 2 may be submitted jointly with the building project. The Budget Committee shall deliberate upon the building project within two weeks of its receipt by the Budget Committee. The building project shall be deemed to be approved at the expiry of this two-week period, unless the Budget Committee takes a decision contrary to the proposal within this period of time.
5. The following shall be considered as building projects likely to have significant financial implications for the budget of the Office:
  - (a) any acquisition of land;
  - (b) the acquisition, sale, structural renovation, construction of buildings or any project combining these elements to be implemented in the same timeframe, exceeding EUR 3 000 000;

- (c) any new building contract (including usufructs, long-term leases and renewals of existing building contracts under less favourable conditions) not covered by point (b) with an annual charge of at least EUR 750 000;
  - (d) the extension or renewal of existing building contracts (including usufruct and long-term leases) under the same or more favourable conditions, with an annual charge of at least EUR 3 000 000.
6. Without prejudice to Article 17(4), a building acquisition project may be financed through a loan, subject to prior approval by the Budget Committee.

Loans shall be contracted and repaid in accordance with the principle of sound financial management and with due regard to the best financial interests of the Office.

When the Office proposes to finance the acquisition through a loan, the financing plan to be submitted by the Office, together with the request for prior approval, shall specify in particular, the maximum level of financing, the financing period, the type of financing, the financing conditions and savings compared to other types of contractual arrangements.

The Budget Committee shall deliberate upon the request for prior approval within four weeks, extendable once by two weeks, of its receipt by the Budget Committee. The acquisition through a loan shall be deemed to be rejected if the Budget Committee does not expressly approve it within the deadline.

## **TITLE VII EXPERTS**

### *Article 86 Remunerated external experts*

Article 287 of the general Rules of Application shall apply *mutatis mutandis* to the selection of experts. Such experts shall be paid on the basis of a fixed amount announced in advance and shall be chosen on the basis of their professional capacity. The selection shall be done on the basis of selection criteria respecting the principles of non-discrimination, equal treatment and absence of conflict of interests.

## **TITLE VIII GRANTS AND PRIZES AWARDED BY THE OFFICE**

### *Article 87 Grants*

As regards any grants awarded by the Office, the relevant provisions of the general Financial Regulation and its Rules of Application shall apply.

### *Article 88 Prizes*

As regards prizes awarded by the Office, the relevant provisions of the general Financial Regulation and its Rules of Application shall apply.

## **TITLE IX RESERVE FUND**

### *Article 89 Establishment of the reserve fund*

1. Pursuant to Article 139(10) of the constituent act, the Office shall establish a reserve fund having sufficient funds to ensure the continuity of its operations and the execution of its tasks for one year, that is, the equivalent of the estimated appropriations foreseen in Titles 1, 2 and 3 of the Office's budget.
2. Each year, the Management Board and the Budget Committee shall take the necessary measures to ensure compliance with Article 139(10) of the constituent act and, in particular, before approving the allocation of the funds foreseen under Articles 139(5), (7) and (8).
3. Funds may only be allocated to the reserve fund when expressly authorised by the Budget Committee.

*Article 90*  
*Use of the reserve fund*

1. The reserve fund may only be used to cover expenditure under Titles 1, 2 and 3 of the Office's budget, including expenditure related to cooperation activities with the Member States but excluding compensation to the Member States pursuant to Article 139(5) and (7) of the constituent act.

The reserve fund may only be used with the prior authorisation of the Budget Committee.

2. For each financial year, the reserve fund shall be reflected in the balance sheet in the annual accounts of the Office.

**TITLE X**  
**PRESENTATION OF THE ACCOUNTS AND ACCOUNTING**

**CHAPTER 1**  
**PRESENTATION OF THE ACCOUNTS**

*Article 91*  
*Structure of the accounts*

The accounts of the Office shall comprise:

- (a) the financial statements of the Office;
- (b) the reports on implementation of the Office's budget.

*Article 92*  
*Report on budgetary and financial management*

1. The Office shall prepare a report on its budgetary and financial management for the financial year.
2. The Executive Director shall send the report to the Budget Committee, the Commission and the Court of Auditors, by 31 March of the following financial year.
3. The report referred to in paragraph 1 shall give an account, both in absolute terms and expressed as a percentage, at least, of the rate of implementation of appropriations together with summary information on the transfers of appropriations among the various budget items.

*Article 93*  
*Rules governing the accounts*

1. The accounting officer of the Office shall apply the rules adopted by the accounting officer of the Commission based on internationally accepted accounting standards for the public sector.
2. The accounts of the Office referred to in Article 91 shall respect the budgetary principles laid down in Articles 5 to 29. They shall present a true and fair view of the budgetary revenue and expenditure operations.

*Article 94*  
*Accounting principles*

The financial statements referred to in Article 88 shall present information, including information on accounting policies, in a manner that ensures it is relevant, reliable, comparable and understandable. The financial statements shall be drawn up in accordance with generally accepted accounting principles as outlined in the accounting rules referred to in Article 143 of the general Financial Regulation.

*Article 95*  
*Financial statements*

1. The financial statements shall be presented in euro and shall comprise:
  - (a) the balance sheet and the statement of financial performance, which represent all assets and liabilities, the financial situation and the economic result at 31 December of the preceding year; they shall be presented in accordance with the accounting rules referred to in Article 143 of the general Financial Regulation;
  - (b) the cash flow statement showing amounts collected and disbursed during the year and the final treasury position;
  - (c) the statement of changes in net assets presenting an overview of the movements during the year in reserves and accumulated results.
2. The notes to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by internationally accepted accounting practice where such information is relevant to the Office's activities.

*Article 96*  
*Budgetary implementation reports*

1. The budgetary implementation reports shall be presented in euro. They shall consist of:
  - (a) reports which aggregate all budgetary operations for the year in terms of revenue and expenditure;
  - (b) explanatory notes, which shall supplement and comment on the information given in the reports.
2. The budget result shall consist of the difference between:
  - all the revenue collected in respect of that financial year,
  - the amount of payments made against appropriations for that financial year increased by the amount of the appropriations for the same financial year carried over.



The difference referred to in the first subparagraph shall be increased or decreased on the one hand, by the net amount of appropriations carried over from previous financial years which have been cancelled and, on the other hand, by:

- payments made in excess of non-differentiated appropriations carried over from the previous financial year, as a result of change in euro rates;
- the balance resulting from exchange gains and losses during the financial year, both realised and non-realised.

3(a) For the purposes of Article 139(6) of the constituent act, a budgetary deficit shall be the negative result consisting in the difference between:

- the yearly revenue, as defined in Article 6(3), plus any unused appropriations carried over from the previous financial year,
- and
- the total of the budget execution of Titles 1, 2 and 3 of that financial year, comprising the payments and the appropriations carried over against that financial year's budget,

less any eventual allocations to or plus any withdrawals from the reserve fund,

less the amount that would correspond to the offsetting foreseen in article 139(5) of the constituent act,

and excluding the positive/negative balance from the previous financial year.

(b) For the purposes of Article 139(7) of the constituent act, a budgetary surplus shall be the positive result consisting in the difference between:

- the yearly revenue, as defined in Article 6(3), plus any unused appropriations carried over from the previous financial year,
- and
- the total of the budget execution of Titles 1, 2 and 3 of that financial year, comprising the payments and the appropriations carried over against that financial year's budget,

less any eventual allocations to or plus any withdrawals from the reserve fund,

less the amount corresponding to the offsetting foreseen in article 139(5) of the constituent act,

and excluding the positive/negative balance from the previous financial year.

- (c) For the purposes of the substantive surplus generated during five consecutive years provided for in Article 139(8) of the constituent act, a budgetary surplus shall be the positive result in each year consisting in the difference between:
- the yearly revenue, as defined in the Article 6(3), plus any unused appropriations carried over from the previous financial year,
  - and
  - the total of the budget execution of Titles 1, 2 and 3 of that financial year, comprising the payments and the appropriations carried over against that financial year's budget,
- less any eventual allocations to or plus any withdrawals from the reserve fund,  
less the amount corresponding to the offsetting foreseen in articles 139(5) and (7) of the constituent act,  
and excluding the positive/negative balance from the previous financial year.
4. Where applicable, the offsetting foreseen in Article 139(5) of the constituent act corresponding to a specific financial year N will be distributed to the Member States in year N+2, i.e. in the budgetary exercise following the closure of the accounts of that financial year.
  5. The structure of the budgetary implementation reports shall be the same as that of the budget of the Office itself.

*Article 97*  
*Provisional accounts*

1. The Executive Director shall send the provisional accounts to the Budget Committee, to the accounting officer of the Commission and to the Court of Auditors by 31 March of the following year.
2. The accounting officer shall send by 31 March of the following year a reporting package to the accounting officer of the Commission, in a standardised format as laid down by the accounting officer of the Commission for consolidation purposes.

*Article 98*  
*Approval of the final accounts*

1. In accordance with Article 148(1) of the general Financial Regulation, the Court of Auditors shall, by 1 June of the following year at the latest, make its observations on the provisional accounts of the Office.
2. On receiving the Court of Auditors' observations on the provisional accounts of the Office, the accounting officer shall draw up the final accounts of the Office in accordance with Article 48. The Executive Director shall send them by no later than 1 July of the following financial year to the Budget Committee.

Where the Office receives a subsidy from the Union budget, the Budget Committee shall give an opinion on the final accounts.

3. The accounting officer shall send the final accounts, together with the Budget Committee's opinion, where the Office receives a subsidy from the Union budget, to the accounting officer of the Commission, the Court of Auditors, the European Parliament and the Council, by 1 July of the following financial year.

The accounting officer of the Office shall also send by 1 July, a reporting package to the accounting officer of the Commission, in a standardised format as laid down by the accounting officer of the Commission for consolidation purposes.

4. The accounting officer of the Office shall also send to the Court of Auditors, with a copy to the accounting officer of the Commission, at the same date as the transmission of the final accounts, a representation letter covering those final accounts.

The final accounts shall be accompanied by a note drawn up by the accounting officer, in which the latter declares that the final accounts were prepared in accordance with this Title and with the applicable accounting principles, rules and methods.

The final accounts of the Office shall be published in the *Official Journal of the European Union* by 15 November of the following year.

5. The Executive Director shall send the Court of Auditors a reply to the observations made in its annual report by 30 September of the following year at the latest.

**CHAPTER 2**  
**ACCOUNTING AND PROPERTY INVENTORIES**

**SECTION 1**  
**COMMON PROVISIONS**

*Article 99*  
*The accounting system*

1. The accounting system of the Office shall serve to organise the budgetary and financial information in such a way that figures can be entered, filed and registered.
2. The accounting system shall consist of general accounts and budgetary accounts. The accounts shall be kept in euro on the basis of the calendar year.
3. The authorising officer may also keep analytical accounts.

*Article 100*  
*Common requirements for the accounting system*

The accounting rules and methods and the chart of accounts to be applied by the Office shall be adopted by the Office's accounting officer, who shall ensure the necessary consistency with the rules adopted by the Commission's accounting officer.

**SECTION 2**  
**GENERAL AND BUDGETARY ACCOUNTS**

*Article 101*  
*The general accounts*

The general accounts shall record, in chronological order using the double entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of the Office.

*Article 102*  
*Entries in the general accounts*

1. Balances and movements in the general accounts shall be entered in the accounting ledgers.
2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which the entries shall refer.
3. The accounting system shall be such as to leave a clear audit trail for all accounting entries.

*Article 103*  
*Accounting adjustments*

The accounting officer of the Office shall, after the close of the financial year and up to the date of presentation of the final accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of the accounts. Such adjustments shall comply with the accounting rules referred to in Article 100.

*Article 104*  
*Budgetary accounting*

1. The budgetary accounts shall provide a detailed record of the implementation of the budget of the Office.
2. For the purposes of paragraph 1, the budgetary accounts shall record all budgetary revenue and expenditure operations provided for in Title IV.

*Article 105*  
*Property inventory*

1. The Office shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting Office property in accordance with a model drawn up by the accounting officer of the Commission.

The Office shall check that entries in the inventory correspond to the actual situation.

2. The sale of the Office's tangible assets shall be suitably advertised.

**TITLE XI**  
**EXTERNAL AUDIT, DISCHARGE AND COMBATting FRAUD**

*Article 106*  
*External audit*

1. The Court of Auditors shall verify that the annual accounts of the Office properly present the revenue, expenditure and financial position of the Office prior to the consolidation in the final accounts of the Office.

The Court of Auditors shall prepare a specific annual report on the Office in line with the requirements of Article 287(1) of the Treaty on the Functioning of the European Union.

2. The Office shall send to the Court of Auditors the budget of the Office, as finally adopted. It shall inform the Court of Auditors, as soon as possible, of all decisions and acts adopted pursuant to Articles 25, 38, 48(1) and (4), 50 and 80(2).
3. The scrutiny carried out by the Court of Auditors shall be governed by Articles 158 to 163 of the general Financial Regulation.

*Article 107*  
*Timetable of the discharge procedure*

1. The Budget Committee shall, before 30 June of year N+2 give discharge to the Executive Director in respect of the implementation of the budget for year N.
2. If the date provided for in paragraph 1 cannot be met, the Budget Committee shall inform the Executive Director of the reasons for the postponement.
3. If the Budget Committee postpones the decision giving discharge, the Executive Director shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

*Article 108*  
*The discharge procedure*

1. The discharge decision shall cover the accounts of all the revenue and expenditure of the Office, the budget result and the assets and liabilities of the Office shown in the financial statement.
2. With a view to granting the discharge, the Budget Committee shall examine the accounts and financial statements of the Office. It shall also examine the annual report made by the Court of Auditors, together with the replies of the Executive Director, any relevant special reports by the Court of Auditors in respect of the financial year concerned and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.
3. The Executive Director shall submit to the Budget Committee, at its request, any information required for the smooth application of the discharge procedure for the financial year concerned.

*Article 109*  
*Follow-up measures*

1. The Executive Director shall take all appropriate steps to act on the observations accompanying the Budget Committee's discharge decision.
2. At the request of the Budget Committee, the Executive Director shall report on the measures taken in the light of those observations and comments. The Executive Director shall send a copy thereof to the Commission and the Court of Auditors.

*Article 110*  
*On-the-spot checks by the Court of Auditors, OLAF and the Commission*

1. The Office shall grant the Court of Auditors access to its sites and premises and to all the data and information, including data and information in electronic format, needed in order to conduct their audits.

Where the Office receives a subsidy from the Union budget, it shall also grant to Commission staff and other persons authorised by it the access necessary in order to conduct their audits.

2. The European Anti-Fraud Office (OLAF) may carry out investigations including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013<sup>8</sup> of the European Parliament and of the Council and Council Regulation (Euratom, EC) No 2185/96<sup>9</sup>, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with any grant or contract awarded under this Regulation.
3. Without prejudice to paragraphs 1 and 2, agreements with third countries and international organisations, contracts, grants and procurements of the Office shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

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<sup>8</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p.1).

<sup>9</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.1.1996, p.2).



## **TITLE XII TRANSITIONAL AND FINAL PROVISIONS**

### *Article 111*

#### *Information requests by the European Parliament, the Council and the Commission*

The European Parliament, the Council and the Commission shall be entitled to obtain any necessary information or explanations from the Office regarding budgetary matters within their fields of competence.

### *Article 112*

#### *Rules implementing the Financial Regulation of the Office*

The Budget Committee shall, as far as is necessary and, having consulted the Commission, adopt detailed rules for implementing this Financial Regulation, on a proposal from the Executive Director.

### *Article 113*

#### *Repeal*

Regulation No CB-3-09 of the Budget Committee is repealed with effect from 23 March 2016.

### *Article 114*

#### *Entry into force*

This Regulation shall enter into force on 23 March 2016.

Done at Alicante on 26 November 2015.

*For the Budget Committee  
The Chairperson*

*Anne Rejnhold JØRGENSEN*