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CHANGES REQUIRED IN THE IMPLEMENTING RULES OF THE FINANCIAL REGULATION AS REGARDS THE EUROPEAN EXTERNAL ACTION SERVICE

accompanying the

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Union, as regards the European external action service

{COM(2010) 85 final}

Introduction

The present document, which is not a formal proposal, presents the changes which would be required to the Implementing Rules (IR) of the Financial Regulation (FR) to accommodate for the creation of the European External Action Service (EEAS). These changes are coherent and complementary to the Commission proposal amending the FR itself for the creation of EEAS.

For procedural reasons, the Commission will make its formal proposal for amending the IR, which is a Commission Regulation, at a later stage. However, since the provisions of the FR and IR are linked, and taking into account the traditional close cooperation with the European Parliament, the Council and the Court of Auditors on the IR, the Commission considers that the changes envisaged should be made availbale for information at least. This should allow the concerned institutions to have a complete overview of the consequences of the creation of the EEAS on the financial rules.

Main changes required for the creation of the EEAS in the Implementing Rules

The Commission proposal amending the FR foresees a derogation from current rules of delegation (Article 51 FR), which authorises the Commission to sub-delegate its powers of budget implementation of operational expenditure to Heads of Union Delegations, who belong to another Institution in the sense of Article 1 FR (EEAS).

As a consequence of such derogation, specific provisions in the FR set out the respective duties and obligations of Heads of Union Delegations, when they act as authorising officers by sub-delegation of the Commission. These specific provisions also have an impact on the corresponding provisions of the IR, in particular:

- the rules preventing conflicts of interests;
- the Internal Rules of the Commission for the execution of the Budget;
- the code of professional standards adopted by the Commission;
- the panel of irregularities of the Commission;

Moreover, in order to avoid disrupting the functioning of Delegations or the Commission services when EEAS is put in place, specific provisions should be proposed to ease daily management issues such as the rules applicable to imprest accounts or the composition of evaluation committees for grant applications.

The changes envisaged are shown in the table in Annex. They are indicative and do not pre-empt the changes which will be finally proposed by the Commission.

ANNEX – INDICATIVE TABLE ON THE CHANGES REQUIRED IN THE IMPLEMENTING RULES FOR THE CREATION OF THE EEAS

COMMISSION REGULATION 2342/2002	CHANGES NECESSARY TO ACCOMMODATE THE CREATION OF THE EUROPEAN EXTERNAL ACTION SERVICE	COMMENTS
CHAPTER 3 **Financial actors**	**CHAPTER 3** **Financial actors**	
SECTION 1 **RIGHTS AND OBLIGATIONS OF THE FINANCIAL ACTORS**	**SECTION 1** **RIGHTS AND OBLIGATIONS OF THE FINANCIAL ACTORS**	
Article 44 *Rights and obligations of the financial actors* *(Article 58 of the Financial Regulation)*	*Article 44* *Rights and obligations of the financial actors* *(Article 58 of the Financial Regulation)*	
Each institution shall provide each financial actor with the resources required to perform his duties and a charter describing in detail his tasks, rights and obligations.	1. Each institution shall provide each financial actor with the resources required to perform his duties and a charter describing in detail his tasks, rights and obligations. **2. Heads of Union Delegations acting as authorising officers by sub-delegation in**	Modification which provides that Heads of Delegations need to sign the charter of the

	accordance with the second paragraph of Article 51 of the Financial Regulation shall be submitted to the Charter provided by the Commission for the implementation of the financial management tasks subdelegated to them.	Commission for sub-delegated authorising officers (AOSDs), when they act as AOSDs of the Commission.
SECTION 2 **AUTHORISING OFFICER**	**SECTION 2** **AUTHORISING OFFICER**	
Article 45 *Assistance for authorising officers by delegation and subdelegation* *(Article 59 of the Financial Regulation)*	*Article 45* *Assistance for authorising officers by delegation and subdelegation* *(Article 59 of the Financial Regulation)*	
1. The authorising officer responsible may be assisted in his duties by persons covered by the Staff Regulation (hereinafter «staff») entrusted, under his responsibility, with certain operations required for the implementation of the budget and production of the financial and management information. In order to prevent any conflict of interests, staff assisting authorising officers by delegation or subdelegation shall be subject to the obligations referred to in Article 52 of the Financial Regulation.	1. The authorising officer responsible may be assisted in his duties by persons covered by the Staff Regulation (hereinafter «staff») entrusted, under his responsibility, with certain operations required for the implementation of the budget and production of the financial and management information. In order to prevent any conflict of interests, staff assisting authorising officers by delegation or subdelegation shall be subject to the obligations referred to in Article 52 of the Financial Regulation.	.
	1a. Heads of Union Delegations acting as authorising officers by subdelegation in accordance with the second paragraph of	In line with the Commission proposal on the FR, financial circuits in Delegations should remain homogeneous and under the same

	Article 51 of the Financial Regulation may be assisted in their duties by Staff of the Commission.	line of responsibility. Therefore, only Commission Staff in Delegations may assist the Head of Delegation when he acts as AOSD of the Commission.
2. Each institution shall inform the budgetary authority whenever an authorising officer by delegation takes up his duties, changes duties or terminates his duties.	2. Each institution shall inform the budgetary authority whenever an authorising officer by delegation takes up his duties, changes duties or terminates his duties.	
Article 46 *Internal provisions governing delegations* *(Article 59 of the Financial Regulation)*	*Article 46* *Internal provisions governing delegations* *(Article 59 of the Financial Regulation)*	
In accordance with the Financial Regulation and this Regulation, each institution shall lay down in its internal rules such measures for the management of appropriations as it considers necessary for proper implementation of its section of the budget.	1. In accordance with the Financial Regulation and this Regulation, each institution shall lay down in its internal rules such measures for the management of appropriations as it considers necessary for proper implementation of its section of the budget.	
	2. Heads of Union Delegations acting as authorising officers by subdelegation in accordance with the second paragraph of Article 51 of the Financial Regulation, shall be submitted to the Internal Rules of the Commission for the implementation of the financial management tasks subdelegated to them.	Modification which provides that Heads of Delegations need to respect the Internal Rules of the Commission when they act as AOSDs of the Commission.

Article 50 *Code of professional standards* *(Article 60(5) of the Financial Regulation)*	*Article 50* *Code of professional standards* *(Article 60(5) of the Financial Regulation)*	
1. The staff designated by the authorising officer responsible to verify financial operations shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or by appropriate professional experience, or after an appropriate training programme.	1. The staff designated by the authorising officer responsible to verify financial operations shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or by appropriate professional experience, or after an appropriate training programme.	
2. Each institution shall draw up a code of professional standards which determine, on matters of internal control:	2. Each institution shall draw up a code of professional standards which determine, on matters of internal control:	
(a) the level of technical and financial competence required of the staff referred to in paragraph 1;	(a) the level of technical and financial competence required of the staff referred to in paragraph 1;	
(b) the obligation for such staff to undergo continuing training;	(b) the obligation for such staff to undergo continuing training;	
(c) the mission, role and tasks allocated to them;	(c) the mission, role and tasks allocated to them;	
(d) the rules of conduct, in particular the standards of ethics and integrity that they must comply with and the rights they enjoy.	(d) the rules of conduct, in particular the standards of ethics and integrity that they must comply with and the rights they enjoy.	

	2a. Heads of Union Delegations acting as authorising officers by subdelegation in accordance with the second paragraph of Article 51 of the Financial Regulation shall be submitted to the Commission code of professional standards referred to in paragraph 2 of this Article for the implementation of the financial management tasks subdelegated to them.	Modification which provides that Heads of Delegations need to respect the Commission code of professional standards when they act as AOSDs of the Commission.
3. Each institution shall put in place the appropriate structures to distribute to authorising departments and update periodically appropriate information concerning the control standards and the methods and techniques available for that purpose.	3. Each institution shall put in place the appropriate structures to distribute to authorising departments and update periodically appropriate information concerning the control standards and the methods and techniques available for that purpose.	
SECTION 4 **IMPREST ADMINISTRATOR**	**SECTION 4** **IMPREST ADMINISTRATOR**	
Article 66 *Conditions of use of imprest accounts* *(Article 63 of the Financial Regulation)*	*Article 66* *Conditions of use of imprest accounts* *(Article 63 of the Financial Regulation)*	
1. Where, owing to the limited amounts involved, it is materially impossible or inefficient to carry out payment operations by budgetary procedures, imprest accounts may be set up for the payment of such expenditure.	1. Where, owing to the limited amounts involved, it is materially impossible or inefficient to carry out payment operations by budgetary procedures, imprest accounts may be set up for the payment of such expenditure.	

2. The imprest administrator may provisionally validate and pay expenditure, on the basis of a detailed framework set out in the instructions from the authorising officer responsible. Those instructions shall specify the rules and conditions under which the provisional validation and payments shall be carried out and, where appropriate, the terms for signing legal commitments within the meaning of Article 94(1)(e).	2. The imprest administrator may provisionally validate and pay expenditure, on the basis of a detailed framework set out in the instructions from the authorising officer responsible. Those instructions shall specify the rules and conditions under which the provisional validation and payments shall be carried out and, where appropriate, the terms for signing legal commitments within the meaning of Article 94(1)(e).	
3. The creation of an imprest account and the appointment of an imprest administrator shall be the subject of a decision by the accounting officer, on a duly substantiated proposal from the authorising officer responsible. That decision shall set out the respective responsibilities and obligations of the imprest administrator and the authorising officer.	3. The creation of an imprest account and the appointment of an imprest administrator shall be the subject of a decision by the accounting officer, on a duly substantiated proposal from the authorising officer responsible. That decision shall set out the respective responsibilities and obligations of the imprest administrator and the authorising officer.	
Amendment of the operating terms for an imprest account shall also be the subject of a decision by the accounting officer on a duly substantiated proposal from the authorising officer responsible.	Amendment of the operating terms for an imprest account shall also be the subject of a decision by the accounting officer on a duly substantiated proposal from the authorising officer responsible.	
	4. In Union Delegations, imprest accounts shall be set up for the payment of expenditure from both the Commission section of the Budget and the EEAS section of the Budget.	For reasons of efficiency, only one imprest account should be set up in Delegations, even if it should concern appropriations from both the Commission and EEAS sections of the Budget.

Article 75 *Financial irregularities panel* *(Articles 60(6) and 66(4) of the Financial Regulation)*	*Article 75* *Financial irregularities panel* *(Articles 60(6) and 66(4) of the Financial Regulation)*	
1. Cases of financial irregularities as referred to in Article 74 of this Regulation shall be referred to the Panel by the appointing authority for an opinion referred to in the second subparagraph of Article 66(4) of the Financial Regulation.	1. Cases of financial irregularities as referred to in Article 74 of this Regulation shall be referred to the Panel by the appointing authority for an opinion referred to in the second subparagraph of Article 66(4) of the Financial Regulation. **Where Heads of Union Delegations act as authorising officers by subdelegation in accordance with the second paragraph of Article 51 of the Financial Regulation, the responsible authorising officer may refer directly to the Panel for an opinion on cases of financial irregularities as referred to in Article 74 of this Regulation.**	The Appointing Authority for Heads of Delegations is the High Representative for Foreign Affairs. Thus, a specific provision is required to provide for the possibility that the AO (i.e. Directors-Generals of the Commission) can directly refer to the Panel of irregularities on cases which might concern Heads of Delegations when they act as AOSDs of the Commission.
An authorising officer by delegation may refer a matter to the panel if he considers that a financial irregularity has occurred. The Panel shall deliver an opinion evaluating whether irregularities within the meaning of Article 74 have occurred, how serious they are and what their consequences might be. Where the Panel's analysis suggests that the case referred to it is a matter for OLAF, it	An authorising officer by delegation may refer a matter to the panel if he considers that a financial irregularity has occurred. The Panel shall deliver an opinion evaluating whether irregularities within the meaning of Article 74 have occurred, how serious they are and what their consequences might be. Where the Panel's analysis suggests that the case referred to it is a matter for OLAF, it	

shall transmit the file to the appointing authority without delay and shall inform OLAF at once.	shall transmit the file to the appointing authority without delay and shall inform OLAF at once.	
When the panel is directly informed of a matter by a member of staff in accordance with Article 60(6) of the Financial Regulation, it shall transmit the file to the appointing authority and shall inform the member of staff accordingly. The appointing authority may request the panel's opinion on the case.	When the panel is directly informed of a matter by a member of staff in accordance with Article 60(6) of the Financial Regulation, it shall transmit the file to the appointing authority and shall inform the member of staff accordingly. The appointing authority may request the panel's opinion on the case.	
2. The institution or, in the case of a joint panel, the participating institutions shall, depending on its or their own internal organisation, specify the operating arrangements of the panel and its composition, which shall include an external participant with the required qualifications and expertise.	2. The institution or, in the case of a joint panel, the participating institutions shall, depending on its or their own internal organisation, specify the operating arrangements of the panel and its composition, which shall include an external participant with the required qualifications and expertise.	
Article 178 *Evaluation of applications and award* *(Article 116 of the Financial Regulation)*	*Article 178* *Evaluation of applications and award* *(Article 116 of the Financial Regulation)*	
1. The authorising officer responsible shall appoint a committee to evaluate the proposals, unless the Commission decides otherwise in the framework of a specific sectoral programme. The authorising officer may appoint such a committee before the final date for the submission of proposals provided for in point (d) of Article 167.	1. The authorising officer responsible shall appoint a committee to evaluate the proposals, unless the Commission decides otherwise in the framework of a specific sectoral programme. The authorising officer may appoint such a committee before the final date for the submission of proposals provided for in point (d) of Article 167.	

The committee shall be made up of at least three persons representing at least two organisational entities of the Commission with no hierarchical link between them. To avoid any conflict of interests, those persons shall be subject to the obligations laid down in Article 52 of the Financial Regulation.	The committee shall be made up of at least three persons representing at least two organisational entities **either** of the Commission **or any staff of any other institution involved in the management of the budget** with no hierarchical link between them. To avoid any conflict of interests, those persons shall be subject to the obligations laid down in Article 52 of the Financial Regulation.	This change aims at allowing staff in Delegations to participate in evaluation committees for grants. This corresponds to current practice and should be maintained once the EEAS is created.
In the representations and local units referred to in Article 254 and the delegated bodies referred to in Article 160(1), if there are no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.	In the representations and local units referred to in Article 254 and the delegated bodies referred to in Article 160(1), if there are no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.	
Outside experts may assist the committee by decision of the authorising officer responsible.	Outside experts may assist the committee by decision of the authorising officer responsible.	
1a. The authorising officer responsible shall, where appropriate, divide the process into several procedural stages. The rules governing the process shall be announced in the call for proposals.	1a. The authorising officer responsible shall, where appropriate, divide the process into several procedural stages. The rules governing the process shall be announced in the call for proposals.	
Where a call for proposals specifies a two-stage submission procedure, only those applicants whose proposals satisfy the evaluation criteria for the first stage shall be requested to submit a complete proposal in the second stage.	Where a call for proposals specifies a two-stage submission procedure, only those applicants whose proposals satisfy the evaluation criteria for the first stage shall be requested to submit a complete proposal in the second stage.	
Where a call for proposals specifies a two-stage evaluation procedure, only those proposals that	Where a call for proposals specifies a two-stage evaluation procedure, only those proposals that	

pass the first stage, based on the evaluation against a limited set of criteria, shall go forward for further evaluation.	pass the first stage, based on the evaluation against a limited set of criteria, shall go forward for further evaluation.	
The applicants whose proposals are rejected at any stage shall be informed in accordance with Article 116 (3) of the Financial Regulation.	The applicants whose proposals are rejected at any stage shall be informed in accordance with Article 116 (3) of the Financial Regulation.	
Each subsequent stage of the procedure must be clearly distinct from the previous one.	Each subsequent stage of the procedure must be clearly distinct from the previous one.	
The same documents and information shall not be required to be provided more than once during the same procedure.	The same documents and information shall not be required to be provided more than once during the same procedure.	
2. The evaluation committee or, where appropriate, the authorising officer responsible may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, in particular in the case of obvious clerical errors.	2. The evaluation committee or, where appropriate, the authorising officer responsible may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, in particular in the case of obvious clerical errors.	
The authorising officer shall keep appropriate records of contacts with applicants during the procedure.	The authorising officer shall keep appropriate records of contacts with applicants during the procedure.	
3. Upon completion of its work, the members of the evaluation committee shall sign a record of all the proposals examined, containing an assessment of their quality and identifying those which may receive funding. Where necessary that record shall rank the proposals examined.	3. Upon completion of its work, the members of the evaluation committee shall sign a record of all the proposals examined, containing an assessment of their quality and identifying those which may receive funding. Where necessary that record shall rank the proposals examined.	

The record shall be kept for future reference.	The record shall be kept for future reference.	
4. The authorising officer responsible shall then take his decision giving at least: (a) the subject and the overall amount of the decision; (b) the name of the beneficiaries, the title of the actions, the amounts accepted and the reasons for that choice, including where it is inconsistent with the opinion of the evaluation committee; (c) the names of any applicants rejected and the reasons for that rejection.	4. The authorising officer responsible shall then take his decision giving at least: (a) the subject and the overall amount of the decision; (b) the name of the beneficiaries, the title of the actions, the amounts accepted and the reasons for that choice, including where it is inconsistent with the opinion of the evaluation committee; (c) the names of any applicants rejected and the reasons for that rejection.	
5. The provisions of paragraphs 1 to 4 shall not apply to beneficiaries of grants who are identified in the basic act.	5. The provisions of paragraphs 1 to 4 shall not apply to beneficiaries of grants who are identified in the basic act.	