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ANNEX

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financed from the Union budget**

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ANNEX

Guidelines for the establishment and operation of executive agencies financed from the Union budget

1. INTRODUCTION

Under Council Regulation (EC) No 58/2003¹ the Commission may establish executive agencies and entrust to them, under its control and responsibility, certain tasks relating to the management of Union programmes (Article 1 of Regulation (EC) No 58/2003).

This Regulation lays down the statute for these executive agencies and the conditions for their establishment and operation.

The executive agencies constitute a specific type of Union agency:

- (1) because the legislator has, for the first time, authorised the Commission to set up Union bodies with separate legal personality (hitherto Council or Council and Parliament instruments were required to set up bodies of that type);
- (2) because these agencies can handle tasks of the Commission;
- (3) because these agencies implement operational appropriations directly in the Commission budget (in the same way that Commission services do when performing the role of authorising officer by delegation).

The main features of these agencies are autonomy and dependence:

- Autonomy, as these are structures with their own legal personality and hence the ability to adopt legal acts themselves and in their own name - such as agreements or contracts and individual decisions - when managing programmes (Article 4 of Regulation (EC) No 58/2003); they have their own operating budget and are subject to a separate discharge in respect of its implementation.
- Dependence, as these structures are set up only to perform the tasks delegated by the Commission:
 - in accordance with the rules determined by the Commission, laying down the tasks, the conditions and the arrangements for performing them in such a way as to comply with the objectives set by the Commission, and the institutional restrictions in the performance of the tasks, in particular the absence of a large measure of discretion implying political choices (Article 6 (1) and (3) of

¹ Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes, OJ L 11, 16.1.2003, p.1.

Regulation (EC) No 58/2003 and Article 58(7) 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 Union²);

- with the Commission supervising the executive agencies through the appointment of their respective director and members of their respective steering committee (Articles 8(1) and 10(1) of Regulation (EC) No 58/2003), the secondment of staff to positions of responsibility (Article 18(1) of Regulation (EC) No 58/2003) and the legal review of the executive agencies' acts (Article 22 of Regulation (EC) No 58/2003).

The purpose of these guidelines is to help Commission services that use or intend to use executive agencies to manage their funding programmes.

However, these guidelines do not claim to be exhaustive and users should always refer to the relevant rules (Regulation (EC), No 58/2003, Regulation (EU, Euratom) No 966/2012, Commission Delegated Regulation (EU, Euratom) 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 of the financial rules applicable to the general budget of the Union³ and Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes for the Executive Agencies⁴), which obviously take precedence.

Any deviation from these guidelines will have to be decided by the College, after prior discussion with the central services.

2. CONDITIONS FOR ESTABLISHING AN EXECUTIVE AGENCY OR EXTENDING THE MANDATE OF AN EXISTING ONE

2.1. Factors to be taken into account

Whether an agency should be set up or the mandate of an existing agency should be extended will depend on a number of factors, such as:

- the need for a high level of technical and financial expertise throughout the programme and project management cycle;
- the need of efficiency and flexibility in the implementation of the delegated tasks;
- the need to simplify the procedures used;

² OJ L 298, 26.10.2012, p.1.

³ OJ L 362, 31.12.2012, p.1.

⁴ OJ L 297, 22.9.2004, p.6. Regulation as last amended by Commission Regulation (EC) No 651/2008 of 9 July 2008, OJ L 181, 10.7.2008, p.15.

- clear division of programme management tasks between the Commission and the agencies. The Commission's services perform tasks involving a large measure of discretion implying political choices, in particular: setting objectives and priorities, adopting work programmes (including financing decisions), representing the Commission in the programme committee and adopting award/selection/rejection decisions subject to comitology. The agencies are responsible for implementing tasks, such as the launch and conclusion of grant and procurement procedures, the adoption of award/selection/rejection decisions, project monitoring, financial control and accounting, the contribution to programme evaluation and various support tasks;
- the need for the Commission to focus on legislative and strategic tasks in policy formation and monitoring, including those connected with Union programmes;
- the need to carry out certain activities with increased visibility without any intervention by third parties as intermediaries;
- the proximity of the delegated tasks to final beneficiaries;
- the need to establish a single entry point for all potential recipients of Union funds in a given field;
- the possibility of economies of scale through:
 - building on existing structures and the acquired know-how in a given field, in particular where the tasks envisaged for delegation succeed existing programme(s) presently managed by an agency;
 - a high level of specialisation in specifically defined tasks or the regrouping of similar programmes or activities within one agency to create coherent programme portfolios;
 - achieving efficiency gains and economies through the recruitment of a large percentage of contract agents in the agencies;
 - reaching or maintaining an optimal size to yield economies of scale.
- prior examination of the possibility of delegating tasks to another structure (for example a Joint Undertaking);

The assessment of these factors must be addressed in the compulsory cost-benefit analysis (point 4.2.2) and analysed in detail.

2.2. Boundary conditions: ensuring neutrality of possible further delegation of tasks to executive agencies

In the framework of the current multiannual financial framework (MFF) 2014-2020, additional constraints have to be taken into account when the Commission services contemplate having recourse to executive agencies. In its Communication on “A Budget for Europe 2020”⁵, the Commission

⁵ COM(2011)500 final of 29 June 2011.

proposed to use the option of more extensive recourse to existing executive agencies and confirmed that it does not intend to create new executive agencies. Instead, the mandates of the six existing executive agencies were expanded in 2013 to cover the management of an increased share of the new spending programmes under the 2014-2020 MFF. The delegation package adopted in 2013 sets out the baseline for the resources of executive agencies for the 2014-2020 period. Any further delegation of tasks to an executive agency needs to be reconciled with the overall 5% staff reduction in all institutions, agencies and bodies as agreed in the Interinstitutional Agreement of 2 December 2013. In particular, a possible transfer of tasks from Commission services to the agency (which frees administrative resources in the Commission) should be consistent with the principle of annual neutrality in heads: every year the staff increase in the agency resulting from the proposed delegation will have to be offset by a compensating staff reduction in the delegating DGs⁶). Furthermore, transfer of tasks should not lead to an overall increase of establishment plan posts in the Commission and executive agencies.

In view of the Commission commitment to freeze the number of executive agencies to the existing six, the guidance provided in the following sections will concentrate on the decision amending the mandate of an existing agency. However, it should be noted that this guidance applies *a fortiori* to the decision establishing a new agency.

3. TYPOLOGY OF TASKS WHICH MAY BE DELEGATED TO AN EXECUTIVE AGENCY

The agencies may be entrusted with certain tasks relating to the management of Union programmes, which are defined in Regulation (EC) No 58/2003 as "any activity, set of activities or other initiative which the relevant basic instrument or budgetary authorisation requires the Commission to implement for the benefit of one or more categories of specific beneficiaries, by committing expenditure" (Articles 1 and 2).

3.1. Tasks which may be delegated to an executive agency

In accordance with Article 6 of Regulation (EC) No 58/2003, the executive agencies may be entrusted with the following tasks:

3.1.1. The management of some or all of the stages in the lifetime of projects

In this respect, the agencies may be made responsible for monitoring the projects, making the necessary checks and recovery procedures⁷, and for performing budget implementation tasks covering revenue and expenditure within the meaning of Regulation (EU, Euratom) No 966/2012, and in particular: award grants⁸ and manage the ensuing agreement or decision, including the operations

⁶ In case of a shift of tasks between two agencies, the staff increase in the receiving agency will have to be offset by a compensating staff reduction in the source agency.

⁷ With the exception of the enforceable decision on recovery (see point 3.2.3); to be noted that the application of administrative and financial penalties within the meaning of Articles 109, 131 and 138 of Regulation (EU, Euratom) No 966/2012 may be delegated to an agency, but the decisions are taken with the prior agreement of the parent DG and under the specific conditions defined in the Internal Rules.

⁸ With the exception of the adoption of award decisions submitted to comitology (see point 3.2.2).

required to launch and conclude grant award procedures; conclude public procurement procedures and manage the ensuing contracts, including the operations required to launch and conclude public procurement procedures; perform all the operations required to launch contests and award prizes in accordance with Regulation (EU, Euratom) No 966/2012.

Within the limits laid down in point 3.2, project management should be delegated as widely and comprehensively as possible. Splitting responsibilities between the Commission and the agency in the project lifecycle would invariably result in doubling of functions and higher costs and would thus contravene the rationale for the delegation of programme management to the agencies. Keeping the in-house management of some technical projects which do not entail political decision-making while the other parts of the programme are delegated to an agency leads to inefficiencies and should thus be avoided (see also point 8.2.2).

3.1.2. The provision of support in programme implementation

The provision of support in programme implementation may comprise in particular:

- (1) collecting, processing and distributing data, and in particular compiling, analysing and transmitting to the Commission all information required to guide implementation of the programme, promoting coordination with other Union programmes, the Member States or international organisations;
- (2) contributing to evaluation of the impact of the programme and to monitoring the actual effect of its activities on the market;
- (3) managing and directing a network, in particular concerning the target public (recipients, projects, actors);
- (4) organising meetings, seminars or talks (if this is operational expenditure); organising trainings in agreement with the Commission;
- (5) carrying out studies, provided that the management of such service contracts can bring added value;
- (6) contributing to evaluations⁹, in particular the annual and/or mid-term evaluation of implementation of the programme, and contributing to preparation and implementation of follow-up action on evaluations;
- (7) preparing recommendations for the Commission on implementation of the programme and its future development;
- (8) planning and implementing information operations;
- (9) producing overall control and supervision data;

⁹ With the exception of the interim evaluation of the agency pursuant to Article 25 of Regulation (EC) No 58/2003 which remains the responsibility of the parent DG(s).

- (10) contributing, at the request of the Commission to preparatory work on work programmes and financing decisions.

3.1.3 The provision of administrative and logistical support services

The executive agencies may be made responsible for the provision of administrative and logistical support services under the following conditions:

- the centralisation of those support services would result in additional cost-efficiency gains and economies of scale;
- the provision of support services may only constitute an auxiliary task for the agency (not a core task).

In principle, all of the tasks listed in points 3.1.1 and 3.1.2 are to be implemented in the framework of a Union spending programmes established by a basic act within the meaning of Article 2(d) of Regulation (EU, Euratom) No 966/2012.

3.2. Regulatory limitations – tasks reserved to the Commission

3.2.1. Tasks involving a large measure of discretion implying political choices

Pursuant to Article 58(7) of Regulation (EU, Euratom) No 966/2012, agencies cannot be entrusted with powers involving a large measure of discretion implying political choices.

In particular, the following tasks are reserved to the Commission:

- (1) the definition of objectives, strategies and priority areas of action;
- (2) the adoption of work programmes and financing decisions within the meaning of Article 84 of Regulation (EU, Euratom) No 966/2012 (since they are political decisions implying discretionary powers (e.g. establishment of priorities, methods and instruments for following up actions, and selection and award criteria) and the agency may merely execute these decisions;
- (3) financial instruments (since the nature of the tasks require discretionary powers and the specific responsibilities incumbent on the Commission under Article 139(4) of Regulation (EU, Euratom) No 966/2012 exclude the possibility to entrust the implementation of financial instrument to executive agencies). However, executive agencies may provide technical assistance to the parent DG in the management of financial instruments;
- (4) The pilot projects and preparatory actions implemented without a basic act in accordance with Article 54(2)(a) and (b) of Regulation (EU, Euratom) No 966/2012. However, executive agencies may exceptionally be entrusted with the management of pilot projects and preparatory actions under the following conditions:

- The necessary technical and/or financial expertise is not available in the delegating parent DGs¹⁰ and synergies exist with the tasks managed by the executive agency;
- The executive agency is entrusted only with those stages of the preparation and implementation of the pilot project and/or preparatory action which do not imply political choices (for instance, the reception of tenders/proposals, the support for publication of calls and the logistical support for the evaluations and the conclusion of budgetary and legal commitment may be entrusted to the agency; the relations with the legislative and budgetary authority and the decision on the feasibility and desirability of a legislative proposal are reserved to the Commission);
- The executive agency has been designated as the implementing body within the framework of the relevant financing decision constituting the annual work programme for the pilot project and/or preparatory action adopted by the Commission;
- Due to the limited scope of these additional tasks, the executive agency is able to manage them under constant resources.
- The executive agency has to be consulted and its agreement has to be transmitted to DG BUDG. It is also requested to involve the agency in the preliminary assessment of pilot projects and preparatory actions proposed by the European Parliament as soon as an involvement of the agency is envisaged.

3.2.2. *Decisions submitted to comitology*

If the basic act of a spending programme requires a comitology procedure¹¹ in accordance with Regulation (EU) No 182/2011¹² for certain measures for the implementation of a programme, in particular for the adoption of individual decisions to award a grant or to reject a grant application, these measures may not be delegated to an executive agency. In this case, the agency draws up the selection proposal (evaluation report including the rank list, draft award/selection/rejection decisions, draft notification letters) which the Commission presents to the committee. The Commission adopts the award/selection/rejection decision alone in accordance with the committee procedures. The agency may however be entrusted with the task of notifying the applicants, on behalf of the Commission, the individual decisions on the award/selection/rejection adopted by the Commission. The letter notifying the result of the evaluation shall be based on the award/rejection decision adopted by the Commission and the agency has no margin of discretion in this regard.

¹⁰ DGs responsible for a spending programme (or part of it) which has already been delegated to an executive agency.

¹¹ Not to be confused with the comitology procedure for the setting up of an executive agency and the responsible "Committee for Executive Agencies" (CEA), see point 4.2.3.2

¹² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).

The parent DGs remain responsible for representing the Commission before the programme committees, chairing the meetings and presenting draft measures to the committees while the Agency will participate and report on the implementation of the tasks delegated to it.

3.2.3. Other tasks reserved to the Commission

- The executive agencies may not be entrusted with the adoption of enforceable recovery decisions within the meaning of 299 of the Treaty and Article 79(2) of Regulation (EU, Euratom) No 966/2012. These decisions are prepared by the agency and are transmitted to the relevant parent DG. They are then adopted by the Commission according to its internal procedures. The procedure and modalities of interactions between the parent DGs and the executive agency for the adoption of enforceable recovery decisions are defined in the memorandum of understanding signed between the director of the agency and the parent DGs;
- The Commission may not delegate to the executive agencies tasks resulting from its prerogatives at institutional level pursuant to the TFEU and the Euratom Treaty and under specific powers directly conferred on it by the Treaties. A list of the specific powers conferred to the Commission by the Treaties is given in Article 31 of Commission Delegated Regulation (EU, Euratom) No 1268/2012;
- The agencies may not launch interservice consultations within the Commission;
- The Commission carries out the external evaluation on the first three years of operation of each executive agency. The evaluation is then repeated every three years under the same conditions.

4. STAGES IN ESTABLISHING AN AGENCY OR MODIFYING AND EXTENDING THE MANDATE OF AN EXISTING AGENCY

Executive agencies are set up by a Commission Implementing Decision taken on the basis of Article 3 of Regulation (EC) No 58/2003 ('act of establishment'). Amendments to the act of establishment follow the same rules. A number of conditions must be met in each of the detailed stages set out below for this decision to be taken.

Where the changes to the agency's tasks require an amendment to the act of establishment (that is to say where new spending programmes are envisaged for delegation, including new programmes succeeding to existing programmes presently managed by the executive agency), the procedure to be applied is the same as for establishing the agency.

4.1. General information for the European Parliament and the Council and notification of the programme committee of the spending programme

Before taking the decision to have recourse to an executive agency, the Commission informs the European Parliament and the Council of its intention to have a Union programme implemented by an executive agency (Article 3(4) of Regulation (EC) No 58/2003).

The scope of this information obligation is defined in the Revised Working Arrangements on Executive Agencies agreed between the Commission and the European Parliament¹³ (see also point 4.4).

For new programmes or programmes being revised, the inclusion of a statement of the Commission's intention to make use of an executive agency in the explanatory memorandum accompanying the proposal for the basic act establishing the programme would provide the information required and would facilitate the work of the Committee for Executive Agencies (see point 4.3).

For a programme already adopted which contains no reference to an executive agency, information should be provided in an appropriate form by a Commission communication to the European Parliament and the Council in the course of the annual budgetary procedure.

Some basic acts establishing programmes provide for the control by Member States of the Commission's exercise of implementing powers in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁴.

The specific programme committee operating in accordance with that Regulation must be informed of plans to entrust the management of a programme to an agency before referral to the Committee for Executive Agencies. If an agency is entrusted with a programme renewing or replacing an existing programme, the committee responsible for that programme must be notified. This information allows the parent DGs to learn of the initial reaction to the delegations and is intended to facilitate the passage before the Committee for Executive Agencies which gives the formal opinion on the proposal for the delegation of tasks to executive agencies (see point 4.2.3.2).

The programme committee must also be informed of the fact that the implementation of a programme by an executive agency in no way changes the system introduced in the basic act; the DGs responsible for the programme will continue to chair the programme committee while after the effective delegation, the agency will participate and report on the implementation of the tasks delegated to it.

4.2. Preparation of the file in support of the draft decision

DGs considering the extension of the mandate of an agency must ensure effective internal coordination of all aspects of programme management, notably financial and human resources. If a number of DGs intend to have recourse to an agency together, they must together assess the impact on the existing structure, its establishment plan and its funding. These DGs must reach agreement on the organisation of activities, including relations with the central services and the offices and respective responsibilities before the actual hand-over of the newly delegated programmes.

As a rule, the delegation of tasks to executive agencies should be grouped in packages. This facilitates the preparation and the adoption process in the Committee for Executive Agencies and allows maximising the synergies by delegating similar programmes to the same executive agency.

¹³ Letter of Commissioner Grybauskaitė of 16 October 2007.

¹⁴ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55. 28.2.2011, p.13).

The parent DGs must bring in the central services at an early stage, and certainly before the compulsory cost-benefit analysis starts. The purpose of this exercise is to use the central services' expertise and also allow them to refine their resource management. The following DGs and Offices must be involved from the outset: SG, DG HR, DG BUDG, Legal Service, DG DIGIT, PMO, DGT, Internal Auditor of the Commission, OIB/OIL, EPSO and the Publications Office.

4.2.1. Roadmap for the delegation of tasks to an executive agency

A detailed Roadmap is provided (Appendix I).

4.2.2. Compulsory cost-benefit analysis

The cost-benefit analysis (CBA) is the essential component of the file. The DGs responsible for the management of the programme(s) proposed for delegation have to carry out a CBA in accordance with the criteria laid down in Article 3 of Regulation (EC) No 58/2003.

Appendix II provides detailed guidance on the scope and methodology of a CBA.

4.2.3. Legal acts

4.2.3.1. Relationship between the act of establishment and the instrument of delegation

The legal framework of operation of each individual executive agency consists in two legal acts: an implementing Commission Decision establishing/extending the mandate of the agency (the 'act of establishment') and an autonomous Commission decision delegating powers to the agency (the 'instrument of delegation'). The former sets out the major components of the mandate and tasks entrusted to the agency; the latter contains a precise and detailed definition of the tasks entrusted to the agency and the conditions under which the agency is to exercise the delegated powers.

4.2.3.2. Content and procedure of adoption of the act of establishment

The act of establishment is a Commission Implementing Decision requiring the prior positive opinion of the Committee for Executive Agencies before it is submitted to the College for adoption.

The essential items contained therein include:

- (1) the name of the Agency, which must contain the term 'executive agency'.
- (2) the location, taking due consideration of limitations deriving from Regulation (EC) No 58/2003; in accordance with Article 5, the agencies are to be located "at the place where the Commission and its departments are located [...]"; that is to say Brussels or Luxembourg, depending on the vicinity of the parent DGs.
- (3) the lifetime of the agency: to ensure continuity in the agency's work until the actual completion of the programme(s) delegated to it, the lifetime of the agency may exceed the legal duration of the programme. For instance, in the framework of the delegation of the 2014-2020 spending programmes to the agencies, the lifetime of the six existing agencies exceeds that of the MFF by four years (until 31 December 2024), on the basis of the average time needed to close the programmes. The delegating DGs must substantiate the need for the agency's lifetime to exceed that of the programme.

- (4) the names of the programmes which are to be managed in full or in part by the agency, with a general description of the tasks conferred to the agency. The decision must be worded in such a way as to clearly identify the types of tasks entrusted to the agency (budget implementation tasks, project management tasks, support in programme implementation, logistical and administrative support services) leaving it to the instrument of delegation to detail the concrete tasks under each programme as well as the terms, criteria, parameters and procedures which the agency must comply with when performing the entrusted tasks (see point 4.2.4).
- (5) the possibility for the agency to be made responsible for the provision of support services to be defined at the level of the instrument of delegation; here also the act of establishment should allow for flexibility and should be drafted in such a way as to accommodate the potential future delegation of support services to the agency in the course of its lifetime without the need for re-opening the original decision.
- (6) If relevant, the repealing provisions of the previous act of the establishment.

As the act of establishment has to be published in the L series of the Official Journal of the European Union, it must be translated into all the official languages with the exception of Irish. A template of the decision is provided in Appendix III.

4.2.3.3. Content and procedure of adoption of the instrument of delegation

The instrument of delegation referred to in Article 6(3) of Regulation (EC) No 58/2003 is an instrument adopted by the Commission in accordance with its rules and procedures. It constitutes an autonomous act of the Commission which is not submitted to comitology but is sent to the Committee for Executive Agencies for information. Like all College instruments, it requires a prior interservice consultation (ISC). It is not an instrument that has to be renewed annually; it remains valid while the agency operates.

Although the instrument of delegation as such is not submitted to the Committee, the Committee may ask about its content. For this reason and in order not to delay the actual hand-over of the tasks to be delegated to the agencies, the draft instrument of delegation and act of establishment must be submitted for consultation in a single ISC together with the specific financial statement (see point 4.2.3.3). The two decisions will be submitted to the College for adoption at the same time, after referral to the Committee.

The instrument of delegation must set out in detail all the tasks entrusted to the agency and the conditions under which the agency is to exercise the delegated powers. In addition, Articles 25 and 40 of Commission Delegated Regulation (EU, Euratom) No 1268/2012 fix, respectively, the conditions under which the executive agencies exercise the powers delegated to them by the Commission, and the minimum content requirements for the instrument of delegation to ensure the protection of financial interests of the Union and the transparency of operations carried out.

The instrument of delegation shall thus contain in particular the following:

- (1) precise and detailed definition of the delegated task for each specific programme or part of programme allowing for a strict demarcation with the tasks remaining under the responsibility of the Commission;

- (2) list of the reference documents which the agency has to comply with;
- (3) rules for the supervision of the agency by the Commission and rules for the agency's reporting obligations towards the Commission and the agency's steering committee;
- (4) requirements for an adequate planning of the agency's activities and annual reporting, including through the submission of an annual activity report;
- (5) minimum content requirements for the memorandum of understanding between the delegating DGs and the agency which will define the practical modalities of interaction between the agency and the Commission;
- (6) the possibility or the obligation (where appropriate) for using common support services and tools provided by the Commission or by another agency;
- (7) rules for the internal audit function (performed by the Commission's Internal Auditor, see also point 9.4);
- (8) the details for the payment of the Union contribution to the operating budget of the agency in instalments in line with the agency's actual cash needs;
- (9) the provisions guaranteeing the visibility of the Union action;
- (10) the obligation on the agency to notify the Commission and, in particular, OLAF without delay of any information relating to possible cases of fraud or corruption, or any other illegal activity which might be brought to its attention, and any other situation which might lead to cases of this type (see also point 8.5).
- (11) if relevant, the repealing provisions of the previous instrument of delegation.

The instrument of delegation has to be translated into French, German and English.

A template of the decision is provided in Appendix IV.

4.2.4. Specific financial statement

A specific financial statement must accompany the draft act of establishment and must set out the agency's requirements in terms of human resources. The number of temporary staff to be recruited is laid down in the establishment plan which must be based on an analysis of the agency's future organisation. The data of the cost-benefit analysis will reveal the budgetary impact of setting up agencies. This financial statement will at the same time be the working basis for the Committee for Executive Agencies (see point 4.3) and for informing the European Parliament and the Council (see point 4.4), which is a pre-condition for adopting the act of establishment.

The specific financial statement shall be drawn in EN and does not need to be translated. A template, including the internal annex on human resources in the Commission, is provided in Appendix V.

4.3. Referral to the Committee for Executive Agencies

The act of establishment is an implementing act within the meaning of Article 291 of the Treaty, for which the Committee for Executive Agencies established pursuant to Article 24 of Regulation (EC) No 58/2003 must give its opinion before it can be adopted.

The rules and general principles governing the mechanisms for control by Member States of the Commission's exercise of implementing powers are laid down in secondary legislation, in Regulation (EU) 182/2011.

Pursuant to its Article 13(1)(c), read in conjunction with Article 24(2) of Regulation (EC) No 58/2003, the Committee for Executive Agencies operates in accordance with the examination procedure and the Commission may not adopt the draft implementing act in the absence of an opinion. A qualified majority in favour¹⁵ is thus required and, for decisions taken at Committee meetings (oral procedure) abstentions are accounted for in the same way as votes against the proposal.

If there is no favourable opinion, that is to say in the absence of an opinion (blocking minority) or if the opinion is unfavourable (qualified majority against), the Commission may convene an appeal committee which will meet at the appropriate level. The appeal committee delivers an opinion also by qualified majority.

In duly justified cases, the proposal may be submitted to the committee in written procedure according to Article 3(5) of Regulation (EU) No 182/2011. In this case any committee member who does not oppose the draft implementing act or who does not explicitly abstain from voting thereon before the expiry of the fixed time limit shall be regarded as having tacitly agreed to the draft implementing act.

The Commission will submit all relevant information to this committee.

The Commission convenes and chairs the committee (code "C25600"), which is made up of the representatives of the Member States. The candidate countries have active observer status.

DG BUDG ensures the installation and operation of this committee which it also chairs.

The DGs which have prepared the proposal must be represented at the appropriate staff level (the director responsible) and must be able to answer all the committee's questions and, in particular, provide it with a detailed description of tasks, the means of implementation, the agency's resources and the operational controls carried out by the Commission.

The Commission provides the European Parliament, via the comitology register administered by the SG, with the overall results of votes, the list of authorities and organisations to which the national representatives attending belong, and a summary record of committee meetings.

DG BUDG provides the parent DGs with the committee notice needed to refer a case to the College.

¹⁵ The voting rules for the examination procedure reflect the voting rules required for the Council. As from 1 November 2014, the "double majority" voting is introduced and applies also in Comitology Committees. A qualified majority will be attained under the new rules if: (1) at least 55% of the Member States vote in favour (i.e. at least 16 Member States) and (2) the Member States voting in favour represent at least 65% of the population of the Union (without prejudice to Article 3(2) of Protocol 36 annexed to the TFEU).

4.4. Detailed information to the European Parliament and the Council

Pursuant to the Revised Working Arrangements on Executive Agencies agreed between the Parliament and the Commission¹⁶, the budgetary authority shall be informed of any Commission proposal to extend the mandate of an executive agency. This information shall be accompanied by the specific financial statement (see section 4.2.5) which should notably include the quantified elements by which the Commission justifies the reasons why it considers appropriate to entrust programme implementation tasks to the agency.

In practice, the specific financial statement drawn up for the Committee for Executive Agencies includes all the elements necessary and serves as the document for informing the budgetary authority.

The budgetary authority is informed at least six weeks before the Commission takes its decision. If either arm of the budgetary authority provides any duly substantiated reasons within this time limit in connection with the establishment of the agency or the extension of the mandate of an existing agency, the Commission will review its proposal (point 4 of the abovementioned Working Arrangements).

In practice, the specific financial statement is submitted at the same time to the budgetary authority and the Committee for Executive Agencies.

DG BUDG is the service responsible for organising this transmission.

4.5. Notification of central services and offices by the parent DGs

As soon as the Commission has adopted the act of establishment and the instrument of delegation, the parent DGs must notify the central services and offices (SG, DG HR, DG BUDG, DG DIGIT, DGT, Internal Auditor of the Commission, PMO, OIB or OIL, EPSO) and inform them of any specific future requirements of the agency and the date planned for the hand-over of the newly delegated tasks. These Commission services and offices can use this information as a basis for taking preparatory measures (planning, incorporation of the agencies in the calls for tenders relating to the Commission framework contracts, etc.).

4.6. Impact of the delegation on the annual budgetary procedure

Where new tasks are delegated to an executive agency, the line in the general budget carrying the contribution for the operating budget of the agency may have to be reinforced so that the agency has sufficient resources to perform its new tasks and pay its staff. In practice, this translates into a transfer from the appropriations of the delegated programme to the line carrying the contribution to the operating budget of the agency which is to cover the operating costs of the agency linked to its implementation.

The preparations for the budgetary procedure within the Commission must be finalised as soon as possible after the Committee for Executive Agencies has delivered a favourable opinion.

¹⁶ Letter of Commissioner Grybauskaitė of 16 October 2007.

After the adoption of the act of establishment and of the instrument of delegation, the Commission proposes the level of the operating budget of the agency and the composition of the establishment plan to the budgetary authority as part of the budgetary procedure. If they are to be used to maximum effect, the appropriations needed to operate the agency must be evaluated on the basis of a realistic plan for their execution.

Following the revision of the Financial Regulation, the possibility of the Commission to propose amending budgets has been substantially restricted. In principle, the budgetary and human resources impact of the delegation will have to be incorporated into the draft budget before its adoption.

Provided that both the act of establishment and the instrument of delegation enter into force before the adoption by the Commission of the Draft Budget for the budgetary year n, the Commission enters the necessary appropriations for the delegated programme(s) in line XX.01.06.xx as part of the Draft Budget (DB) for year n. The budget remarks for this line will refer to the basic act of the relevant programme and to the act of establishment as well as to the instrument of delegation to the agency.

In order to submit a solid proposal which can stand scrutiny in Parliament, Council and the Committee for Executive Agencies, the delegations of tasks to executive agencies should be grouped in packages and their budgetary and human resources impact should be incorporated into the draft budget.

In the exceptional case that both the act of establishment and the instrument of delegation enter into force after the adoption of the draft budget by the Commission, an amending letter to the DB is necessary. The Treaty sets the beginning of the 21 days Conciliation period as the deadline for amending letters to the draft budget, which starts usually around mid-October of the year n-1.

4.7. Readiness assessment by the parent DGs and acceptance of the delegation by the agency's director

Before the delegation can take effect, the parent DGs have to ensure that the agency has the capacity to manage the newly delegated tasks.

In this context, the director of the agency will present his/her assessment of the agency's readiness for the newly delegated tasks. In the assessment, the director will offer assurance that the agency has recruited or is in the process of recruiting the staff allocated to it as per the CBA and that the internal control systems and procedures, the accounting systems and IT tools and administrative procedures (and the necessary adaptations, if applicable) have been introduced in the agency in accordance with the rules of sound financial management in order to ascertain the achievement of all internal control objectives (Art. 32(2) FR), including the legality and regularity of the underlying operations.

Based on the readiness assessment by the agency director and in line with the provisions of the instrument of delegation, the steering committee, in agreement with the Director-Generals of the parent DGs and acting on a proposal by the director, fixes the date from which the director implements the operational appropriations as an authorising officer by delegation on the basis of the instrument of delegation. The instrument of delegation is then formally accepted in writing by the director on behalf of the agency (Article 35 of Commission Delegated Regulation (EU, Euratom) No 1268/2012).

As a rule, the agency should begin to implement operational and administrative appropriations at the same time.

In order to ensure continuity of programme management, in particular where the new actions to be delegated require a substantial capacity building in the agency and the delegated tasks succeed existing spending programmes managed by the Commission, the parent DGs may need to ensure programme management by the Commission for a transitional period after the adoption of the instrument of delegation until the delegation takes effect (for instance launch of calls for proposals).

4.8. Transitional period for newly established agencies

Regarding the agency's administrative autonomy, an agency may implement its administrative budget only if the following conditions are met:

- it must have a steering committee, a director, an accounting officer and staff to manage the administrative and operational appropriations;
- the parent DGs must have ascertained that the agency has established its own management and internal control system(s), accounts and administrative procedures;
- its administrative budget must have been adopted by the steering committee and the agency must have its own bank account into which the Commission has paid all or part of the Union contribution.

If, when it is set up, an agency does not yet have the means of implementing its administrative expenditure itself (the managing organs have not yet been appointed or the budget has not yet been adopted by the steering committee), the Directors-General of the parent DGs who act as authorising officers by delegation for the lines carrying the contribution may themselves commit the necessary expenditure from the operating contribution appropriations for the purpose of carrying out preparatory work (such as the signature of the lease, the purchase of IT systems, the signature of Service Level Agreements (SLA) with central services and offices). The Directors-General act on the agency's behalf and in line with its interests as regards this expenditure, which must be restricted to the expenditure needed to establish the executive agency.

This approach also applies to expenditure on staff. The Directors-General of the parent DGs may thus act on the agency's behalf before it becomes autonomous in order to publish the vacancy notices, organise selection procedures and recruit a limited number of staff considered indispensable for starting up the agency and achieving administrative and operational autonomy. However, the selection procedures must be respected.

Once the Commission appoints the agency's steering committee and director, the Directors-General of the parent DGs ensure that they are fully involved in the measures to be taken before the agency becomes completely autonomous. In particular, they may ensure that the director approves all these measures before taking them.

As the director exercises the powers of the AECE vis-à-vis the agency's staff (Article 11(6)) without, however, having a budget over the transitional period, he must be able to sign the employment contracts as AECE. His signature is accompanied by that of the authorising officer by subdelegation (AOSD) who signs as AOSD for the legal commitment.

5. CHANGES TO THE AGENCY'S TASKS NOT REQUIRING AN EXTENSION OF THE MANDATE OF THE AGENCY

Where there are plans to delegate tasks in the framework of programmes already entrusted to the agency by its act of establishment, only the instrument of delegation will have to be amended and submitted for information to the Committee for Executive Agencies.

No amendment to the act of establishment and therefore no vote of the Committee are required.

However, the parent DGs are not exempt from performing the compulsory CBA in accordance with Appendix II.

The results of this CBA will be reflected in a revised specific financial statement¹⁷ which will accompany the draft amendment to the instrument of delegation submitted in ISC (for internal Commission use only).

The memorandum of understanding signed between the director of the agency and the parent DGs will be updated to reflect the changes to the agency's tasks, except where the limited scope of the change does not require any adaptations.

6. PHASING OUT AND WINDING-UP OF AN AGENCY

If the programme(s)/action(s) entrusted to the agency are not renewed, appropriations must be provided to administer the remainder of the programme (legacy) and to phase out the agency.

For this reason, the act of establishment should provide for a lifetime exceeding that of the programme administered. The Commission shall allocate the appropriations needed for ensuring completion of the agency's work and its subsequent winding-up in the Draft Budgets for the years concerned. The appropriations for the other programmes which the agency continues to administer cannot be used for this purpose.

Ultimately, particularly where the amount of work needed to settle legal commitments is minimal, the possibility of transferring management responsibility back to the parent DGs can be envisaged.

Apart from the fact that the decision setting up an agency sets a limit on its lifetime, an agency may be wound up when the Commission considers that it is no longer necessary or that its existence no longer complies with the principle of sound financial management (Article 3(2) of Regulation (EC) No 58/2003), in particular if, further to the three-yearly evaluation provided for in Article 25 of Regulation (EC) No 58/2003, it finds that the very existence of the agency is no longer justified.

Any decision to wind up an agency must comply with the same procedure as that applied for setting it up, namely approval by the Committee for Executive Agencies after a cost-benefit analysis (section 4).

¹⁷ Revisions to the original specific financial statement accompanying the act of establishment of the agency shall be shown in track-changes.

Before a decision is taken to wind up an agency, the parent DGs must take steps to ensure that the Commission or another agency can take over the agency's tasks and maintain continuity of work. For that reason, an agency should not be wound up while a programme is being implemented except in the event of serious and irremediable malfunctioning of the agency.

7. AGENCY GOVERNANCE

The Agency is governed by:

- a steering committee and
- a director.

The members of the steering committee and the director are appointed by the Commission by means of a separate decision. The decision appointing the members of the steering committee is prepared by the agency's parent DGs and submitted to the College after an ISC.

7.1. Appointment of steering committee members

The steering committee is made up of five members, with a term of office in principle of two years, account being taken of the duration of the programme, which allows the Commission to make appointments for a different duration. The term of office may be renewed. The Commission (the College) appoints them in the same way as its representatives to the management boards of decentralised agencies. For the involvement of outside bodies such as the European Investment Bank, it may, by way of exception, appoint observers to steering committees with the right to speak but not to vote.

Commission representatives may come from different services, depending on the requirements arising from the area of activity covered by the programme(s) managed by the agency. The DGs in charge of the policies covering the delegated programmes are suitably represented on the Steering Committee.

At least one of the Commission's central services must be represented as a member, except if the limited number of members does not allow adequate representation of all the parent DGs. In that case, a representative of the central services is appointed with the status of observer in the steering committee attending all steering committee meetings with the right of access to documents and the right of speaking after consultation with the other central services, if necessary.

The delegating DGs must be given adequate representation if the agency administers one or more programmes for which a number of DGs are responsible. They should preferably be represented by one or more members or, where necessary, by observers. To determine the DG or DGs which are the most concerned and which must play a main or leading role in relations with the agency and thus represent the Commission, account must be taken of all factors identifying the extent of the link with or dependency of each DG, such as the amount of operational appropriations administered by the agency, the number of projects administered (contracts/grant agreements) and the scope of the tasks delegated to the agency. If an existing agency has powers delegated to it in respect of additional programmes covered by a different policy area, the composition of the steering committee will have to be adjusted accordingly.

In circumstances where the number of parent DGs exceeds five, the steering committee and its chairmanship may function on the basis of a rotating representation of the parent DGs.

Members must preferably be of a grade equal to that of the director of the agency, i.e. AD 13 or even AD 14, depending on the size of the agency. However, the chairman must be at least of grade AD 14.

The Commission may designate persons other than Union officials, in particular outside experts in the field covered by the programme(s) which the agency is involved in implementing. In order to comply with the principle that such agencies should be dependent on and controlled by the Commission, the committee may include one or possibly two outside persons in exceptional cases.

The responsibility of the members who are Union officials is laid down in the CEOS while that of outside members must be agreed between this person and the Commission.

7.2. Appointment of the agency's director

In application of Article 10(1) of Council Regulation (EC) No 58/2003, the director is selected from officials of the institutions within the meaning of the Staff Regulations. The director must be an official of the main parent DG¹⁸ seconded to the agency. The director's term of office is normally four years, but will take account of how long the programme is expected to take to complete, thus allowing the Commission to choose a different length of term. The term of office is renewable.

The powers of the authority empowered to conclude contracts of employment (AECE) in respect of the director are exercised by the Commission.

The Commission may terminate the director's duties before the end of the term of office, after receiving the opinion of the Steering Committee.

Point 11.3.2 will apply by analogy to the procedure for filling future director vacancies, with the following specific features:

- The Commission's rules on Senior Officials Policy¹⁹ are applicable to the selection and appointment procedure.
- The 'mirror' post published in the main parent DG is a principal advisor post. The eligibility criteria for director posts will apply nonetheless.
- The vacancy notice will be drawn up by the main parent DG in cooperation with DG HR and, where appropriate, in consultation with other parent DGs and the agency. The candidates must be able to serve a full term of office before reaching the age of retirement, which is 66 years for temporary staff.
- The agency is not represented in the pre-selection panel or the Consultative Committee on Appointments (CCA). In these bodies, the parent DGs are represented at the appropriate level by the main parent DG. As regards the European Research Council Executive Agency, for

¹⁸ The main parent DG is the parent DG, as defined in section 7.1, in which the 'mirror' post is published.

¹⁹ Currently the Compilation Document on Senior Officials Policy (SEC(2004) 1352/2 of 25.10.2004).

which the Commission must consider the opinion of the Scientific Council in appointing the Director, a representative designated by this council will act as an observer in the pre-selection panel. In this context, the representative may give an opinion on the candidates interviewed by the Committee.

- Candidates who are shortlisted by the CCA will then be interviewed by the Commissioner responsible for the main parent DG.
- Decisions on filling the post of principal advisor, the secondment in the interest of the service and the appointment of the director of the agency are made by the College of Commissioners, on a proposal from the Commissioner responsible for human resources, in agreement with the Commissioner of the main parent DG.
- The employment contract of a temporary staff member within the meaning of Article 2(a) of the CEOS will be signed by the Chair of the Steering Committee. If this committee has not yet been formed, the contract will be signed by the Director-General of DG HR.

These guidelines replace the provisions on the selection and appointment of the directors of executive agencies set out in the guidelines on the selection and appointment of directors of regulatory agencies, executive agencies and joint undertakings (SEC(2009) 27).

8. MANAGEMENT OF RELATIONS WITH AGENCIES

The Commission is not relieved of any of its responsibilities simply because an executive agency has been set up. Implementation of the Union programmes entrusted to agencies is to be supervised by the Commission (Article 20(1) of Regulation (EC) No 58/2003). For this purpose, the parent DGs must monitor the agency's activities and ensure that it is operating properly and in accordance with the applicable legal framework.

8.1. Relations between the director and the steering committee

Special attention must be paid to installing and maintaining systems guaranteeing a timely flow of clear, reliable and exhaustive information between the director and the steering committee.

The director is responsible for the day-to-day management of the agency. In addition to his management tasks, the director prepares the work of the steering committee and takes part in its work without voting rights.

He draws up the agency's draft annual work programme and draft budget (see point 9.2.2). These key documents, on the basis of which the director acts as authorising officer and which determine the agency's work, are adopted by the steering committee, which also decides on the organisation of the agency's departments and, in particular, its establishment plan (Article 9 of Regulation (EC) No 58/2003).

The director also draws up the draft and final annual activity report which is adopted by the steering committee (see point 10.3). He submits detailed provisional and final accounts of all revenue and expenditure for the previous financial year to the steering committee for approval.

In addition to those abovementioned reports, the director ensures that the steering committee receives all relevant information, particularly that relating to the establishment and implementation of internal control framework, to the annual review of the effectiveness of the internal control standards in the agency and audit findings, and to the follow-up to previous audits and recommendations. He also ensures that the steering committee is specifically informed of any fact, situation or matter relating to management, in particular financial and/or reputational questions, which could have a significant effect on the accountability of the director and the responsibility of the committee, or that of the parent DGs and Commissioners concerned or of the College, and of any risk of serious wrongdoings.

The very close working relationship between the director and the steering committee is also reflected in the fact that the committee gives its opinion before the Commission can terminate the director's term of office (Article 10 of Regulation (EC) No 58/2003).

8.2. Monitoring and supervision of the agency's activities by the parent DGs

Supervision of executive agencies is an additional governance task resulting from the programme delegation that must be performed by the parent DGs under Article 20 of Regulation (EC) No 58/2003.

The contents of the supervisory tasks of the Commission and associated reporting obligations of the agency are formalised in the instrument of delegation (point 4.2.4) and are further detailed in the memorandum of understanding signed between the director of the agency and the parent DGs.

Supervision of the operational and administrative operations of the agency by the Commission is a multi-layer process.

However, important means of supervision are embedded in the organisational set-up of the agency (such as the nomination of the director by the Commission and the secondment of officials from the parent DGs to positions of responsibility) and in the legal framework and reporting obligations set out in Regulation (EC) No 58/2003, in particular through the direct applicability of the Commission's financial and human resource rules and control standards and through the approval process of all programming documents by the steering committee (such as the annual work programme, the Annual Activity Report, the agency's budget and accounts).

In addition, the agency and its operations are audited by the Internal Auditor of the Commission and the European Court of Auditors.

These elements together are a solid foundation on which the parent DGs build additional supervision arrangements.

8.2.1. Scope of the supervision exercised by the parent DGs

The appropriate monitoring of the agency's activities is primarily achieved by means of participation of the parent DGs in the steering committee by regular coordination meetings at management level and further contacts at working level.

The representatives of the parent DGs in the steering committee, supported by the relevant services in the DGs, verify whether the provisions of the memorandum of understanding regarding reporting and

supervision are duly and timely fulfilled and how the agency has progressed with regard to the operational objectives and performance targets of the work programme. They scrutinise the reporting and other information received from the director – if needed after seeking assistance from the parent DGs’ staff specialised in the matter (from the policy units regarding the operational activities and from the internal control, human resources, finance, IT, audit regarding the administrative activities of the agency). They verify, as far as feasible (for instance by comparing with available information and audits from independent sources), whether the information provided is reliable and sufficient to enable drawing management conclusions – inter alia for assurance building purposes (Parent DGs’ annual activity reports). Furthermore, they report to their respective Directors-General and their internal control coordinators and signal any significant matter that would have bearing on the supervision duties of the parent DGs and/or on the reputation of the Commission. If need be, they suggest measures for the Director-General to intervene or at least to send it up for review by the Commissioner and/or the College.

The annual planning and reporting cycle form the basis of the monitoring of the agency’s activities, notably through the agency’s annual work programme (point 9.2.2), annual activity report (point 10.3) and interim reporting - the content, format and frequency of which is defined in the memorandum of understanding.

Through the agency’s reporting obligations towards the Directors-General of the parent DGs and the steering committee, the DGs are always kept informed of the agency’s work and any management difficulties. In addition, the chairman of the agency’s steering committee informs the Directors-General of the parent DGs about the decisions adopted by the committee and about any relevant subjects regarding the agency’s work.

If their monitoring of the agency is to be consistent, the parent DGs must cooperate closely and reach agreement on the internal procedures to be followed and the methods of management. If necessary, the central services, in particular the SG, which coordinates matters within the Commission, may be called on to provide their support.

The Directors-General of the parent DGs ensure that the agency’s director, in agreement with the parent DGs, has introduced adequate monitoring and reporting mechanisms and that the agency’s director checks the management environment, the risks and the control measures every six months (via the half-yearly report and the Annual Activity Report). Whenever there is any substantial change in procedures or systems of the agency, the agency informs them in advance.

In the performance of their supervisory functions, the Directors-General of the parent DGs are in addition entitled to carry out documentary and on-the-spot checks to ensure that the management and internal control system established by the agency operate properly in such a way as to ensure compliance with the principle of sound financial management and that the acts of the agency are lawful and comply with the applicable legal framework. The parent DGs will ensure that these checks do not overlap other controls already undertaken or planned under the responsibility of the Internal Auditor of the Commission or the European Court of Auditors.

The supervision of the agency’s activities covers also the supervision of budget management: analysis of the agency’s budget requests, preparation of the draft operating budget and management of the contribution to the operating budget of the agency.

Lastly, the parent DGs are responsible for carrying out the triennial evaluation of the functioning of the agency as per Article 25 of Regulation (EC) No 58/2003, and the necessary updates to past cost-benefit analyses.

8.2.2. Definition of a supervisory strategy to avoid gaps or duplication of tasks between the delegating DGs and the agency

The parent DGs must define at the level of the memorandum of understanding a supervision strategy aiming at avoiding gaps or duplication of efforts resulting from crossover between their monitoring and supervision tasks and the execution tasks of the agency.

The supervision strategy and cooperation modalities defined in the memorandum of understanding should be regularly reviewed and updated if need be²⁰ to take into account any new developments and ensure that they are fit for purpose.

8.2.3. Staffing required for supervision in the parent DGs

The supervision tasks listed in point 8.2.1 constitute responsibilities relating to additional workload for the delegating DGs. Therefore the staff needed in-house to cater for these tasks has to be taken into account in the compulsory cost-benefit analysis.

The level of staffing required for supervision must be in line with best practice, so as not to undermine the cost-efficiency of the delegation scenario versus the in-house scenario. For this reason and considering the Commission's experience in the MFF 2007-2013 in supervising the agencies and the maturity of agencies' internal control systems and the supervision, controls and audit tasks already performed or under the prerogatives of other instances such as the Internal Auditor of the Commission and the European Court of Auditors, the ratio of the Commission supervising staff must not exceed 2,4% of the agencies' total staff at cruising speed. The methodology for applying this ratio is described in Appendix III as part of the CBA methodology. The ratio may be subject to an update based on the experience in implementing the 2014-2020 spending programmes.

8.2.4. Information for the Commissioners

The Members of the Commission responsible for the parent DGs are informed by their Directors-General of the implementation of the agency's work and of any fact, situation or matter relating to management, in particular financial and/or reputational questions, which could have a significant effect on the responsibility of the parent DGs Commissioners concerned or of the College.

8.3. Review of legality

According to Article 22 of Regulation (EC) No 58/2003, any act of an executive agency which injures a third party may be referred to the Commission for a review of its legality.

8.3.1. Scope of the legal review under Article 22 of Regulation (EC) No 58/2003

²⁰ For instance as a result of the delegation of additional tasks and/or in the context of the triennial evaluation.

This review covers all acts which may injure a third part of agency (that is to say, acts in its capacity as an administrative authority) such as:

- decisions to award procurement contracts;
- decisions to award prizes;
- decisions to award a grant or to reject a grant application (with the exception of decisions that are reserved to the Commission (decisions subject to a comitology procedure));
- some acts and decisions adopted by an agency in the framework of the performance of logistical and administrative support services entrusted to the agency (if they are of public law nature, adversely affect the rights of a third party and they are communicated by the agency to that third party (for example the validation of legal entities and the approval or rejection of a given status (such as SME, non-profit) by REA).

The following acts and decisions taken by the agency fall outside of the scope of the legal review pursuant to Article 22 of Regulation (EC) No 58/2003:

- information letters concerning grant award/rejection decisions that are reserved to the Commission;
- all acts taken by the agency during the contractual phase (that is to say in the framework of the implementation of contracts and grant agreement to which the agency is party, see point 8.3.2), with the exception of:
 - decisions of the agency imposing administrative and financial penalties within the meaning of Article 109 of Regulation (EU, Euratom) No 966/2012;
 - decisions of the agency to recover amounts by offsetting against any amounts owed to a debtor by the Commission or an executive agency, in accordance with Article 80 of Regulation (EU, Euratom) 966/2012.
- decisions of the agency adversely affecting a member of the agency's staff or a person claiming that status; as they are not third parties within the meaning of Article 22(1) of Regulation (EC) No 58/2003, they cannot refer matters to the Commission²¹.

8.3.2. Procedure

If an act of the agencies is challenged, it can be referred to the Commission within one month of the day on which it came to the attention of the interested party or Member State concerned:

- either on the initiative of a third party suffering injury or a Member State;
- or on the initiative of the Commission, which may itself decide to review an act.

²¹ To contest a decision adversely affecting them, the latter are assimilated to officials or employees of the Communities (see, for example, the Court's judgment of 13 December 1989, *Oyowe and Traore v Commission*, C-100/88, [1981] ECR p. 4285, point 7).

No particular formalities are required for receiving a request of this type.

Once an act is referred to it, the relevant Commission services, and in particular the parent DGs responsible for the relevant programme/part of programme, examine it, hear the parties and present the College with a report accompanied by a draft of the provisional measures or the final decision. Pursuant to Regulation (EC) No 58/2003, the Commission must take a decision within two months of the date on which proceedings were instituted or on which the matter was referred to it. It may take interim measures (such as suspension) and/or take a decision upholding the act or instructing the agency to amend it.

8.3.3. Relationship with judicial review

8.3.3.1. Action for annulment before the General Court of the EU

In accordance with Article 263 TFEU, the Court of Justice of the European Union reviews the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties. It follows that the acts of an executive agency may be the subject of an action for annulment brought against the agency before the Court of Justice of the EU.

This provision was intended to make up for a serious shortcoming in the Treaty's system of judicial protection (former Article 230 EC Treaty) by providing expressly that, in addition to acts of its institutions, the legally binding acts of bodies, offices or agencies of the Union are also to be subject to judicial review by the EU Courts.

The recognition of the Commission's role as legal reviewer of the acts of the executive agencies pursuant to Article 22 of Regulation (EC) No 58/2003 aimed to address the need to make acts adopted by the agencies at least indirectly reviewable before the EU Courts by enabling an action for annulment against the Commission's explicit or implicit decision to reject the administrative appeal (Article 22(5)).

In the interest of judicial economy and on the basis of the above teleological interpretation of Article 22 in this point, the Commission considers that where a third party has engaged a legal review pursuant to Article 22 against an act of the agency, the contested act may not be challenged in parallel under Article 263 of the Treaty (against the agency itself) pending the outcome of the legal review proceedings. In this case, only the confirmative decision of the Commission taken pursuant to Article 22(5) of Regulation (EC) No 58/2003 may be brought before the General Court.

8.3.3.2. Arbitration clause for the General Court of the EU

This remedy is foreseen by Article 272 of the Treaty.

An action pursuant to Article 272 of the Treaty may be brought if the contract/grant agreement to which the agency is party expressly provides that, in case of a dispute, the General Court shall have jurisdiction over the matter.

The scope of the action pursuant to Article 272 of the Treaty encompasses all acts adopted by the agency during the contractual phase, in the framework of a contract/grant agreement (for instance

suspension of implementation, suspension of payments, termination, and reduction of the amount of the grant).

8.4. Relations with other actors and institutions

8.4.1. European Parliament questions

The Commission replies orally or in writing to questions put to it by the European Parliament or by its Members. The Member of the Commission responsible for the activity to which the question relates must reply on the Commission's behalf to questions relating to the agency, regardless of whether it is an act coming under the management of the administrative or operational appropriations. To that end, the agency's director sends any relevant information to the parent DGs and notifies the steering committee.

8.4.2. European Ombudsman complaint procedures

The European Ombudsman is responsible for complaints relating to cases of maladministration by an agency. If the agency is contacted by the Ombudsman, the agency's director must immediately send the Ombudsman's letter to the relevant parent DGs. To reply to the Ombudsman, the agency's director sends any relevant information to the parent DGs and notifies the steering committee.

If the issue relates to an act coming under the management of the operational appropriations, the relevant parent DGs must consult the SG, the Legal Service and, in any case with a financial impact, DG BUDG and any other DG concerned, and obtain the agreement of the responsible Commissioner in accordance with the relevant arrangements. After receiving the approval of the parent DGs, the director replies to the Ombudsman on the agency's behalf.

The same procedure applies if the parent DGs consider that the referral to the Ombudsman of a case involving management of the administrative appropriations or personnel management raises a question of general interest. After consulting the SG and, in case of doubt, the Members of the Commission responsible, the parent DGs inform the agency of its decision. If the question only concerns the agency, the director replies to the Ombudsman on the agency's behalf after receiving the approval of the steering committee.

8.4.3. Litigation before the Court of Justice

Agencies are responsible for handling all complaints and litigation relating to their decisions and acts (such as award decisions, rejection decisions, contracts, grants).

They should do so in close cooperation with the parent DGs and the central services.

Agencies have standing to represent themselves in Court; the Commission may intervene to support them.

9. OPERATIONAL FRAMEWORK AND FINANCIAL ARRANGEMENTS

9.1. Strategic planning and programming and activity-based management

The agencies help the Commission achieve the objectives covered by strategic planning and programming (SPP) and activity-based management (ABM); these instruments, which were set up for

the Commission and its departments, also apply to the agencies, albeit in a suitably adjusted form as explained below.

The Commission's activities are organised around a number of policy areas. The parent DGs and the agencies all contribute towards achieving objectives in a specific policy area. The agencies take part in the SPP cycle through their parent DGs so that the Commission can obtain a single overall picture of each specific policy area. The practical provisions regarding the timetable and the arrangements relating to these contributions are agreed at the level of the memorandum of understanding between each agency and its parent DGs for the programmes for which they are responsible.

If an agency contributes to more than one policy area, the parent DGs assume the responsibilities concerning their respective policy areas. This means that the SPP and ABM documents produced by the agencies are organised in such a way that each parent DG can identify and make use of only that part which relates to its own policy area.

9.2. Operational planning

9.2.1. Contribution to the Commission's Draft Budget

Each parent DG ensures that its contributions to the Draft Budget also cover the agency/ies for which it is responsible. For this purpose, the agencies, at the request of the parent DG, must provide data for the parent DG's contribution under the Draft Budget covering the Commission's operational appropriations for each programme or part of programme for which the DG is responsible. In addition, a contribution from the agency is necessary in connection with its administrative budget.

9.2.2. The agency's annual work programme

The agency carries out its tasks in accordance with its annual work programme and, on the basis of the indicators laid down therein, regularly checks that the objectives are being implemented. If necessary, the annual work programme may be amended following the same procedure as that for its adoption. The agency's annual work programme must be drawn up so that all the planning information is brought together in one document (Articles 9 and 11 of Regulation (EC) No 58/2003).

This document must comply with the objectives and priorities laid down by the Commission and with the Commission's work programmes for those programmes in whose management the executive agency is involved (Article 9(2) of Regulation (EC) No 58/2003 – the document must follow the guidelines applicable to the DGs in drafting their own management plans).

In addition, the work programme must include a clear presentation of the operating budget of the agency, the staff figures as well as the delegated operational appropriations, broken down as follows:

- for the operating budget of the agency: a breakdown per delegated programme and within each programme, per activity and per DG²² with a clear split (where applicable) between the Union contribution and contributions from EFTA and third countries participating in the delegated programme (separately);

²² For more complex programme under the responsibility of more than one DG, e.g. the research programmes.

- for the human resources: staff numbers with an indicative breakdown per programme and, within each programme, per activity and per DG²³ - with an indicative breakdown for: temporary agents (of which seconded officials), contract agents and seconded national experts; staff foreseen for horizontal activities and operational activities. In addition, staff financed by contributions from EFTA and third countries contributions should be presented separately, identifying the staff allocated to operational activities and the staff allocated to administration and management.
- for the delegated operational appropriations: breakdown per budget line with a clear split between the Union contribution and, where applicable, the EFTA and third countries' contributions (separately). If a programme belongs to different headings, the operational appropriations of each heading shall be presented separately.

The executive agency draws up its annual work programme for year n on the basis of the instructions provided by the Secretariat-General during the autumn of the previous year, and, where applicable, taking into consideration the specific indicators pertaining to the programme(s) in the implementation of which the agency is involved.

Following the endorsement by the steering committee, the agency sends to the designated contact point in the lead parent DG (i.e. the parent DG chairing the steering committee) the draft annual work programme. On that basis, the lead parent DG will launch the procedure in order to receive the Commission's approval of the draft annual work programme of the agency.

As per the [Annual Management Plan Instructions](#), the agency shall upload its draft annual work programme in the dedicated collaborative workspace. Its final annual work programme shall be sent via ARES to the indicated virtual entity by the parent DG whose representative chairs its Steering Committee.

The agency's annual work programme should be adopted as early as possible in the year of implementation and no later than 31 March. However, it may not be adopted before the adoption of the annual work programme of the delegated programme (at Commission level).

9.3. Internal Control Standards; effectiveness, efficiency and cost-effectiveness of internal control; reasonable assurance

An effective, efficient and cost-effective control system must be put in place in the executive agency. Depending on the nature and the specific modalities of the programme(s) to be managed by the agency, there may be a need to adjust some of the control modules in case of heterogeneity of the programme(s).

The executive agencies must also implement the Commission's internal control standards for effective management attached to the Internal Rules on the Implementation of the General Budget of the

²³ Idem

European Union (Commission section), updated annually²⁴ (“the Internal Rules”). As is the case with some Commission departments, it may be that some standards are not applicable (e.g. ICS N°14 on Evaluation). However, and without prejudice to the tasks remaining with the parent DGs, the other internal control standards must be implemented, structured around the following six building blocks: mission & ethical and organisational values; human resources, planning & risk management processes; operations & control activities; information & financial reporting; (assessment) & audit.

A set of basic rules adapted to the specific management environment and risks of the agencies will have to be introduced. This management environment may justify a flexible approach which eases some requirements, such as career development, but strengthens others, such as the continuity of operations or ethical obligations. This Internal Control Framework (ICF) is to be set out by the agency’s director and communicated to the steering committee when established or adjusted later. The annual review of its effective implementation is to be reported on in the context of the AAR reporting cycle (see point 8.1).

To assess the effectiveness of the control system deployed, the agencies may use the ICAT questionnaire developed for the Commission as part of the compulsory annual review of the internal control system (ICS N°15).

Given the specialisation of these agencies as regards budget implementation, the reasonable assurance to be provided in the declaration of assurance attached to the annual activity report should be accompanied by a description of the control strategy adopted (ICT in AAR annex 5) and the management conclusion based on the results from the controls performed (AAR section 2.1): consideration of the multi-annual nature of the programme(s), stages in the control chain(s), balance between *ex ante* and *ex post* controls, risk-differentiated controls, indicators on effectiveness, efficiency and cost-effectiveness of the controls, measures to prevent and detect fraud.

9.4. The Internal Auditor

The Internal Auditor of the Commission also performs the internal auditor function for the executive agencies. It carries out its duties concerning the agency’s operational and administrative budget on the same terms and in accordance with the same professional standards as for Commission departments (Article 20(2) and (6) of Regulation (EC) No 58/2003 and Article 49 of the standard Financial Regulation). The Internal Auditor of the Commission organises its audit work in the agencies in the same way as in Commission departments. Its work in the agencies is based on the overall risk analysis at Commission level, which also covers the agencies.

The Commission and the agency implement the recommendations of the internal auditors, each according to their respective powers (Article 20(3) of Regulation (EC) No 58/2003).

The Internal Auditor of the Commission reports to the Steering Committee and the agency’s director on its findings and recommendations. The Steering Committee and the agency’s director ensure regular monitoring of the implementation of the audit recommendations.

²⁴ For the 2014 exercise: Commission Decision C(2014)2784 of 30.4.2014 on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments.

9.5. Early warning system

In connection with public procurement, grants and prizes, whether linked to the operational appropriations managed by the agencies or the implementation of their operating budget, the agencies have access to the Early Warning System of the Commission and request introduction of the relevant information into that system in accordance with the provisions of Decision 2008/969/EC, Euratom²⁵.

9.6. Financial circuits

The Commission *Guidelines on Financial Circuits* (last update of January 2013) also apply to executive agencies. Unless a harmonised circuit is put in place for all parts of a programme (such as in the field of research), the agencies may choose among one of the three model financial circuits and adapt and tailor the circuits to their own characteristics and needs, while respecting the compulsory principles and rules defined in the guidelines.

The financial circuits are established by decision of the steering committee. They must be well documented and tasks must be described clearly and precisely to ensure that both operational and financial controls are effectively and efficiently implemented and to prevent any gap or overlap of controls. The following factors must also be taken into consideration when deciding on the financial circuits:

- the risks inherent in the programmes and the agency's management environment,
- the types and range of transactions,
- management of one or more programmes,
- financial and operational skills available in the agency,
- cost and benefits of controls etc.

Introduction of check lists is highly recommended to ensure that controls are implemented adequately consistently especially in agencies with a large proportion of new staff or staff from different DGs. In any event, the audit trail must be guaranteed for the controls.

The deputation rules must also be established from the outset and the signature of the charters for authorising officers must be organised without delay in order to guarantee the continuity of operations.

Finally, procedures must be drawn up for reporting on cases of overriding of controls and deviation from established processes and procedures (reporting on the exceptions and non-compliance events, ICS 8).

9.7. Charters

The charters of tasks and responsibilities of the authorising officers by delegation and subdelegation annexed to the Internal Rules apply to the agency for the implementation of operational

²⁵ Commission Decision 2008/969/EC, Euratom of 16 December 2008 on the Early Warning System for the use of authorising officers of the Commission and the executive agencies, OJ L 344, 20.12.2008, p.125, as last amended by Commission Decision 2011/C180/06 of 17 June 2011, OJ C 180, 21.6.2011, p.11.

appropriations. They are signed by the authorising officer by delegation (the agency's director) and the authorising officers by subdelegation, who assume the responsibilities arising from these duties.

Those charters apply *mutatis mutandis* for the implementation of the agency's operating budget.

9.8. Anti-fraud operations

All acts of the agency, and in particular all contracts, grant agreements and grant decisions signed by the agency, must provide explicitly that OLAF may conduct *ex ante* and *ex post* documentary and on-the-spot checks on the recipients of Union funds.

By virtue of Regulation (Euratom, EC) No 2185/96 and Regulation (EU, Euratom) No 883/2013, OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities.

The agencies designate a contact point which shall have the appropriate responsibilities to cooperate directly with OLAF in order to facilitate the latter's operational activities.

Contracts with agency personnel, irrespective of their status, must include provisions setting out the obligations to cooperate and provide information in accordance with Regulation (EU, Euratom) No 883/2013.

9.9. Evaluation

An external evaluation report on the first three years of operation of each executive agency is drawn up by the parent DGs and submitted to the steering committee of the agency and, through DG BUDG, to Parliament, to the Council and to the Court of Auditors. It includes a cost-benefit analysis²⁶. This evaluation is repeated every three years (Article 25 of Regulation (EC) No 58/2003).

Following the evaluation reports, the executive agency and the Commission shall take all appropriate steps to put in place the necessary measures to solve any problems identified.

Upon request from the parent DGs, the agency contributes to the evaluation of the delegated programme.

9.10. Annual activity report

The agency produces an annual activity report (AAR – Article 9(7) of Regulation (EC) No 58/2003), which gives an account of the implementation of both operational appropriations and operating budget. It is drawn up by the director and contains a declaration of assurance accompanied, if necessary, by reservations. The declaration on the accuracy and completeness of the information relating to the controls attached to the AAR is made by the person appointed by the agency's director to assume the function of internal control coordinator (ICC). The AAR is sent to the steering

²⁶ For further guidance on the evaluation, see DG BUDG note on "Evaluation of executive agencies. Legal requirements and indicative generic evaluations" on Article 25 of Council Regulation (EC) No 58/2003 (BUDG.B05/ D(2008) 60881).

committee for adoption. If necessary, the steering committee makes comments which are attached to the AAR. In any case, the agency's director assumes full responsibility for the AAR and the declaration.

The AAR, the accompanying declarations and any comments made by the steering committee are then attached to the AARs of the Directors-General of the parent DGs for each area of activity, unless otherwise provided in the Annual Commission Standing Instructions for the Annual Activity Reports. The Commission sends all annual activity reports to the European Court of Auditors, the European Parliament and the Council.

The first AAR from a newly established agency covers the period of the year in which it became operational.

The Directors-General of the parent DGs include in their own AARs Part 1 an assessment, based on the information in their possession, of how well the agency works. They describe the measures implemented in connection with the agency and the results achieved in relation to the policy objectives pursued. Furthermore, in their AAR Part 2 (in a dedicated section supported by a dedicated Internal Control Template in annex), they report on the legality and regularity of the Union contribution paid to the agency, and on the effectiveness, efficiency and cost-effectiveness of their supervision activities vis-à-vis the agency (see point 9.3).

DG BUDG produces an annual overview of the state of internal control in the Commission based on the Annual Activity Reports, covering all Directorates-General and Services, offices and executive agencies. The Commission (SG, DG BUDG) produces a Synthesis report, based on the Annual Activity Reports, the DG Budget Overview Report on the state of internal control and the Internal Auditor's annual Overall Opinion on the Commission's financial management.

9.11. External audit and discharge

All acts of the agency, and in particular all decisions adopted and agreement and contracts concluded by it, must provide explicitly that the Court of Auditors may conduct on-the-spot inspections of the documents of all recipients of Union funds. The Court of Auditors carries out its duties in accordance with Article 287 TFEU (Article 20(5) of Regulation (EC) No 58/2003 and Article 65 of the standard financial regulation).

The European Parliament, acting on a recommendation by the Council, gives the agency's director a discharge in respect of implementation of the agency's operating budget (Article 14(3) of Regulation (EC) No 58/2003 and Article 66 of the standard financial regulation), which is granted concomitantly with that relating to the implementation of the general budget. Discharge in respect of implementation of operational appropriations, on the other hand, is covered by the general discharge given to the Commission in respect of implementation of the budget (Article 16(3) of Regulation (EC), No 58/2003).

The agency and the Commission take appropriate measures to implement the recommendations contained in the discharge report (Article 66 of the standard financial regulation).

10. BUDGET ARRANGEMENTS

The agencies implement the operational appropriations linked with the programmes they manage on the basis of powers delegated by the College, as authorising officers by delegation, and the administrative appropriations as authorising officers (in respect of their own operating budget).

10.1. Operational budget

10.1.1. Operational appropriations

The Commission entrusts the agency with the implementation of the operational appropriations linked to the Union spending programme which it manages in whole or in part. The delegated powers come directly from the College and not from the DGs responsible for the programme(s).

For this reason, the executive agencies may on no account grant a cross subdelegation of powers to another authorising officer by delegation or subdelegation or receive a cross subdelegation from them.

In accordance with Articles 62 of Regulation (EU, Euratom) No 966/2012 and 35(1) of Commission Delegated Regulation (EU) No 1268/2012, the director of the executive agency implements the corresponding operational appropriations in the Commission section of the budget, under direct management, as authorising officer by delegation. The director of the agency carries out the delegation by implementing these appropriations directly in the Commission section of the budget.

10.1.2. Delegated operational lines

10.1.2.1 Articulation between the instrument of delegation and the Internal Rules

The instrument of delegation indicates in annex which operational budget lines are delegated to the agency for the first year of implementation of the newly delegated tasks.

For the subsequent years, the operational budget lines co-delegated to the executive agency will be specified annually in Annex I of Internal Rules.

If the instrument of delegation is adopted by the College and enters into force after the annual update of the Internal Rules, there is no need for an amendment of the annex to the Internal Rules in the course of the year; the Commission decision adopting the instrument of delegation is applicable immediately. Each agency will then act for the remainder of the year as authorising officer by delegation for the budget lines indicated in the instrument of delegation and would at the same time be subject to the implementing provisions adopted by the Commission in the Internal Rules for the year in question.

Should the budget nomenclature of the delegated lines be amended as part of a restructuring of the general budget, this will be indicated in the Internal Rules; it will not be necessary to review the instrument of delegation itself. In the event of changes in delegated tasks which require an amendment to the instrument of delegation, the lines concerned will be indicated in an annex to the amended instrument of delegation.

If there is any contradiction as to which budget line is to receive the appropriations for which implementation is delegated to an executive agency, it is the most recent act (Internal Rules or instrument of delegation) which prevails.

10.1.2.2. Split of the credits to be delegated in ABAC

Separate fund management centres shall be set up in ABAC for each of the delegated lines in order to allow for a clear division of the appropriations managed by each executive agency and the parent DGs.

Where in the phasing in stage, the Commission services are implementing the appropriations to be delegated, these appropriations will still be transferred (AMB type of transfer). From the technical point of view, the transfer of the programme in ABAC implies the transfer of the on-going operations in the financial circuit from the parent DGs' Fund Management Center (FMC) to the agency FMC.

Given the high number of the delegated lines and in order to limit the workload it is strongly recommended that each parent DG sends to DG BUDG in January a single request for all the necessary adjustments to be made according to its best estimates accompanied by the agreement of the agency(ies). Further adjustments can be requested and made during the year if such need arises.

10.1.3. Implementation of operational appropriations

The rules applicable to implementation of these appropriations are those valid for implementation of the general budget: Regulation (EU, Euratom) No 966/2012, Commission Delegated Regulation (EU) No 1268/2012, the Internal Rules and the available management and control tools.

The agency signs the grant agreements and contracts in its own name.

For the operational appropriations, the Commission's accounting officer carries out his duties in the same way as for the operational appropriations managed by Commission departments, notably for the purpose of recovering amounts by offsetting against any amounts owed to a debtor by the Commission or an executive agency, in accordance with Article 80 of Regulation (EU, Euratom) 966/2012.

10.2. Operating budget

As a corollary of its legal personality, the agency has its own operating budget. The budget of the agency covers its operating expenditure (Article 12 of Regulation (EC) No 58/2003) and is governed by the standard financial regulation, which is the same for all the executive agencies and is obligatory for them.

10.2.1. Content of the budget

10.2.1.1. Union contribution

The revenue for the operating budget comes from an annual contribution drawn from the financial allocation to the Union programmes in the management of which the agency is involved in and awarded by the budgetary authority on a proposal which the Commission makes on the basis of the agency's draft budget.

The agencies' operating appropriations are non-differentiated. In terms of the Commission's budget structure, the contribution to an agency is considered to be administrative (non-differentiated) expenditure (see Article 7 of the standard financial regulation).

The Union contribution to the operating budget of the agencies is entered on the contribution line with the following structure: xx 01 06 xx. The title of the budget line is the same as the title of the parent DG of the delegated programme. If an agency manages programmes belonging to different headings,

a specific line shall be created for each heading. These appropriations are of an administrative nature and thus may be implemented without a preceding financing decision.

Each delegating DG transfers the contribution for the management of the programme or part of programme for which it is responsible (the amount entered in budget line XX.01.06.xx) to the agency's bank account in line with the number of instalments provided for in the instrument of delegation and the memorandum of understanding taking into account the duly substantiated real cash needs of the agency for each programme/part of programme managed.

Where the line with the operating contribution is fed from various strands (parts) of the programme belonging to the various DG and where there is an agreement of all involved parties, the costs incurred for a part of the programme belonging to a DG may be higher than foreseen in the specific financial statement and may be offset by the lower implementing costs of the parts belonging for the other DGs. Over the duration of the programmes (multiannual financial framework) the rebalancing between various DGs has to be obtained.

In circumstances where a single agency is entrusted with the management of a programme under the responsibility of more than one DG, in order to avoid multiple invoicing, the parent DGs may agree to co-delegate²⁷ the management of the appropriations on the line carrying the contribution to the agency to another parent DG. The co-delegation requires an agreement between all parent DGs and will have to be reflected in the Internal Rules.

The option of co-delegation is without prejudice to supervisory responsibilities of each delegating DG, notably for the assessment of the cash needs requested by the agency for the respective part of the programme delegated to it.

In case of adjustments of the operating contribution, in addition to the minimum requirements laid down in the Internal Rules and in accordance with the principle of sound financial management, all delegating DGs should be consulted.

For the reasons of transparency the budget lines carrying the contribution to the operating budget of the agency (type xx 01 06 xx) must be used exclusively by the Commission. The agency is not delegated any powers for these lines.

The delegation of tasks to an executive agency does not prevent a parent DG from continuing to implement certain items of administrative expenditure financed by the programme even after the delegation. However, this may not lead to duplication of tasks between the parent DG and the agency.

If, in case of the delegation of (part of) a spending programme which was previously managed by the Commission, and for which the staff would previously have been remunerated from heading 5, the budgetary allocations related to the increase in the staff numbers in the executive agency(ies) should lead to a corresponding reduction in heading 5 expenditure in the year of the delegation (as the staff costs in the agency are covered from the envelope of the delegated programme and the freed posts will be cut from the Commission establishment plan). The same principle of offsetting of expenditure to ensure budget neutrality of the delegation of tasks to executive agencies applies to the reduction of

²⁷ The management of the line carrying the contribution to the operating budget of the agency may only be *co-delegated*; full delegations resulting in the replacement of the AOD of the delegating DG by the AOD of another delegating DG, be it for the same programme, is not allowed.

Commission staff previously remunerated from the operational heading, notably for research under heading 1a.

10.2.1.2. Assigned revenue

In addition to the Union contribution, the agencies' operating budget may be financed by external assigned revenues²⁸ from participation of the European Economic Area states and third countries in programmes managed by executive agencies.

However, the performance of tasks relating to the management of programmes financed by sources other than the general budget of the Union must not entail, even indirectly, additional administrative costs which would have to be covered by additional appropriations from the general budget in question.

10.2.1.3. Structure of the budget

The operating budget is presented under three titles: Title 1 Staff expenditure, Title 2 Infrastructure and operating expenditure and Title 3 Programme support expenditure:

Title I. Staff expenditure comprises the following cost items:

- Remuneration, Allowances and Charges
- Professional Development and Social expenditure

For the agency, the cost is calculated taking into account the number, category (administrators (AD), assistants (AST), contract agents, seconded national experts) and the grading of the staff needed.

Title II. Infrastructure and operating expenditure includes:

- Building expenditure
- ICT expenditure
- Movable property and Current operating expenditure

Title III. Programme support expenditure:

- Programme management expenditure
- Common support services expenditure (where relevant).

As a rule, in order to allow for a comparison of their costs, the agencies' operating budget should follow the structure as indicated in this point (see further guidance in Appendix VI).

10.2.2. Adoption and amendment of the budget

The procedure for the adoption of the agency's budget for the year n+1 is as follows (Article 13 of Regulation (EC) No 58/2003):

- the director draws up a draft budget for the year n+1 and sends it to the steering committee by no later than 31 January of year n;

²⁸ Including staff appropriations needed for the implementation of these external assigned revenues

- the steering committee adopts this draft budget by 1 March, including the draft establishment plan, and sends it to the Commission;
- on that basis, the Commission sends the budgetary authority the executive agency's draft operating budget and proposes, as part of the annual budgetary procedure, the amount of the Union contribution to the operating budget of the agency and the composition of the establishment plan;
- the budgetary authority adopts the amount of the Union contribution and the establishment plan in the general budget;
- the steering committee adopts the agency's budget after the budgetary authority has adopted the general budget of the Union.

Any amendment to the budget, including the establishment plan, is covered by an amending budget adopted under the same procedure (Article 13(7) of Regulation (EC) No 58/2003 and Article 22 of the standard Financial Regulation). However, the standard Financial Regulation allows a certain flexibility: transfers of appropriations within the agency's budget and modification of the establishment plan by up to 10% under certain conditions.

If operational appropriations have to be used to increase the appropriations provided for the agency, the procedure for amending the agency's budget is based on an Amending Letter to the Commission's draft budget or an amending budget (from the Commission), as applicable.

10.2.3. Implementation of the operating budget and budget result

The director of the agency is authorising officer for the operating budget (Article 14(1) of Regulation (EC) No 58/2003) and for this purpose applies the standard financial regulation. As authorising officer, the director is subject to the liability arrangements laid down in the standard financial regulation; these arrangements are the same as for Commission authorising officers by delegation for implementation of the general budget. However, the director cannot grant or receive powers by cross subdelegation vis-à-vis a Commission department or another agency (Article 26) of the standard financial regulation). He has the same management tools as Commission authorising officers by delegation.

Once the final accounts have been established for the agency, if the budget result is positive, each delegating DG (or the lead parent DG which has received a co-delegation from the delegating DGs) draws up a recovery order corresponding to the amount of appropriations which the agency has not used. The amounts recovered shall be considered as general revenue for the budget (Commission section).

10.2.4. Link between the operating and the operational expenditures

When an agency manages a number of different programmes, their respective contributions to the administrative expenditure for each policy area concerned are calculated on the basis of these different programmes and grouped by heading of the multiannual financial framework.

The total is incorporated in the request for appropriations (DB) under the budget lines XX.01.06.xx. The parent DG is responsible for respecting the amounts provided for in the legal base.

The director is responsible for introducing a reporting system to establish a link between operating expenditure and the different programmes managed by the agency (by means of distribution keys, an analytical accounting system or any other appropriate method).

At the end of the financial year, the agency not only reports on the overall amount left unused, but also provides all the information needed to establish a link between operating expenditure and each of the programmes managed by the agency. This information will enable the Commission to reply to the budgetary authority's questions about implementation of the programmes managed by the agency.

10.2.5. The agency's accounts

For the payment of expenditure charged to its administrative appropriations, the agency must appoint an accounting officer, preferably a seconded official or alternatively a directly recruited member of the temporary staff, whose accounting duties are limited to the agency's administrative expenditure.

The accounting officer cannot intervene in the authorisation process for administrative appropriations, as the duties of authorising officer and accounting officer are segregated and mutually incompatible (Article 28 of the standard financial regulation). To prevent any confusion of roles, he must also not be entrusted with the tasks of initiating agent or *ex ante* verifying agent for operational appropriations. However, the accounting officer may be entrusted with the *ex post* verification of operational appropriations.

The agency's accounts are drawn up in accordance with the rules and principles laid down by the Commission's accounting officer (Article 14(2) of Regulation (EC) No 58/2003).

11. HUMAN RESOURCES²⁹

11.1. Horizontal issues

11.1.1. Types of staff

- According to Article 18 of Regulation (EC) No 58/2003, the staff of the executive agencies consists of:
 - officials seconded in the interests of the service and engaged by the agency as temporary staff within the meaning of Article 2(a) of the Conditions of Employment of Other Servants (CEOS) (AT2a) in positions of responsibility;
 - temporary staff within the meaning of Article 2(f) of the CEOS (AT2f). Officials seconded at their own request by an Institution are engaged as AT2f;
 - contract staff within the meaning of Article 3a of the CEOS (AT3a). The number of contract staff may not exceed 75 % of the total number of staff employed in an agency³⁰.

²⁹ This chapter on human resources cannot deal exhaustively with all personnel matters. DG HR has been instructed to draw up a Vade mecum on personnel management in the executive agencies, with which the agencies will be required to comply, and which will provide all further details necessary (referred to in the text as 'the Vade mecum').

³⁰ This percentage is calculated, by reference to the annual budget procedure, as the maximum permitted proportion of contract staff on average, in full-time equivalents, within the total number of staff allowed for the agency.

- The agency may use seconded national experts (SNEs).
- The agency can also make use of other types of staff under private-law contracts, for example the supply of agency staff by a placement agency or, in exceptional circumstances, the use of service providers for specific, or one-off tasks.
- If a service level agreement has been concluded between the agency and DG EAC, Commission Blue Book trainees can also be used, although they are not considered to be staff.

11.1.2. Establishment plan

- The establishment plans of the agencies are made up exclusively of temporary posts. Categories of staff other than temporary staff are not included in the establishment plan.
- For the purposes of reclassification, the agency takes care when managing its establishment plan to distinguish between posts occupied by officials seconded in the interests of the service, on the one hand, and posts occupied by all other temporary staff on the other. The distribution of grades within the establishment plan (which is included in the agencies' budgets) must make it possible to ensure that Commission officials maintain their grade while they are seconded to the agency as members of the temporary staff, while maintaining the possibilities for reclassification open to other temporary staff.
- The parent DGs and DG HR also monitor the executive agencies' establishment plans on a regular basis.

11.1.3. Organisation chart

- The agency's organisation chart, establishment plan, appointment grades and the distribution of tasks between temporary staff and contract staff (including the identification of positions of responsibility in accordance with the procedures set out below) are drawn up provisionally by the parent DG or DGs, in collaboration with DG HR and DG BUDG, when the proposal for the creation of the executive agency is drafted. These different elements are approved and if necessary updated by the executive agency before the first budget procedure following its creation.
- The organisation charts of the agencies are reflected in the Commission's organisation charts as follows:
 - The structure of the agencies' organisation charts is reproduced in full or in part in the organisation charts of the parent DGs ('mirror' chart).
 - All posts corresponding to positions of responsibility, and only these posts, are also created in the parent DG as 'mirror' posts.
 - Positions of responsibility occupied by temporary staff other than officials seconded in the interests of the service also appear as 'mirror' posts in the parent DG with the comment 'post occupied in agency'.
- Organisation chart and structure:

The Commission Communication on organisation charts of Commission DGs and services³¹ also applies to agencies' organisation charts.

If the organisation chart of an agency is modified, the organisation charts of the parent DGs must also be changed. Consequently, all reorganisations must be carried out in accordance with the normal rules and procedures applicable in the Commission (if necessary, in agreement with the appropriate Member of the Commission, the parent DG, the SG and DG HR). The 'mirror' organisation chart is then modified by the Commission and the agency's organisation chart by the Steering Committee.

- Allocation of human resources within the agency:

The parent DG, having consulted the director of the agency, identifies the posts corresponding to positions of responsibility. These posts are intended to be occupied by officials seconded in the interests of the service. The SG, DG BUDG and DG HR assist in this exercise.

The number of posts corresponding to positions of responsibility may not exceed 33 % of the total number of temporary posts allowed in the agency's establishment plan, with a minimum of six. The number of posts corresponding to this quota is calculated on the basis of the establishment plan as approved.

The director of the agency submits the agency's detailed organisation chart to the Steering Committee. This organisation chart goes down to the lowest organisational level (usually sector level) and includes establishment plan posts (temporary staff), staff paid for out of the budget (contract staff) and others working for the agency on a continuous basis (e.g. SNEs). The organisation chart also indicates the number of people used by the agency on private-law contracts (agency staff and service providers).

Any changes affecting one or more positions of responsibility must be reflected in a change in the 'mirror' posts at the Commission, which is a matter for the parent DGs. This means that no changes affecting positions of responsibility can be made until the agreement of the parent DGs has been obtained.

Any other redistribution of resources between the different departments, units and sectors which might be made subsequently will be the responsibility of the agency, on condition however that the adjustments are made without any change to the total budget and staff numbers and do not affect the number and allocation of positions of responsibility. The agency's Steering Committee will be informed of such changes.

11.1.4. Sensitive functions

The rules on the management of sensitive functions in force at the Commission apply *mutatis mutandis* in the executive agencies.

11.1.5. Social dialogue

³¹ SEC(2006) 1702/4 and all subsequent revisions.

Considering the importance of consulting the staff representatives during the various stages of the decision-making process, the executive agencies must take care to promote high-quality social dialogue internally.

In particular, they must do what they can to enable the staff committee to operate smoothly, and provide it with the resources it needs.

The staff committee is a body set up by Article 9(1) of the Staff Regulations. The duties undertaken by members of the staff committee are therefore considered to be part of their normal service in their agency. The fact of performing such duties must in no way be prejudicial to the staff committee member.

On the basis of the provisions in force in the European Commission, the executive agencies will consider laying down arrangements for consulting the trade unions and staff associations and signing agreements with them concerning their staff.

11.2. Legal framework applying to people working in the executive agencies

11.2.1. Agency staff: members of the temporary and contract staff

11.2.1.1. Staff Regulations

Executive agency staff are subject to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union.

11.2.1.2. Provisions for giving effect to the Staff Regulations

The executive agencies are ‘agencies’ within the meaning of Article 1a(2) of the Staff Regulations and are thus treated as institutions for the purpose of applying the Staff Regulations.

The executive agencies must therefore adopt implementing rules for giving effect to the Staff Regulations in accordance with the procedures laid down in Article 110 of the Staff Regulations and in the Commission communication dedicated to this issue³².

For the purposes of applying Article 110, the proximity of the executive agencies to the Commission's departments should be borne in mind, particularly as they manage European programmes and are established in the same locations as the Commission and its departments.

The implementing rules must therefore be essentially the same as those adopted by the Commission and any adaptations must be limited and justified. The date on which they enter into force must be as close as possible to that of the Commission's implementing rules.

³² Communication C(2014) 6543 of 26 September 2014 from Vice-President ŠEFČOVIČ to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies

Also, to ensure that staff are treated equally, it is important that the executive agencies adopt a mutually consistent approach.

In these circumstances, the Commission must ensure that the agencies' implementing rules are the same as those it has drawn up, or depart from them only for specific, clearly defined reasons based on the special nature of the executive agencies, including the number of staff, the characteristics of the establishment plan, in particular the fact that the executive agencies have only temporary posts, and the employment of contract staff within the meaning of Article 3a of the CEOS.

11.2.1.3. Other administrative rules and practices in relation to staffing

The approach adopted for the rules for implementing the Staff Regulations applies by analogy to texts relating to the management of staff which do not fall within the scope of Article 110 of the Staff Regulations as well as to administrative practice.

- In this respect:
 - DG HR ensures that the executive agencies are duly informed of changes at the Commission in the field of human resource management and that the rules are properly applied;
 - the agencies' Steering Committees make sure that the rules they adopt are in line with those adopted by the Commission;
 - the parent DGs ensure that the administrative practices followed in the agencies are in line with those of the Commission.
- DG HR's Vade mecum on personnel management in the executive agencies will set out how these principles will be put into practice.

11.2.1.4. Authority Empowered to conclude Contracts of Employment (AECE)

- The powers of the AECE in relation to executive agency staff are exercised by the director of the agency (Article 11(6) of Regulation (EC) No 58/2003), without prejudice to the possibility for the director to delegate these powers pursuant to Article 2(1) of the Staff Regulations.

11.2.2. Other persons who can be used by agencies

11.2.2.1. Seconded national experts

- Executive agencies can use seconded national experts. However, use of SNEs must remain extremely limited and be justified by the executive agency's need for specific skills.
- The agency's Steering Committee can decide that the Commission decision laying down rules on the secondment of national experts to the Commission will apply to the agency by analogy, or it can adopt a framework decision similar to the Commission decision³³. In that case, it will make sure that the rules applicable to the Commission, in particular those on handling conflicts of interest and the type of tasks SNEs can be given, apply by analogy.

³³ C(2004) 577 of 27.2.2004, as amended by Decisions C(2005) 872 of 22.3.2005, C(2005) 3608 of 21.9.2005 and C(2008) 6866 of 12.11.2008.

11.2.2.2. Contracts subject to private law

The phrase inserted in Article 18 of Regulation (EC) No 58/2003 at Parliament's request (*The nature of the contract, governed by either private law or public law, etc.*) prompted the Council to consider the possibility of using private-law contracts.

Although the Commission had not initially intended to make use of this formula (which from a legal standpoint is always available), the Council demanded that it make a statement undertaking to limit its use as far as possible³⁴.

Contracts subject to private law should be limited to the provision of placement agency staff (*intérimaires*) who have no direct contractual link with the executive agency but are employed for a short period via a temporary employment agency in order to replace absent staff or to help in coping with an exceptional workload. The agencies may nonetheless, in exceptional circumstances, make use of service providers via service contracts for specific one-off tasks.

11.3. Officials seconded as AT2a temporary staff members to positions of responsibility

11.3.1. Definition of positions of responsibility

- The post of director of the agency is covered in Section 7.2.
- The other positions of responsibility are reserved as a priority for officials seconded in the interests of the service within the meaning of Articles 37(a) and 38 of the Staff Regulations by the institutions up to the maximum percentage of AT temporary staff (AT) posts which officials seconded in the interests of the service may occupy in the establishment plan of an agency. Depending on the nature of the post, the officials may belong to either the AD or AST function group.
- Posts which are proven to fulfil at least one of the criteria set out below may also be considered as positions of responsibility:
 - functions included in the agency's organisation chart – heads of department, heads of unit, deputy heads of unit, heads of sector, etc.;
 - posts in which the holder may represent the agency or enter into commitments on its behalf (in particular legal or financial commitments³⁵; this includes the negotiation and conclusion of scientific contracts);

³⁴ Commission statement entered in the Council minutes when Regulation No 58/2003 was adopted, with regard to Article 18: 'the Commission states that it will ensure that executive agencies use private-law contracts, subject to national laws, only as an exceptional arrangement and in compliance with the case law of the Court of Justice'.

³⁵ In any event, the specific restrictions on the subdelegation of budget implementing powers set out in Article 7 of the Internal Rules must be complied with.

- general coordination, team coordination and staff supervision functions (e.g. team leaders), and certain other particularly important functions (e.g. accounting officer);
 - sensitive functions within the meaning of the DG BUDG guidelines³⁶;
 - functions requiring specific qualifications, such as scientific officers.
- In the event of doubts as to whether the post is a position of responsibility or not, the agency will consult the parent DG.
 - Existing positions of responsibility are identified by parent DGs at the start of the programming cycle, in consultation with the agency and using as a benchmark the number of frozen posts indicated in the specific financial statements accompanying the instrument establishing the agency. The director informs the parent DGs if any functions are created that could meet the above criteria. The parent DGs then decide whether or not the function in question should be designated as a position of responsibility.
 - If a position of responsibility cannot be filled by an official seconded in the interests of the service, it will be filled by engaging an AT2f temporary member of staff, with the agreement of the parent DG. On departure of the post holder, the function is again reserved as a priority for officials seconded in the interests of the service.

However, the agency's management structure, from the director down, should consist mainly of officials seconded in the interests of the service. Accordingly, management functions (head of department and head of unit) should be performed by an AT2f temporary member of staff only in exceptional circumstances, with the agreement of the parent DG and DG HR and in accordance with the rules and procedures in force.

- In any event, functions that involve the responsibilities defined above may not be exercised by contract staff in accordance with Article 80 of the Conditions of Employment of Other Servants.
- The parent DG and the agency may request that a post which is not proven to meet at least one of the above criteria can nevertheless be occupied by an official seconded in the interests of the service. In particular, this may be the case where the transfer of expertise between the Commission and the agency is vital for the agency to start up effectively and operate smoothly³⁷. Such a request will be submitted to DG HR, which will take a decision based on the grounds laid before it.

11.3.2. Appointment to a position of responsibility other than a senior management post

- The procedure for filling a position of responsibility includes three separate legal steps:

³⁶ Commission's internal control standards for effective management as attached to the Internal Rules, see point 9.3 of the Guidelines.

³⁷ If the agency is to start up satisfactorily, the Commission has every interest in allowing the agency to benefit from the expertise and skills at its disposal. Assigning seconded officials to management posts also creates a close personal link between the agency and the Commission and gives the Commission more scope for oversight of the agency.

- filling the ‘mirror’ post in the parent DG which corresponds to the post of the official to be seconded to the agency in the interests of the service;
- secondment from the Commission to the agency in the interests of the service;
- engagement by the agency, as an AT2a, of the official seconded in the interests of the service.

These three steps generally come under three different appointing authorities/authorities empowered to conclude contracts of employment. Each of these authorities has its own discretionary power and exercises its power independently of the others. For the sake of efficiency, appointment procedures will in practice require close prior consultation between these authorities.

- In order to fill a position of responsibility in the agency, the first stage is to fill the existing ‘mirror’ post in the parent DG. To do so, the parent DG, after consulting the agency, first determines the grade range corresponding to the post in question. This range corresponds to the range applied by the Commission for comparable posts.

In the case of functions included in the agency's organisation chart, head of unit vacancies are generally published at grade AD 9-14 and head of department vacancies at AD 13-14.

- The parent DG then decides on the procedure to be followed to fill the ‘mirror’ post. There are two possible options, which are set out in the Vade mecum:
 - either this post is filled under Article 7 of the Staff Regulations by reassigning the official from his original post to the ‘mirror’ post in the parent DG. In this case the parent DG takes its decision in close collaboration with the director of the agency;
 - or the post is filled after publication of the vacancy, under Articles 4 and 29 of the Staff Regulations, in which case the usual procedures in force at the Commission apply, albeit with the following special features:
 - the agency is asked to help draft the vacancy notice published;
 - the vacancy notice states that the official selected will be transferred to a ‘mirror’ post in the parent DG and seconded from this post to the executive agency in the interests of the service; If the official is from another institution, he must therefore be transferred to the Commission first;
 - the agency and, where applicable, the other parent DGs concerned by the post are represented on the selection panel;
 - the parent DG (which acts as the appointing authority) takes its decision in close collaboration with the director of the agency;
 - the principles set out above also apply to appointments to head of unit and head of department functions.

In this case, the preselection panel consists of the director designated by the parent DG concerned by the post, a representative of the agency and *one or more representatives from outside the parent DGs concerned*. Also, the parent DG asks the director of the agency to be present at the final interview as an observer and takes its decision in close collaboration with the latter. The director of the agency receives all the relevant information regarding the procedure. The official selected is then appointed to a ‘seconded head of unit/ head of department’ function.

- Before formally proceeding with the appointment, the parent DG asks DG HR to arrange for the official to be seconded in the interests of the service, in accordance with the following rules:
 - Under Article 38 of the Staff Regulations the official on secondment retains his post.
 - At the end of every six months, the official on secondment may request that his secondment be terminated. In this case the parent DG tries to identify another post and offers it to the official wishing to end his secondment.
 - The duration of secondment is agreed between the DG and the seconded official, but may be shortened or extended.
- Once the appointment has been made and the secondment finalised, the agency engages the official concerned as a temporary staff member. He is remunerated by the executive agency from its operating budget.
- The contract of engagement must have the following characteristics:
 - it must be governed by Article 2(a) RAA (AT2a);
 - it must be of indefinite duration. A clause in the contract states that it will expire automatically at the end of the period of secondment authorised by the Commission or when the Commission decides, in the interests of the service, to end the secondment, for example at the request of either the official or the agency;
 - subject to the availability of appropriations in the budget, the contract is for the same grade, step and seniority in step as at the Commission.
- The practical arrangements for the official's move to the agency (office, telephone, IT, best practice, etc.) are set out in the Vade mecum.

11.3.3. Budgetary aspects: frozen posts and allocation of human resources freed up following the delegation of powers to an agency

- The budgetary effect of secondment is that the ‘mirror’ post is in practice blocked in the parent DG and the corresponding appropriations are deducted.

Since the Commission must not make use of executive agencies to circumvent budgetary authority oversight of its staff numbers, the legislative authority laid down the following conditions for the use of executive agencies (Article 18(2) of Regulation (EC) No 58/2003), on the understanding that activities remain constant:

- posts of seconded officials may not be filled during the secondment;
 - allowance must be made for transfers of officials in the calculation of administrative costs in the Commission budget.
- If, after the return of an official seconded in the interests of the service (see 11.3.5), the official is not and will not be replaced by another seconded official, the frozen post in the Commission establishment plan is ‘unfrozen’ and added to the number of posts freed up.
 - These frozen posts are to be treated differently from any human resources freed up internally by the delegation of powers to an agency. Such resources are not redeployed within the department concerned but remain available to the Commission. Given the Commission's commitment to reduce staff by 5 % overall, for the sake of budgetary balance and to offset the expenditure required to increase the staff of the executive agencies, the Commission will deduct the human resources freed up from its establishment plan and/or its budget so as to ensure that the delegation of powers is budget neutral. Any resources freed beyond this budgetary neutral level may be reallocated by the Commission in accordance with decisions by the College of Commissioners during the budget procedure.

11.3.4. During the period of secondment

- Officials seconded to the executive agencies in the interests of the service, in particular the director of the agency, will ensure that the agencies do in fact abide by the policy guidelines set by the Commission. To this end, the officials will maintain regular and frequent contact with their home DG throughout their secondment. The Vade mecum will set out examples of best practice in this regard.
- With this in mind, the home DG must take pains to inform the official and clarify with him various aspects of the secondment to the executive agency in the interests of the service. These aspects include for example appraisal, promotion, return to the DG and career planning.

11.3.4.1. Appraisal

- From a formal point of view, an official seconded in the interests of the service is appraised twice:
 - he is appraised as an official by his home DG, applying the relevant implementing provisions adopted by the Commission;
 - he is also appraised as an AT2a temporary staff member by the agency, applying the implementing provisions adopted by the agency (see point 9.2.1.2. above on the rules implementing the Staff Regulations).

- At both the Commission and the agency, the appraisal procedure for persons seconded in the interests of the service takes into account the fact that the agency's management structure consists mainly of officials seconded in the interests of the service (including the director).
- This annual appraisal procedure will be presented in detail in the Vade mecum on the basis of the following principles:
 - as far as possible, the reporting officer and the content of the appraisal are the same at the agency as at the home DG;
 - when the reporting officer at the Commission is different from the reporting officer at the agency, the former is from the home DG of the person being appraised and bases his appraisal on the contribution from the line manager at the agency;
 - when the duties of the person being appraised are of significant importance to a number of Commission DGs, the contribution of the line manager at the agency will be accompanied by a contribution from the director of the agency.

11.3.4.2. Promotion / Reclassification

- An official seconded in the interests of the service retains his eligibility for promotion as a Commission official, which is governed by the general provisions adopted by the Commission for the implementation of Article 45 of the Staff Regulations.
- The Vade mecum will describe the procedure for the promotion of staff seconded in the interests of the service, specifying the mechanisms for ensuring that their merits are brought to the attention of and taken into account by the parent DG in the same way as those of other officials of the DG.

This means that the director of the agency is deemed, in every sense of the term, to be a member of the senior management of the DG concerned, even if he comes from another DG.

- In the event of promotion, the agency amends the AT2a contract of the official seconded in the interests of the service to reflect the change in grade and step and in order to ensure parallel development of the two career paths.

11.3.4.3. Career development and mobility

- Officials seconded in the interests of the service retain their right to advancement. They may apply for any vacant post at the Commission provided they meet the conditions of eligibility.
- Officials seconded in the interests of the service may also be eligible for the certification procedure provided for in Article 45a of the Staff Regulations (allowing an AST official to be appointed to a post in function group AD). If so, the agency must authorise the official to take part in the compulsory training programme.

The Vade mecum will set out the detailed arrangements for participation by officials seconded in the interests of the service in selection for the training programme, using as a model the procedure applied to the promotion exercise.

- Officials seconded in the interests of the service may express their interest in being reassigned or transferred to another position of responsibility in their agency or in another executive agency.

In this case it is up to the parent DG responsible for the position in question to conduct the selection procedure, complying with the rules in force. If the official is selected for that position, his mobility must be taken into account at the Commission (mobility between ‘mirror’ posts), in the secondment decision and at the agency.

- However, an official seconded in the interests of the service may not be moved to a post other than a position of responsibility unless he asks to put an end to the secondment in the interests of the service and to be seconded on request under Articles 37(b) and 39 of the Staff Regulations.

11.3.5. Arrangements at the end of the period of secondment and in the event of a premature end to the period of secondment

- At the end of the period of secondment, two scenarios are possible:
 - (1) The three parties concerned (home DG, agency and seconded official) agree to extend the secondment and to maintain the official in the same functions at the agency, while abiding by the rules on mobility, particularly in the case of sensitive functions. In this case, the parent DG asks DG HR to extend the secondment.
 - (2) If at least one of the parties concerned expresses the wish for the secondment to be ended,
 - the home DG identifies another post in that DG for which the person is qualified;
 - the agency and the official terminate the contract by mutual agreement without the official having served the period of notice for temporary staff laid down in Article 47 of the CEOS;
 - the appointing authority terminates the official's secondment and reinstates him in the ‘mirror’ post matching the secondment, as provided for in the Staff Regulations;
 - however, since the appropriations for the ‘mirror’ post were frozen, the official cannot remain assigned to it and is immediately reassigned to his new post under Article 7 of the Staff Regulations.
- The official seconded in the interests of the service may request that his secondment be terminated under Article 38(c) of the Staff Regulations. If his request is accepted, the procedure set out at point 2 above is applied.
- This procedure is also applied where the parent DG and the agency agree to terminate the secondment early.

- This procedure also applies at the end of the normal period of secondment in the interests of the service or where the appointing authority decides to terminate the secondment early.
- Officials seconded in the interests of the service to an executive agency may apply for a job vacancy published by their home institution. If the official is selected, his secondment to the agency is terminated as follows:
 - the home DG is informed of the transfer request through the usual channels. It reaches agreement with the director of the agency and the new DG on the date of the transfer, in accordance with the relevant Commission rules and waiving the need to serve the period of notice for temporary staff laid down in Article 47 of the CEOS;
 - the agency and the official terminate the contract by mutual agreement on the agreed date;
 - the appointing authority terminates the official's secondment and reinstates him in his 'mirror' post, as provided for in the Staff Regulations;
 - however, since the appropriations for the 'mirror' post were frozen, the official cannot remain assigned to it and is immediately transferred to his new post under Article 29 of the Staff Regulations.

11.4. AT2f Temporary staff

- All other temporary staff posts, including positions of responsibility for which the parent DG was unable to find an official to second in the interests of the service, are filled by engaging staff from elsewhere. This covers both persons outside the institutions as well as EU officials who could then be seconded on request within the meaning of Articles 37(b) and 39 of the Staff Regulations.
- Under Article 12(2)(a) of the CEOS, these posts may also be open to nationals of third countries, in particular the Member States of the European Economic Area (EEA) and the European Free Trade Association (EFTA) taking part in the programme implemented by the agency. The rules and principles relating to the use of third-country nationals apply.
- In accordance with Article 56 of the CEOS, the agency adopts provisions on the engagement and use of AT2f staff under the procedure provided for in Article 110 of the Staff Regulations (see point 11.2.1.2. on rules implementing the Staff Regulations).

11.4.1. Procedure for filling a post

- The director of the agency decides on the procedure to be followed for filling a post. There are various options, which will be described in detail in the Vade mecum:
 - the post may be filled by applying Article 10 of the CEOS (equivalent to Article 7 of the Staff Regulations for AT2f staff) and reassigning the AT2f temporary staff member; or

- the post may be filled by publishing an internal or inter-agency notice, followed by a selection procedure. In this case, the AT2f staff member retains his grade, step and seniority in the step, in accordance with Article 55 of the CEOS; or
 - the post may be filled by an appointment following an external selection procedure (which will be conducted in accordance with the implementing provisions adopted under Article 110 of the Staff Regulations).
- For posts filled via an external selection procedure the Vade mecum will specify:
 - the content of the notices of selection, and in particular:
 - the eligibility conditions for candidates, taking into account the minimum requirements laid down by the Staff Regulations and the CEOS, particularly as regards education, professional experience, language skills, etc., as well as the qualifications and professional experience required for the post(s);
 - the function group and starting grade corresponding to the positions to be held and tasks to be performed, within the limits allowed by Article 53 of the CEOS and the establishment plan;
 - given their proximity to the Commission, the executive agencies should depart from the conditions and levels of recruitment applied by the Commission to a limited and duly substantiated extent only. To ensure greater consistency in recruitment policy between executive agencies and between them and the Commission, DG HR is consulted for its opinion before the publication of notices of selection which depart from the recruitment levels applied by the Commission;
 - the terms of employment.
 - the method of publication: the executive agency publishes the notice of selection in the Commission's information system, on the EPSO website, on the parent DG's website and on its own website. The executive agency also sends the notice of selection to the permanent representations of the Member States and advertises it elsewhere as it sees fit;
 - the selection procedure: this is conducted by a selection board set up by the executive agency, in line with the rules laid down in the general implementing provisions on the employment of At2f staff. EPSO assists the executive agency if requested.
 - If multiple job vacancies are expected, the selection procedure may result in the compilation of a reserve list of successful candidates.

11.4.2. Engagement

- All temporary staff are hired on a contract and are paid by the executive agency from its operating budget.
- Each executive agency must set precise rules for the duration of contracts, in accordance with the Staff Regulations and in particular Article 110 thereof, within the limits authorised by Article 8 of the CEOS³⁸ and the relevant general implementing provisions. The Commission ensures that the agencies adopt a consistent approach in this area.
- It is worth bearing in mind that the executive agencies have a limited lifespan, which is specified in the Commission decision. If a contract is of an indefinite duration or for a fixed period which goes beyond the lifespan of the agency, a clause expressly states that it will automatically expire if the agency's lifespan is not extended, with due regard for the provisions of Article 47 of the CEOS.

11.4.3. Appraisal

- AT2f temporary staff members are subject to an appraisal, as provided for in the relevant implementing provisions adopted by the agency in accordance with Article 15 of the CEOS (see point 11.2.1.2. above on rules implementing the Staff Regulations).
- These implementing rules must reflect the principles and procedure for appraisals applied by the Commission.

11.4.4. Reclassification

- AT2f temporary staff members may be subject to classification in the next higher grade, as provided for in the relevant implementing provisions adopted by the agency in accordance with Article 54 of the CEOS (see point 11.2.1.2. above on rules implementing the Staff Regulations).
- These implementing rules must reflect, *mutatis mutandis*, the principles and procedure for the promotion of officials applied by the Commission.

11.4.5. Mobility

- The executive agencies will create a system for publishing vacant posts in order to encourage horizontal mobility of AT2f staff within and between executive agencies.
- The Vade mecum will describe ways of achieving this objective, modelled on the methods of publishing posts for officials (in particular publication for a range of grades, standard job descriptions).

³⁸ Article 8 of the CEOS states that AT2a and AT2f staff 'may be engaged for a fixed or indefinite period. The contracts of such staff who are engaged for a fixed period may be renewed not more than once for a fixed period. Any further renewal shall be for an indefinite period'.

11.5. Contract staff

- In accordance with Article 110 of the Staff Regulations, the implementing provisions adopted by the Commission on contract staff normally apply by analogy to the executive agencies.

11.5.1. Types of post and conditions of employment

- The contract staff employed by the executive agencies are contract staff within the meaning of Article 3a(1) of the CEOS (referred to hereafter as ‘AC3a staff’). The executive agencies may not employ contract staff falling under Article 3b of the CEOS.
- Each executive agency establishes job profiles and defines the duties and powers corresponding to these profiles on the basis of the equivalence between the types of tasks and the function groups laid down in Article 80 of the CEOS and in line with the Commission model.
- The general conditions of employment for AC3a staff are set out in Articles 79 to 87 and 91 to 119 of the CEOS. In accordance with Article 82(3)(a) of the CEOS, nationals of third countries, in particular the Member States of the European Economic Area (EEA) and the European Free Trade Association (EFTA), taking part in the programme carried out by the agency may also be hired as contract staff. The rules and principles relating to the use of third-country nationals apply.
- Contract staff are hired under a contract and paid by the agency from its operating budget.

11.5.2. Procedure for filling contract staff functions

- The director of the agency decides on the procedure for filling these functions. The procedure, which will be described in detail in the Vade mecum, includes several options:
 - fill these functions by reassigning a staff member;
 - fill these functions by publishing an internal or inter-agency call for expressions of interest targeting staff members belonging to the function group in question;
 - fill these functions by engaging staff after an external selection procedure.
- For external selection procedures, executive agencies follow the same procedures as the Commission departments use for engaging their contract staff.
- If necessary, however, the agency may adopt special provisions for the selection of highly specialised staff, subject to compliance with Article 110 of the Staff Regulations.
- In the event of multiple vacancies, a reserve list of successful candidates may be compiled.

11.5.3. Duration of contracts

- The rules applicable to the Commission also apply in the agencies.
- If a contract is for an indefinite duration, a clause will expressly state that it will automatically expire if the agency’s lifespan is not extended, with due regard for Article 47 of the CEOS.

11.5.4. Appraisal and reclassification

- The rules applicable to the Commission also apply in the agencies.

11.5.5. Mobility

- The executive agencies will create a system for publishing vacant contract staff functions in order to encourage horizontal staff mobility within and between agencies.
- The Vade mecum will specify how this objective is to be achieved,

11.6. Transitional provisions

- The 33 % limit referred to in point 11.1.3. (Organisation charts) is temporarily suspended. DG HR, in agreement with the SG and DG BUDG, will decide when to end this suspension in agreement with the parent DG and after consulting the agency's director. Thereafter, the quota will gradually have to be applied, as the implementation of the new generation of European programmes reaches its cruising speed. A longer suspension of the 33 % limit may be authorised in the case of small agencies only, on condition that the limit is not substantially exceeded and a proper justification is given.
- The entry into force of these guidelines will not affect the position of those occupying positions of responsibility within the agency on 1 January 2014.
- Officials who were seconded to an executive agency on 31 December 2013 and who subsequently return to the Commission will be reinstated in posts equivalent to those which they held before their secondment. Commission administrators who were appointed as heads of unit in an agency will be reinstated in administrator posts in the Commission. However, the period in which they carried out head of unit tasks in an agency will be recognised as management experience.
- The Commission and the agencies will adopt appropriate provisions to ensure that Commission officials whose tasks are transferred from the Commission to an agency are offered a secondment in the interests of the service by the Commission and an AT2a contract by the agency without any other publication or selection procedure.
- The Commission and the agencies will adopt appropriate provisions to ensure that AT2f temporary staff members whose tasks are transferred from one agency to another are offered a contract by the new agency without any other publication or selection procedure. This contract will be drawn up in accordance with the rules of the new agency.
- The Commission and the agencies will adopt appropriate provisions to ensure that contract staff members whose tasks are transferred either from the Commission to an agency or from one agency to another are offered a contract by the new agency without any other publication or selection procedure. This contract will be drawn up in accordance with the rules of the new agency.

12. COMMON SUPPORT SERVICES AND INFRASTRUCTURE

12.1 Pooling together of support services

As executive agencies grow in size in terms of staff and reach a critical mass of programmes to be managed, consideration should be given to delegation scenarios which aim to achieve further efficiency gains and cost savings by pooling together various agencies' horizontal services such as IT, human resource management, programme-related administrative and logistical support services, communication, etc, either among agencies or in cooperation with the relevant Commission services.

The instruments of delegation of the agencies should specify the modalities for the provision of such services to the agencies which may be supplied either for a fee or free of charge.

12.1.1. Services provided by the Commission for a fee; Service Level Agreements and charge-back

Services related to the functioning of the agency (for instance building infrastructure, access to the Commission's central financial information system, access to the Commission's resource management systems, IT infrastructure services) as well as other ancillary administrative services (such as translations, publications, traineeship scheme of the Commission) are provided by the Commission (DG HR, DG BUDG, DG DIGIT, SCIC, DG EAC), the Commission offices (PMO, OIB/OIL) and the interinstitutional offices (EPSO, Publications Office) and the Translation Centre, usually for a fee.

The costs of these services will be invoiced to the client agency according to the provisions of the Service Level Agreement (SLA) to be signed between each service provider and the agency.

12.1.2. Services provided free of charge by the Commission

The executive agencies may also benefit from services supplied by the Commission free of charge. Typically, these service will relate to the core business of the agency – the management of the delegated tasks (such as the provision of horizontal services by the Horizon 2020 Common Support Centre to ensure consistent application of the programme by all the implementing bodies; support services include legal support, business processes, information technology systems and operations, programme information and data and ex-post audits³⁹).

12.1.3. Services provided free of charge by an executive agency

An executive agency may be made responsible for the provision of administrative and logistical support services for the benefit of other executive agencies, bodies and Commission services.

The scope of services, programmes and programme-implementing bodies will have to be defined at the level of the instrument of delegations of the agency service provider and the client agency/ies (see also point 3.1 for the conditions for delegation of this category of tasks).

³⁹ Commission Decision C(2013) 8751 of 4.12.2013 on the operating rules for the Common Support Centre for Horizon 2020, the Framework Programme for Research and Innovation (2014-2020)

For reasons of transparency, the provision of such services may not lead to the invoicing between executive agencies. SLAs with service charges between agencies or between an agency and another EU body are thus excluded.

The resources needed in the agency providing services to perform the support tasks will have to be covered upfront by the Union contribution to the operating budget of that agency (line XX.01.06.xx in the general budget) financed from the allocation of the relevant programme. The related budgetary impact will have to be included in the specific financial statement accompanying the delegation.

12.2. Participation of the agencies to Commission and interinstitutional public contracts

Article 50(2) of the standard Financial Regulation states that executive agencies may ask to be associated, as contracting authority, with the award of Commission or interinstitutional contracts. As they have their own legal personality, the executive agencies will not be allowed to use the Commission framework contracts or to join them once the contracts are ongoing if they are not announced from the outset as contracting authorities.

Where a framework contract is of common interest and there is a possibility for realising efficiency gains, the DGs or offices will offer executive agencies the possibility of access to future framework contracts as a contracting authority by consulting them well in advance of the launch of the procurement procedure in order to conclude an interinstitutional contract.

Agencies in the process of being established may also be listed as contracting authorities following a rough estimate of their possible needs. For “the supply of goods, provision of services or performance of work that the Commission, the interinstitutional offices or the Translation Centre are able to carry out, the executive agencies shall first use them before applying a procurement procedure” (Article 50(3) of the standard Financial Regulation).

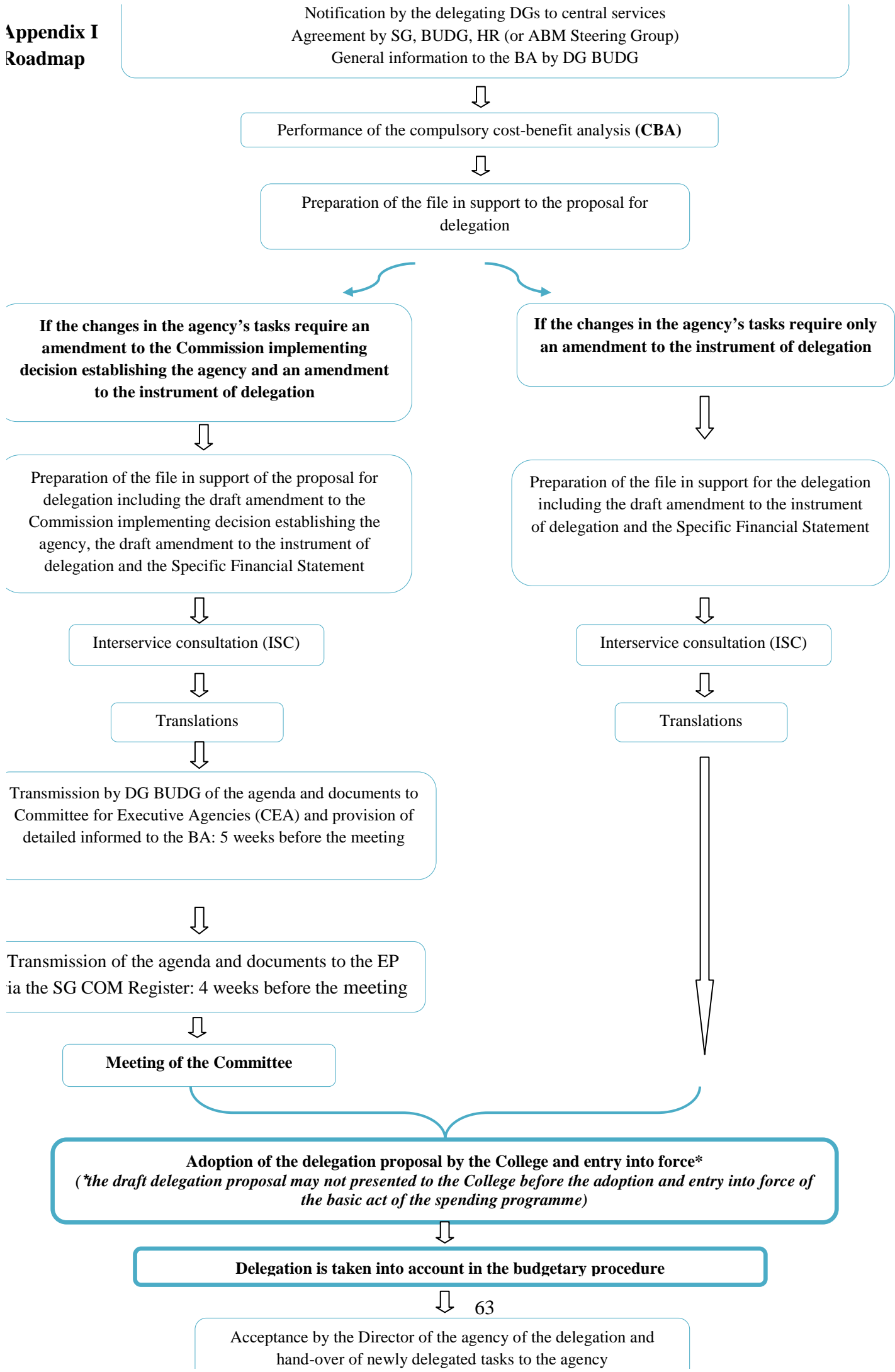
That applies to:

1. services supplied directly by Commission staff (such as advice or financial training by DG BUDG), and
2. cases in which the DGs or offices have obtained from outside contractors a significant proportion of the goods or services which they can deliver, but the DG/offices provide significant additional services themselves above and beyond those of a simple intermediary or consultant, for example:
 - a) when the services provided by third parties constitute only part of the overall services provided by the DG or office, or
 - b) when a number of contractors take part in an operation coordinated by the DG or office (such as the agency’s use of a data centre requiring maintenance work, the updating of software, security measures, etc.).

In these cases, the DG or office may charge-back its own services to the agencies and include the services provided by outside contractors. To ensure full transparency, the DG or office will apply cost accounting methods to determine the actual costs incurred by the agency; these costs will be invoiced to it according to a SLA.

However, if the services or goods are provided by a third party and if the DG or office acts merely as a consultant or intermediary or manager of the framework contract, the executive agency will have to take part as a contracting authority in the procurement procedure for the framework contract and will then conclude the specific contracts directly with the contractor (e.g. for the supply of computer hardware or software).

**Appendix I
Roadmap**



Appendix II

Scope and methodology of a Cost-Benefit-Analysis of the delegation of tasks to an executive agency

1. Scope of the obligation to carry out a CBA

The minimum legal requirements are laid down in Article 3 paragraphs 1 and 2 of Regulation (EC) No 58/2003 according to which any decision for:

- the setting up of an executive agency,
- the extension of the lifetime of an existing agency,
- the renewal of such extension, or
- the winding up of an agency

has to be taken on the basis of a CBA.

The obligation to carry out a CBA applies also in cases where there are plans to delegate additional tasks to an existing agency, whether or not this delegation requires an amendment to the decision establishing the agency (see also section 5 of the Annex).

The objective of the CBA is to assess the relative costs and advantages of a pre-defined scenario for delegation of programme management tasks to an executive agency as compared to an in-house scenario where the programmes would be managed by the Commission.

In order to identify the delegation scenario with the best ratio quality/price, alternative scenarios exploring different options for delegation should be identified⁴⁰, either by the delegating DGs or by the external consultant performing the CBA. The relative costs and advantages of each alternative scenario would have to be compared to the corresponding in-house scenario.

2. In-house vs. external CBA

The Commission should ensure an adequate independent level of expertise for the carry out of the CBA. For example, the Commission may make use of an external consultant selected in accordance with the appropriate procurement procedure or, if possible, through the use of an existing framework service contract.

However, there may be cases where in view of the limited scope of the proposed delegation and for reasons of cost-effectiveness, an *in-house* CBA is considered more appropriate. The in-house CBA would then have to be carried out by the delegating DGs in consultation with the competent central services (DG BUDG, DG HR, SG) to ensure the objective character of the study without prejudgment of its outcome.

⁴⁰ Varying scope of delegation and/or alternative task allocation scenarios which may deliver additional benefits and/or cost savings.

The most appropriate approach for carrying out the CBA will have to be examined and agreed with DG BUDG on a case-by-case basis.

The guidance provided under point 4.2.2. applies without distinction to in-house and external CBAs.

3. Pre-requisites for the launch of the CBA

For new spending programmes or programmes being revised, the CBA may not be launched before the adoption by the College of respectively the proposal for new basic act or the proposal for an amended basic act.

In all cases, the delegating DGs, in close cooperation with DG BUDG and SG, need to establish the following essential elements which will constitute the starting point for the CBA:

- the definition of the scope of the proposed delegation with the inventory of the programmes and within the programmes of the tasks that the concerned services intend to delegate, first estimate of the amounts to be delegated per year and per budget line and a first estimate of the staffing levels in the targeted agency/ies and the potential impact on the Commission human resources. The format for gathering this information is provided in the template at the end of the document.
- the identification of any specific boundary conditions, e.g. as regards specific budgetary constraints which may apply or limitations in terms of size of the agencies.

4. Methodology for the CBA

- Minimum aspects to be covered by the CBA

The CBA shall assess the benefits, costs/savings and risks associated with each delegation scenario, in particular qualitative and quantitative aspects as well as risks associated with the delegation of tasks:

- *Qualitative aspects*

The CBA shall assess the scope of:

- The efficiency and flexibility in the implementation of the tasks envisaged for delegation, which can be measured by the development of the following indicators: time to award, time to inform applicants, time to grant/contract, time to approve technical and financial reports, time to pay and recorded error rates. In addition, the CBA shall assess the quality and effectiveness of technical management compared to internal management through e.g. the number of projects per project officer, number of on-site visits, etc.
- Simplification of the processes and procedures applied by the agencies through e.g. the use of on-line submission tools
- Proximity of outsourced activities to final beneficiaries and visibility of the Union as promoter of the Union programme(s) concerned.

The study should take into account the agencies' existing communication and outreach channels which have been developed over time to keep them close to beneficiaries and their ability to provide an increased level of direct exchanges with beneficiaries through dedicated events such "info days", kick-off meetings and monitoring visits.

- The need to maintain an adequate level of know-how inside the Commission through the mutual exchange of information between the agencies and the delegating DGs.
 - Lessons learned from previous experiences of delegating tasks from the Commission to executive agencies;
 - Potential benefits from regrouping together similar programmes or parts of programmes in terms of e.g. policy area, forms of funding and types of beneficiaries⁴¹;
 - If applicable, synergies from centralising common support services either among agencies or in cooperation with the relevant Commission services. This aspect should also be assessed from the quantitative angle (see also point XX).
- *Quantitative aspects*
- Amount of the operational budget to be delegated;
 - Human resources required at the level of the agency and at the level of the Commission service;
 - Cost and means of supervision by delegating DGs, which remain responsible for the implementation of the programme(s) (see point 8.2);
 - Impact on administrative expenditure of the Commission;
 - Impact on the administrative budget of the agency;
 - Transition costs: costs of moving implementation from the Commission to an agency or transfer of tasks from one agency to another, if applicable, giving due consideration also to balancing disruption of activities and migration of staff against economies of scale and efficiency gains.
 - Resulting savings or at least budgetary neutrality within the general budgetary framework of the European Union following delegation of tasks;
- *Potential risks associated with the delegation*
- Readiness assessment: account should be taken of the time required for the phasing in of the new tasks and, where appropriate, the need to organise transitional arrangements with the delegating DGs (see point 4.7);

⁴¹ This aspect is particularly significant in a case where it is envisaged to delegate the management of an ongoing programme approaching its end; the CBA should as a minimum identify synergies between this programme and other programmes/parts of programmes currently managed or to be delegated to the agency (e.g. successor programme).

- Capacities for the agency to manage additional budget and to deal with potential staff increase while assuring manageability of its portfolio;
 - Risks related to the delegation when the activities envisaged for delegation are close to policy activities (increased supervision);
 - Risk of error in the case of transfer of running programmes currently managed by the Commission⁴²;
- Key analytical steps in the performance of the CBA

(1) Estimation of future staffing needs in the agency for each delegation scenario

The CBA must provide an estimate of the impact of each delegation scenario on the staffing needs of the agency.

It should include an assessment of the additional human resources needed in the agency for horizontal tasks (resource management, legal support, IT, internal communication, etc.) which shall be presented separately from the impact on the ‘operational’ staff.

The staffing needs of the agency are estimated by reference to the workload (*W*- expressed in terms of budget and frequency of tasks) and productivity (*P*- expressed in terms of man-days per task).

In particular, the following reference indicators will be used for the estimation of *W*⁴³:

- yearly budget
- average size of projects (e.g. average size of grants)
- number of calls launched
- number of grant agreements/decisions and procurement contracts signed per year
- average duration of the project lifecycle (from call preparation to closure of the grant agreements/decisions and procurement contracts)

Reference indicators to be used for the estimation of *P*:

Number of man-days required to manage the full ‘project lifecycle’ broken down into:

- call preparation and publication
- call evaluation and signature

⁴² Risk of error associated notably with the technical transfer of on-going operations in ABAC (e.g. open commitments) from the Fund Management Centre of the Commission to the Fund Management Centre of the agency.

⁴³ The list is not exhaustive.

- grant management/contract management (from first payment, analysis of technical reports, interim payments, final payments, any amendment and time needed to definitively close the grant/contract including eventually the implementation of any audit results).

The reference period for the analysis should correspond to the legal duration of the programme, plus the period for the phasing-out (closure) of the programme.

The outcome of this analysis will be the number of staff per agency⁴⁴ (Temporary agents/TA and Contract agents/CA), per year, per programme and per parent DG⁴⁵, reflecting the magnitude of the delegated budget to be managed.

(2) Calculation of the financial impact at the level of the agency (impact on the administrative budget of the agency)

The administrative costs at the level of the agency correspond to the sum of:

- staff related costs (Title I in the agency's administrative budget),
- costs related to infrastructure and operating expenditure i.e. overheads (Title II),
- other costs linked to programme support (Title III).

Detailed guidance on the administrative budget is provided in Annex XX.

(3) Estimation of the impact on human resources in the delegating DGs for each delegation scenario

In accordance with Regulation (EC) No 58/2003, the delegation of programme management tasks to an executive agency can have a multiple impact on the Commission's human resources.

Transferring tasks from the Commission to an executive agency frees human resources of the delegating service. In general, in line with Article 13(6)(c) of Regulation (EC) No 58/2003, **'freed'** posts and appropriations for external personnel are made available for redeployment to other priorities in the annual allocation of human resources, with the final decision left to the discretion of the European Parliament and the Council. In the context of the Commission's commitment to overall 5% staff reduction over 2014-2020, delegation of tasks to executive agencies should lead to budgetary savings or be, at least, consistent with the principle of annual neutrality in headcount (see section 2.2 of the Annex). Therefore, freed posts will be cut from the Commission establishment plan to the extent needed for compensating the increase of human resources in an executive agency.

⁴⁴ Where several agencies are subject of the CBA.

⁴⁵ Where there are multiple parent DGs for the same programme.

The delegation of tasks from the Commission service to an agency creates **supervision** tasks⁴⁶. In order to harmonise the approach amongst services and to ensure cost-efficiency of programme delegation, the number of Commission human resources allocated to supervision tasks should on average not exceed 2,4% of the agency staff implementing the delegated programme at cruising speed. If applicable, the estimated number of human resources (FTE/ posts and CA) needed for supervision tasks shall be considered when identifying resources freed as a result of programme delegation. In the case of the delegation of tasks which have not been implemented by the service in-house before, the resources freed as a result of programme delegation might be less than the resources required for supervisory tasks. Such additional staff needs have to be covered by internal redeployment.

Furthermore, Commission officials are to be seconded as temporary staff members to executive agencies to fill positions of responsibility⁴⁷. Their posts remain vacant in the Commission during their secondment; the posts are **'frozen'** in the Commission's establishment plan, i.e. remain without budgetary coverage ('abatement') and generate savings in administrative expenditure in the Commission's budget.

In view of the above, the CBA will provide accurate estimates per year of:

- The number of **freed** human resources (FTE/ posts and CA) in the Commission service(s)⁴⁸, whereas the number of freed human resources is the estimated number of FTE (posts/CA) currently involved in the Commission service(s) in the management and support of tasks envisaged for delegation.
- The number of posts to be **frozen** in the Commission establishment plan.

(4) Calculation of the financial impact at the level of the Commission (compensation)

As a rule, the CBA should demonstrate that:

- the proposal for delegation is neutral in terms of headcount and does not create an increase of the number of establishment plan posts altogether in the Commission and the executive agency;
- the additional administrative budget needed in the agency for implementing the additional tasks (= *Costs*) is smaller than the total amount of freed administrative appropriations (freed posts and CA) and frozen posts in the Commission services (= *Benefits*).

⁴⁶ For a definition of supervisory tasks refer to point 8.2.

⁴⁷ For guidance concerning 'positions of responsibility', please refer to point 11.3.1 of the Annex.

⁴⁸ These estimates do not include the staff required to manage tasks which may not be delegated to the agencies (regulatory limitations, e.g. policy making) and the staff required to manage the tasks which have not been proposed for delegation.

(5) Identification of the most efficient delegation scenario

The CBA shall identify the most efficient delegation scenario on the basis of an overall qualitative and quantitative comparison.

5. Update of the initial CBA

As part of the interim evaluation required as per Article 25 of Regulation (EC) No 58/2003, the costs and benefits of the selected delegation scenario as identified by the original CBA shall be tested again and the results of the CBA shall be updated if need be.

Template data collection (estimated impact of delegation proposal)

1. Operational programme(s) concerned

Envisaged Executive Agency	parent DG	Programme/ budget lines, short description	Programme envelope (EUR)	Thereof already externalised (EUR)	Envisaged for delegation/ budget lines, short description	Envisaged for delegation (EUR)

	2014	2015	2016	2016	2017	2018	2019	2020	2014-2020
Budget line xx ⁴⁹									
Total appropriations on the line									
Already delegated ⁵⁰									
Appropriations									

⁴⁹ Please provide this information for each budget line concerned

⁵⁰ Please provide total amount already delegated (to all EAs)

already delegated (in case of their proposed shift to other instrument or shift to the other EA ⁵¹)									
New appropriations to be delegated to ... EA ⁵²									

2. Human resources impact (at cruising speed of programme implementation)

Envisaged Executive Agency	parent DG	Programme	EA staff already involved (TA/CA)	COM staff involved (posts/ CA)		Staff deemed necessary at COM after further delegation (FTE)		Additional staff deemed necessary in the executive agency (FTE)	
				Programme management*	Agency supervision	Supervision	Programme management*		

*of the non-delegated part.

⁵¹ Please specify current EA(s) and amounts to be shifted. Please provide this information in a separate row for each EA. If not applicable please delete this row.

⁵² In case if this involves delegation to various activities

Appendix III
Model act of establishment

COMMISSION IMPLEMENTING DECISION

of **XXX**

establishing the "[Agency]"

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes⁵³, and in particular Article 3 thereof,

Whereas:

- (1) Regulation (EC) No 58/2003 empowers the Commission to delegate powers to the executive agencies to implement all or part of a Union programme or project, on its behalf and under its responsibility. It also lays down the statute of executive agencies.
- (2) The purpose of entrusting the executive agencies with programme implementation tasks is to enable the Commission to focus on its core activities and functions which cannot be outsourced, without relinquishing control over, and ultimate responsibility for, activities managed by those executive agencies.
- (3) The delegation of tasks related to programme implementation to an executive agency requires a clear separation between the programming stages involving a large measure of discretion in making choices driven by policy considerations, this being carried out by the Commission, and programme implementation, which should be entrusted to the executive agency.
- (4) The cost-benefit analysis carried out in accordance with Article 3(1) of Regulation (EC) No 58/2003 has shown that [...]⁵⁴
- (5) The Agency should be entrusted with the management of [...]⁵⁵.
- (6) The Agency may be made responsible for the provision of administrative and logistical support services in particular where centralisation of the said support services would result in additional cost-efficiency gains and economies of scale.
- (7) The measures provided for by this Decision are in accordance with the opinion of the Committee for Executive Agencies.

⁵³ OJ L 11, 16.1.2003, p. 1.

⁵⁴ [Based on the findings of the CBA, provide a statement of the evidenced cost-effectiveness, efficiency and qualitative gains for the Agency whose mandate is extended pursuant to this Decision. The Recital should present the overall results of the comparison between the Agency scenario and the in-house scenario and, in case of legacy shifting from one Agency to another, the comparison between the Agency X and the Agency Y scenarios.]

⁵⁵ Separate Recital referring to each programme or part of programme proposed for delegation with a short justification for the rationale for the delegation.

HAS ADOPTED THIS DECISION:

Article 1
Establishment and term

The [Agency] (Agency) is established from 1 January 2014 until [...].

Article 2
Location

The Agency shall be located in [Brussels or Luxembourg].

Article 3
Objectives and tasks

1. The Agency shall be entrusted with the implementation of parts of the following Union programmes:
 - (a) (...)
 - (b) (...)
2. The Agency shall be responsible for the following tasks related to the implementation of the parts of the Union programmes referred to in paragraph 1:
 - (a) managing [some/all] stages of programme implementation and [some/all] phases in the lifetime of specific projects on the basis of the relevant work programmes adopted by the Commission, where the Commission has empowered it to do so in [Decision No ... delegating powers to the agency];
 - (b) adopting the instruments of budget execution for revenue and expenditure and carrying out all the operations necessary for the management of the programme, where the Commission has empowered it to do so in [Decision No ... delegating powers to the agency];
 - (c) providing support in programme implementation where the Commission has empowered it to do so in [Decision No ... delegating powers to the agency].
3. The Agency may be responsible for the provision of administrative and logistical support services if provided in [Decision No ... delegating powers to the agency], for the benefit of the programme-implementing bodies and within the scope of the programmes referred to therein.

Article 4
Duration of the appointments

1. The members of the Steering Committee shall be appointed for [...⁵⁶] years.
2. The Director shall be appointed for [...⁵⁷] years.

⁵⁶ The term of office of the members of the Steering Committee shall be two years in principle and shall take into account the planned implementation period for the programme(s) which the Executive Agency is responsible for managing.

⁵⁷ The term of office of the Director shall be four years in principle and shall take into account the planned implementation period for the programme(s) which the Executive Agency is responsible for managing.

Article 5
Supervision and reporting requirements

The Agency shall be subject to supervision by the Commission and shall report regularly on progress in implementing the Union programmes or parts thereof for which it is responsible in accordance with the arrangements and at the intervals stipulated in [Decision No ... delegating powers to the agency].

Article 6
Implementation of the operating budget

The Agency shall implement its operating budget in accordance with the provisions of Regulation (EC) No 1653/2004⁵⁸.

Article 7
Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Done at Brussels,

For the Commission

Member of the Commission

⁵⁸ Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a standard financial regulation for the executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 297, 22.9.2004, p. 6).

Appendix IV
Model instrument of delegation

COMMISSION DECISION

of **XXX**

delegating powers to the [Agency] with a view to performance of tasks linked to the implementation of Union programmes in the field of [...] comprising, in particular, implementation of appropriations entered in the general budget of the Union

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes⁵⁹ and in particular Article 6(3) thereof,

Having regard to 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 Union⁶⁰ and in particular Article 56(1) and Article 62 thereof,

Having regard to [insert the reference to the basic ac(s) of the programme(s)],

Whereas:

- (1) Taking account of the cost-benefit analysis [insert title of the study], Decision [insert reference]⁶¹ established the [insert the name of the Agency] (hereinafter “the Agency”) until [insert date] and made the Agency responsible for implementing the following Union programme(s): [insert reference(s) to the programme(s)].
- (2) This Decision should set out the manner in which the executive agencies are to perform the tasks delegated to them by the Commission and the checks to be carried out by the Commission departments responsible for the Union programmes in the management of which an executive agency is involved.
- (3) Article 58(1)(a) of Regulation (EU, Euratom) No 966/2012 provides that the Commission may implement the general budget of the Union directly through executive agencies.
- (4) Article 62 of Regulation (EU, Euratom) No 966/2012 provides that the Commission may delegate powers to the executive agencies to implement all or part of a Union programme or project, on its behalf and under its responsibility, in accordance with Regulation (EC) No 58/2003. Those powers should not involve a large measure of discretion implying political choices. Those provisions define the executive agencies as legal persons created by means of a Commission Decision.

⁵⁹ OJ L 11, 16.1.2003, p.1.

⁶⁰ OJ L 298, 26.10.2012, p.1.

⁶¹ Commission Implementing Decision ... establishing the [Agency...] [OJ L ..., ..., p. ...].

- (5) Article 35 and 40 of Commission Delegated Regulation (EU, Euratom) No 1268/2012⁶² fix, respectively, the conditions under which the executive agencies exercise the powers delegated to them by the Commission, and the minimum content requirements for the instrument of delegation to ensure the protection of financial interests of the Union and the transparency of operations carried out.
- (6) This Decision should set out in detail all the tasks entrusted to the Agency and the conditions under which the Agency is to exercise the delegated powers.
- (7) This Decision should define appropriate provisions for the strict demarcation of the tasks delegated to the Agency and the tasks remaining under the responsibility of the Commission. It should also set out rules for the supervision of the Agency by the Commission and for the Agency's reporting obligations towards the Commission.
- (8) This Decision should lay down the minimum content requirements for the memorandum of understanding defining the practical modalities of interaction between the Agency and the Commission.
- (9) Adequate planning of the activities and annual reporting, including the submission of an annual activity report, should be provided in accordance with the provisions of Regulation (EC) No 58/2003 and Regulation (EU, Euratom) No 966/2012.
- (10) It is appropriate to lay down the administrative rules to be respected by the Agency in the area of security and human resources.
- (11) Officials seconded by the Commission to the executive agencies play a particular part in the organisational setting provided for in Regulation (EC) No 58/2003 as well as in the implementation of the agencies' mission. They are entrusted with positions of responsibility and are characterised by their twofold statutory link to both the Commission (as seconded officials) and the Agency (as temporary agents). As a result, they contribute to the transfer of know-how between the Commission and the Agency, which is particularly important in the period of phasing-in of newly delegated programmes. Their bridge-building role between the Agency and the Commission should be reinforced by synchronising their respective careers as Commission official and as member of the Agency's temporary staff.
- (12) With an objective of administrative simplification and notably to avoid the administrative burden resulting from the payment of a salary differential pursuant to Article 38(d) of the Staff Regulations of the Officials of the European Union, as laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities⁶³, the contract of temporary agents signed by the Commission officials seconded in the interest of the service should confer, to the extent possible, at least the same grade, step and seniority in the grade and step from which they benefit in their capacity as Commission officials.
- (13) With a view to achieving a smooth transfer of activities between the Commission and the executive agencies, specific provisions as regards human resources derogating from the implementing rules adopted by the agencies should be adopted.
- (14) This decision is adopted in the framework of a redistribution of Union programmes among executive agencies. It would be contrary to the principles of duty of care and good

⁶² Commission Delegated Regulation (EU, Euratom) 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, (OJ L 362, 31.12.2012, p.1)

⁶³ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

administration that any public administration has to follow, to impose to staff whose activities are transferred and that is invited to follow those activities, formal conditions in the offer they will receive, that may be perceived as a mean to deprive staff from statutory rights and deprive other statutory provisions from "*effet utile*". Therefore, it is important to ensure the continuity of the contracts of the staff concerned.

- (15) The conditions for the payment of the Union contribution to the operating budget of the Agency should be specified in this Decision.

HAS ADOPTED THIS DECISION:

SECTION 1 GENERAL PROVISIONS

Article 1 Subject matter

1. This Decision lays down in detail the tasks delegated to the [insert name of the Agency] ("Agency") and provides the framework for its implementation and for the relations between the Commission and the Agency.
2. The delegation laid down in this Decision shall be effective when it has been formally accepted in writing by the Director of the Agency on behalf of the Agency, in accordance with Article 35(2) of Delegated Regulation (EU, Euratom) No 1268/2012. On a proposal by the Director, the Steering Committee of the Agency, in agreement with the Directors-General of the parent Directorates-General referred to in Article 2, shall fix the dates on which the Director of the Agency starts implementing the operational appropriations as authorising officer by delegation, on the basis of this Decision. These dates may differ for the individual programmes and parts of programmes referred to in Article 4 and Annexes [...].
3. The Commission may at any time suspend or terminate the delegation laid down in this Decision for one or more of the programmes or parts thereof entrusted to the Agency.

Article 2 Parent Directorates-General

The following Directorate(s)-General shall be the parent Directorate(s)-General of the Agency:

- [...]
- [...]
- [...]

In that capacity, they shall handle relations between the Commission and the Agency and shall be responsible for monitoring and supervising the Agency in accordance with Section 5.

Article 3 Reference documents

1. In performing its tasks the Agency shall apply the following provisions [please list the acts/provisions of acts/... needed for the agency concerned]:
 - Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain management tasks in the management of Community programmes;
 - 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;

- Commission Delegated Regulation (EU, Euratom) 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;
 - Implementing Decision [...] establishing the Agency;
 - For implementation of its operating budget, Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a Standard Financial Regulation for the Executive Agencies in application of Regulation (EC) No 58/2003;
 - The annual Commission Decision on the Internal Rules on the implementation of the general budget of the European Union (hereinafter "the Internal Rules");
 - Commission Decision 2008/969/EC, Euratom of 16 December 2008 on the Early Warning System for the use of authorising officers of the Commission and the executive agencies⁶⁴;
 - Commission Regulation (EC, Euratom) No 1302/2008 of 17 December 2008 on the central exclusion database⁶⁵;
 - 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 1074/1999⁶⁶;
 - Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (hereinafter "CEOS");
2. In performing its tasks the Agency shall apply the following provisions mutatis mutandis *[please list the acts/ provisions of acts/... needed for the agency concerned]*:
- The basic acts establishing the programmes referred to in Article 4, the operational appropriations of which are to be managed in whole or in part by the Agency;
 - The *[implementing/delegated acts adopted by the Commission in accordance with the basic acts of the programmes delegated to the Agency]*;
 - Commission Decisions concerning the adoption of financing decisions in the meaning of Article 84 of Regulation (EU, Euratom) No 966/2012 which are to be managed in whole or in part by the Agency as per Implementing Decision [...];
 - 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 data⁶⁷;
 - Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁶⁸;

⁶⁴ OJ L 344, 20.12.2008, p.125, as last amended by Commission Decision 2011/C180/06 of 17 June 2011, OJ C 180, 21.6.2011, p.11

⁶⁵ OJ L 344, 20.12.2008, p.12

⁶⁶ OJ L 248, 18.9.2013, p.1.

⁶⁷ OJ L 8, 12.1.2001, p.1, as last corrected by OJ L 164, 26.6.2007, p.36.

⁶⁸ OJ L 145, 31.5.2001, p.43.

- 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 irregularities⁶⁹;
- Commission Decision C(94)2129 of 8 September 1994 on the tasks of the Security Office;
- Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal Rules of Procedure;
- Commission Decision C(2006)3602 of 16 August 2006 concerning the security of information systems used by the European Commission;
- Commission Decision 2007/65/EC of 15 December 2006 establishing the Commission's standard security measures and alert states and amending its Rules of Procedure as regards operational procedures for management of crisis situations;
- Commission Decision C/2006/1623 of 26 April 2006 establishing a Harmonised Policy for Health and Safety at Work for all Commission staff;
- Commission Decision 2011/833/EU of 12 December 2011 on the reuse of Commission documents.

3. The Agency shall also apply the following guidelines and instructions *[please list the acts/provisions of acts/... needed for the agency concerned]*:

- Commission Guidelines for the operation of executive agencies⁷⁰;
- Annual Commission Standing Instructions for the Annual Activity Reports and related guidance material;
- Communication to the Commission on the Revision of the Internal Control Standards and Underlying Framework SEC (2007)1341;
- Communication to the Commission "Towards an effective and coherent risk management in the commission services" SEC(2005)1327;
- Annual Commission Standing Instructions for the Management Plans;
- Commission Communication on Organisation Charts of Commission DGs and Services (SEC (2006) 1702/4).

SECTION 2 DELEGATED TASKS

Article 4 Tasks delegated to the Agency

1. The Agency shall implement the following parts of programmes and tasks:

- for *[name of programme]*, the parts and tasks set out in Annex I;
- for *[name of programme]*, the parts and tasks set out in Annex II;
- for *[name of programme]*, the parts and tasks set out in Annex III;

[...][as many points and Annexes as there are programmes]

⁶⁹ OJ L 292, 15.11.1996, p.2.

⁷⁰ *[...]*

- 3.. *[If the delegation covers the provision of support services: The Agency is hereby entrusted with the administrative and logistical support services set out in Annex XX.]*
4. The Agency shall act in its own name when implementing the delegated tasks.
5. For the purposes of paragraph 1, the Agency shall be responsible for implementing the corresponding operational appropriations entered in the general budget of the Union *[if the Agency manages appropriations outside of the Union budget: and the part of [...] appropriations for the parts of [programme] delegated to the Agency]*. The budget lines concerned for the year *[first year of delegation]* are set out in Annex **XX**. For subsequent years they shall be identified annually in the Internal Rules of the Commission on the implementation of the general budget of the European Union.
6. The Director of the Agency shall exercise the delegated tasks by implementing the corresponding operational appropriations under direct management as authorising officer by delegation.

Article 5
Tasks reserved to the Commission

1. The Agency shall perform only the delegated tasks.
2. The Agency shall not perform any tasks involving a large measure of discretion implying political choices. In particular it shall not:
 - (a) define objectives, strategies and priority areas of action;
 - (b) adopt work programmes, including work programmes constituting financing decisions within the meaning of Articles 84 of Regulation (EU, Euratom) No 966/2012;
 - (c) represent the Commission in the Committee for Executive Agencies or in any other committee where implementation of a Union programme or action requires, pursuant to its legal basis, the control by Member States of the Commission's exercise of implementing powers in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁷¹;
 - (d) adopt award decisions or part thereof submitted to the control by Member States of the Commission's exercise of implementing powers in accordance with Regulation (EU) No 182/2011;
 - (e) launch interservice consultations within the Commission;
 - (f) take enforceable recovery decisions within the meaning of 299 of the Treaty and Article 79(2) of Regulation (EU, Euratom) No 966/2012.

SECTION 3
CONDITIONS FOR THE PERFORMANCE OF TASKS

Article 6
General conditions

1. The Agency shall perform the delegated tasks in accordance with the principle of sound financial management within the meaning of Article 30 of Regulation (EU, Euratom) No 966/2012.

⁷¹ OJ L 55, 28.2.2011, p.13.

2. In the performance of its tasks, the Agency shall apply the instructions contained in the operational manuals approved by the Commission and shall use the guidance or model documents with any adjustments to its specific needs as agreed by the parent Directorates-General.
3. In the performance of its tasks, the Agency shall follow harmonised interpretations of the rules governing the implementation of the programmes, notably by the parent Directorates-General and by horizontal services, such as the Secretariat General, DG Budget and the Legal Service.
4. In case of litigation, the Agency shall, where appropriate, ensure coordination with the parent Directorates-General and the Legal Service.

Article 7

Memorandum of Understanding

1. The modalities and procedures of interaction between the Agency and the parent Directorates-General in implementing the delegated tasks shall be set out in a memorandum of understanding between the Agency and the parent Directorates-General.
2. The memorandum of understanding shall set out the administrative, operational and financial modalities and procedures of cost-effective interaction and cooperation between the Agency, the Commission and other bodies entrusted with programme implementation.
3. The memorandum of understanding shall set out a dedicated supervision strategy to ensure no tasks are duplicated between the Commission and the Agency and to ensure appropriate monitoring of activities.
4. The supervision strategy and cooperation modalities set out in the memorandum of understanding shall be updated regularly to take into account the new developments, including any extension of the mandate of the Agency. The memorandum of understanding may be supplemented, where appropriate, by individual memoranda signed between the Agency and each parent Directorate-General.

Article 8

Use of common support services and tools

Where appropriate, the Commission shall make available to the Agency IT tools on the basis of service level agreements, for daily management of the Agency in order to integrate the Agency as much as possible within IT environment of the Commission.

[If the Agency will benefit from services provided by another executive agency:]

Article 9

Use of logistical and administrative support services

For the implementation of the tasks referred to in Article 4(1), the Agency shall make use of *[nature of services]* provided by *[name of the Agency service provider]*.

Article 10

Annual work programme

The Agency shall draw up the annual work programme taking into account the Commission Standing Instructions for the Management Plans referred to in Article 3.

The Agency shall submit it to the Commission for approval before adoption by the Steering Committee.

Article 11
Management and internal control systems

1. The management and internal control systems put in place by the Director of the Agency in accordance with Article 11(7) of Regulation (EC) No 58/2003 shall cover the implementation of both the operational appropriations charged to the general budget of the Union and the operating appropriations in the Agency's budget.
2. The Agency shall implement the internal control standards annexed to the Internal Rules of the Commission on the implementation of the general budget of the European Union.
3. For the implementation of the operational appropriations, the Charter of tasks and responsibilities of authorising officers by delegation, adopted by the Commission, shall be binding on the Agency. The Charter of tasks and responsibilities of authorising officers shall be signed by the Director of the Agency, who shall assume responsibility in connection with this function. The authorising officers by sub-delegation shall sign the Charter of tasks and responsibilities of authorising officers by sub-delegation and they shall assume responsibility in connection with that function.

Article 12
Early warning system

In connection with public procurement, grants and prizes, whether linked to the operational appropriations managed by the Agency or the implementation of its operating budget, the Agency shall have access to the Early Warning System of the Commission and shall request introduction of the relevant information into that system in accordance with the provisions of Decision 2008/969/EC, Euratom⁷².

Article 13
Visibility of Union action

In order to ensure the visibility of Union action in the acts it adopts, the Agency shall always specify in its contracts, grant agreements, grant decisions, prizes, documents and relations with third parties that it is acting under powers delegated to it by the Commission.

The Agency shall comply with the guidelines of the Commission concerning the information and visibility of programmes and actions, in particular concerning the use of the graphical images defined by the Commission without prejudice to the use of the logo of the Agency.

Article 7
Access to documents

1. The Steering Committee shall adopt the practical arrangements for implementing Regulation (EC) No 1049/2001 of the European Parliament and the Council.
2. Complaints may be made to the European Ombudsman or proceedings instituted before the Court of Justice as laid down in Articles 228 and 263 of the Treaty in respect of decisions taken by the Agency under Article 8 of Regulation (EC) No 1049/2001.

⁷² Commission Decision 2008/969/EC, Euratom of 16 December 2008 on the Early Warning System for the use of authorising officers of the Commission and the executive agencies (OJ L 344, 10.12.2008, p.125).

Article 15
Confidentiality

1. The Agency shall preserve the confidentiality of information supplied to it by the Commission, in accordance with the Commission's instructions, and it shall not disclose any information which could harm the Commission, other institutions of the Union or third parties.
2. The confidentiality obligation provided for in paragraph 1 of this Article shall be without prejudice to Article 14 of this Decision.
3. The confidentiality obligation provided for in paragraph 1 shall apply to the members of the Steering Committee, all Agency staff, whatever their status, and to any outside service providers used by the Agency. An appropriate confidentiality clause shall be included in contractual documents governing their relations with the Agency.

Article 16
Security of information and information systems

1. The Agency shall apply the relevant Commission legal framework regarding security of persons, assets and information, as laid down in the relevant Commission decisions and their implementing rules.
2. In accordance with Article 15, the Agency shall apply the basic principles, minimum standards and procedures:
 - (a) for protecting European Union Classified Information ('EUCI') as laid down in the Commission's security rules for protecting EUCI;
 - (b) for protecting sensitive non-classified information as laid down in the Commission's security rules;
 - (c) regarding security of information systems, as set out in Commission Decision C(2006) 36202 of 16 August 2006 concerning the security of information systems used by the European Commission, its implementing rules and corresponding standards.
3. EUCI may be handled and exchanged by the Agency only where an administrative arrangement regarding the exchange and protection of EUCI has been concluded by the Agency with the Directorate-General for Human Resources and Security of the Commission and an assessment visit conducted by the Directorate-General for Human Resources and Security has allowed it to determine that the Agency applies levels of protection of EUCI which are at least equivalent to those of the Commission.
4. Where appropriate, the Agency shall conclude practical arrangements for implementing this Article or Service Level Agreements for providing services under paragraphs 1, 2 and 3 with the Directorate-General for Human Resources and Security.

Article 17
Conflict of interests

The Agency shall take all appropriate precautions to prevent any risk of conflict of interests within the meaning of Article 57(2) of Regulation (EU, Euratom) No 966/2012 and shall without delay inform the parent Directorates-General of any situation which may constitute a conflict of interest or may give rise to one, including those relating to persons who may be involved in the processing and award of contracts, grants and prizes. The Agency shall adopt rules for the prevention and management of conflicts of interests in respect of its staff.

Article 18
Duty of information

1. The Agency shall immediately inform the Directors-General of the parent Directorates-General, providing them with all relevant details, of any event which may:
 - (d) harm the Agency, the Commission or the other institutions of the Union;
 - (e) delay or jeopardise performance of the tasks assigned to it by this Decision.
2. Without prejudice to its obligation to inform the European Anti-Fraud Office (OLAF) in accordance with the specific rules applicable, the Agency shall without delay inform the Director(s)-General of the parent Directorate(s)-General of any fraud or irregularity which comes to its attention and of any situation which may give rise to such cases. However, cases involving members or employees of the EU institutions, offices, agencies and bodies shall be reported to OLAF⁷³.
3. The Director of the Agency shall designate a contact point which shall have the appropriate powers to cooperate directly with OLAF in order to facilitate the latter's operational activities.

SECTION 4
IMPLEMENTATION REPORTS

Article 19
Annual activity report

1. Each year the Director of the Agency shall submit to the Steering Committee by no later than 1 March an Annual Activity Report, prepared in compliance with the Annual Activity Report standards laid down by the Commission, which shall cover the following:
 - (a) the contribution to the achievement of specific objectives measured by result and output indicators linked to implementation of the programmes' activities which the Agency is managing in full or in part, as set out in the annual work programme adopted by the Commission, and the related operational appropriations for which the Agency is the authorising officer by delegation from the Commission broken down per delegated programme and activity;
 - (b) the Agency's performance regarding the key performance indicators laid down in its annual work programme;
 - (c) the operation of the Agency itself, and implementation of its operating budget;
 - (d) the necessary control-related information to support a declaration of assurance accompanied by, if necessary, reservations.
2. No later than 31 March, the Steering Committee shall adopt the final report and submit it to the Commission.
3. The report and the declaration of assurance shall be signed by the Director of the Agency. The Director of the Agency retains the full responsibility and ownership of the declaration of assurance.
4. The report shall be attached to the Annual Activity Report of the Directors-General of the parent Directorates-General.

⁷³ This kind of cases need to be reported only to OLAF in order to preserve the confidentiality of information that would justify the opening of such investigation and on which such decision would be based and not to jeopardise future investigative activities.

Article 20
Other reports

1. The Agency shall report to the Directors-General of the parent Directorates-General and to the Steering Committee on the performance of the tasks assigned to it. The content, the format and the frequency of the reporting shall be set in the memorandum of understanding referred to in Article 7. The reporting shall cover at least the following data and information, where appropriate broken down per delegated tasks as defined in Article 4:
 - (a) performance achieved for each of the programmes' specific indicators set out in the relevant programme;
 - (b) calls for tender and calls for proposals, contracts concluded, grants, contests and prizes awarded, compliance with deadlines set by Regulation (EU, Euratom) No 966/2012 and Regulation (EC) No 1653/2004⁷⁴ and in particular time to award, time to grant and time to pay, number and amount of negotiated procedures and grants to named beneficiaries;
 - (c) number of on-going projects, their state of play, monitoring of deadlines and evaluation review results;
 - (d) figures, aggregated at least to chapter level, on implementation of the operating budget, as regards both revenue and all expenditure appropriations and including information on the use of human resources, infrastructures and Service Level Agreements, including the figures with information on the use of appropriations carried over;
 - (e) figures on implementation of the operational appropriations;
 - (f) figures on outstanding payments and payment delays;
 - (g) figures on outstanding commitments (RAL);
 - (h) information on the operation of the internal control and financial circuits of the Agency, including an assessment of the entries in the registers for exceptions, non-compliance events and internal control weaknesses reported;
 - (i) number and results of ex-post controls carried out, accompanied, where appropriate, by detailed information on the measures taken to remedy any problems detected;
 - (j) summary of the number and type of audits conducted by the Internal Audit Service and the European Court of Auditors, the recommendations made and the status of the actions;
 - (k) information meetings and activities carried out;
 - (l) list of alleged irregularities or fraud, OLAF investigations, cases referred to the Ombudsman, actions brought against the acts of the Agency, including administrative proceedings referred to the Commission in accordance with Article 22 of Regulation (EC) No 58/2003, request for documents and parliamentary questions about the Agency.
2. The Agency shall put in place a reporting system which, through the use of distribution keys, an analytical accounting system or other appropriate method, permits the Director(s)-General of the parent Directorate(s)-General and other services of the Commission to make the link between the administrative expenditure and the respective parts of the programmes managed by the Agency. This reporting system, as well as any changes to it, shall be approved by the Agency's Steering Committee.

⁷⁴ Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 297, 22.9.2004, p. 6).

3. The Agency shall gather, monitor the quality, analyse and communicate to the parent Directorate(s)-General all the information needed to guide the implementation of the programmes entrusted to the Agency. Specific arrangements shall be set out in the memorandum of understanding.
4. The Director(s)-General of the parent Directorate(s)-General may ask the Agency for any other report referred to in Article 11(5) of Council Regulation (EC) No 58/2003 which they consider necessary for performance of the delegated tasks.

SECTION 5

SCRUTINY OF THE AGENCY

Article 21

Monitoring and supervision of the Agency's systems and procedures

1. The parent Directorate(s)-General shall be responsible for monitoring and supervising the Agency.
2. The Director(s)-General of the parent Directorate(s)-General shall ensure that before the Agency begins implementing the newly delegated tasks, the existing systems and procedures in the Agency are adapted to those tasks. Those systems and procedures shall include an effective and efficient internal control system, where appropriate, local accounting systems and appropriate IT tools.
3. The Director(s)-General of the parent Directorate(s)-General shall review the situation whenever there is any substantial change in procedures or systems of the Agency.
4. For that purpose, the Agency shall supply the necessary information at least thirty days prior to the adoption of any substantial change in its procedures or systems, and shall communicate the reasons for such change.
5. The Director(s)-General of the parent Directorate(s)-General and other persons authorised by them shall be entitled to carry out documentary and on-the-spot checks at the Agency to ensure:
 - (a) that its management and internal control system exists and operates properly in such a way as to ensure total compliance with the principle of sound financial management;
 - (b) that the actions performed by the Agency are lawful and comply with the rules.

Article 22

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

1. The Agency shall grant the Director(s)-General of the parent Directorate(s)-General, the Internal Audit Service of the Commission and other persons authorised by them, as well as the Court of Auditors, access to its sites and premises and to all the information, including information in electronic format, needed in order to conduct their audits.
2. The Director(s)-General of the parent Directorate(s)-General, the Commission's Internal Audit Service and other persons authorised by them may carry out ex ante and ex post documentary and on-the-spot checks on recipients of Union funds. The contracts, grant agreements and grant decisions signed by the Agency shall state expressly that the recipients of Union funds undertake to accept these checks as well as those of the Court of Auditors.
3. By virtue of Council Regulation (Euratom, EC) No 2185/96 and Regulation (EU, Euratom) No 883/2013, OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities.

SECTION 6
INTERNAL AUDITOR

Article 23

Appointment and powers and duties of the internal auditor

1. The Agency shall have an internal auditing function which shall be performed in compliance with the relevant international standards.
2. The internal audit function shall be performed by the Commission's Internal Auditor. The Internal Auditor may be neither authorising officer nor accounting officer neither of the Agency nor of the Commission.
3. The internal auditor shall advise the Agency 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:

- (c) 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;
 - (d) assessing the efficiency and effectiveness of the internal control and audit systems applicable to each operation for implementation of the budget of the Agency.
4. The internal auditor shall perform his or her duties in relation to all the Agency'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 annual activity report of the authorising officer and any other pieces of information identified.
 6. The internal auditor shall report to the Steering Committee and the Director of the Agency on his or her findings and recommendations. The Steering Committee and the Director of the Agency shall ensure regular monitoring of the implementation of audit recommendations.
 7. The Agency 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.
 8. 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 24

Independence of the internal auditor

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 of Regulation (EU, Euratom) No 966/2012.

SECTION 7

FINANCIAL RESOURCES MADE AVAILABLE TO THE AGENCY FOR THE PERFORMANCE OF ITS TASKS

Article 25

Union financial contribution to the operating budget of the Agency

1. The amount of the Union contribution for the operation of the Agency shall be entered each year in the Commission's section of the general budget of the Union.
2. The authorising officers by delegation for implementation of these appropriations shall inform the Agency of the amount of the contribution as soon as it is adopted by the budgetary authority.

Article 26

Payment of the Union contribution and recovery of the budget result

1. The Commission shall pay the Union contribution to the Agency annually in no more than four instalments taking into account the real cash needs of the Agency.
2. If the budget result is positive, it shall be the subject of a recovery order issued by the Commission at the annual closure of the Agency's accounts. The amounts recovered shall be considered as general revenue.

SECTION 8

PROVISIONS RELATED TO STAFF

Article 27

Grading of seconded officials

- (1) In accordance with Article 18 of Regulation (EC) No 58/2003, when the Agency accepts the secondment of an official in the interest of the service, the official concerned shall be granted a contract of indefinite duration under point (a) of Article 2 of the CEOS. Within the limits of posts available in the establishment plan, this contract shall offer the same grade, step and seniority within the grade and step as the official's situation in his Institution of origin. The applicable statutory framework permitting and without prejudice to any amendment decided autonomously by the Agency, such contract shall be amended to reflect any change in the career of the official at the Institution of origin.

[Where appropriate Article 28

Consequences of transfer of activities on Commission officials

- (1) Officials of the Commission whose activities are transferred from the Commission to the Agency by virtue of this Decision shall be offered by the Commission the possibility to be seconded in the interest of the service to a post of responsibility in the Agency in accordance with Article 38 of the Staff Regulations. The Agency shall accept the secondment without any publication and selection procedure and in accordance with Article 27 of this Decision.
- (2) Officials of the Commission whose activities are transferred from the [another Executive Agency] to the Agency by virtue of this Decision shall be offered by the Commission the possibility to be seconded in the interest of the service to the Agency in accordance with Article 38 of the Staff Regulations. The Agency shall accept the secondment without any publication and selection procedure and in accordance with Article 27 of this Decision.
- (3) Without prejudice of an identification of other activities that can justify another secondment in the Agency, the initial secondment of officials of the Commission whose activities are transferred from the Agency to another Agency by virtue of this Decision, shall be ended by the Commission.

Article 29
Consequences of transfer of activities on Temporary agents

- (1) Temporary staff who are not Commission officials seconded in the interest of the service employed by [another Executive Agency] and whose activities are transferred from [another Executive Agency] to the Agency by virtue of this Decision shall be offered by the Agency the possibility, without publication and selection procedure, of concluding temporary agent contracts under Article 2 of the CEOS to ensure the continuity of these activities.
- (2) Without prejudice of an identification of other activities that can justify the mobility of the temporary staff in the Agency, the contract of temporary agents of the Agency, who are not Commission officials seconded in the interest of the service and whose activities are transferred from the Agency to [another Executive Agency] by virtue of this Decision, shall be ended by the Agency.

Article 30
Consequences of transfer of activities on Contract agents

- (1) Contract staff of the Commission shall be offered by the Agency the possibility, without publication and selection procedure, of concluding contract agent contracts under Article 3a of the CEOS in the same function group to ensure the continuity of their activities if the following requirements are fulfilled:
 - (a) their activities are transferred from the Commission to the Agency by virtue of this Decision, and
 - (b) they have fulfilled the complete selection procedure of contract staff organised by or under the responsibility of the European Personnel Selection Office.

The grading and the duration of contracts shall be determined according to the appropriate rules adopted by the Agency. A new probationary period shall start with the new contract offered by the Agency.

- (2) Contract staff of [another Executive Agency] whose activities are transferred from [another Executive Agency] to the Agency by virtue of this Decision shall be offered by the Agency the possibility, without publication and selection procedure, of concluding contract agent contracts under Article 3a of the CEOS in the same function group to ensure the continuity of these activities.
- (3) Without prejudice of an identification of other activities that can justify the mobility of the contract staff in the Agency, the contracts of contract agents of the Agency whose activities are transferred from the Agency to [another Executive Agency] by virtue of this Decision, shall be ended by the Agency.]

Article 31
Addressee

This Decision is addressed to the [name of the Agency].

Done at Brussels,

For the Commission
[...]
Member of the Commission

Annex I

Description of the parts of the programme and the tasks delegated to the Agency in the framework of [programme 1]

A. Parts of the programme which are delegated

B. Tasks which are delegated

On the basis of the powers delegated by the Commission and within the framework of the relevant annual work programme adopted by the Commission, the Agency shall perform the following programme implementation tasks:

- (a) manage some or all of the phases of programme implementation and stages in the lifetime of projects in the frame of [programme 1]. In this connection, it shall be responsible for monitoring the projects, making the necessary checks and recovery procedures⁷⁵, and for performing budget implementation tasks covering revenue and expenditure within the meaning of the Financial Regulation, and in particular:
 - award grants and manage the ensuing agreement or decision, including the operations required to launch and conclude grant award procedures and in particular:
 - prepare for the evaluation of the proposals, including the selection of the expert evaluators and observers;
 - receive proposals and perform eligibility checks;
 - perform the evaluation of the proposals;
 - adopt award/rejection decisions or part thereof for which the relevant legal bases do not require the control by Member States of the Commission's exercise of implementing powers in accordance with Regulation (EU) No 182/2011;
 - prepare grant agreements and grant decisions on the basis of the standard models drawn up by the Commission;
 - support the operations required to conclude grant award/rejection procedures where the relevant legal basis require the control by Member States of the Commission's exercise of implementing powers in accordance with Regulation (EU) No 182/2011;
 - inform applicants of the outcome of the evaluation procedure [including for applications for which the relevant legal bases require the control by Member States of the Commission's exercise of implementing powers in accordance with Regulation (EU) No 182/2011];
 - sign grant agreements and grant decisions in accordance with the conditions laid down in this Decision;

⁷⁵ Ex-post controls, [For the Agencies implementing parts of H2020 and for the Annex(es) referring to those parts:] With the exception of ex-post audits relating to Horizon 2020 which are performed by the Commission's Common Support Centre.

- monitor the implementation of the grant agreements and grant decisions by the beneficiaries, making the necessary checks, including acceptance of reports and other deliverables;
- manage payments and recovery procedure with the exception of enforceable decision on recovery;
- perform routine ex post publicity and dissemination of results;
- ensure the application of penalties within the meaning of Article 131(5) of the Financial Regulation in agreement with the parent Directorate(s)-General.

- [perform all the operations required to launch contests and award prizes in accordance with the Financial Regulation.]

- conclude public procurement procedures and manage the ensuing contracts, including the operations required to launch and conclude public procurement procedures, in particular:
 - ensure ex ante and ex post advertising,
 - prepare the set of invitation to tender documents such as specifications and model contracts prepared on the basis of the models drawn up by the Commission;
 - evaluate the requests to participate and the tenders;
 - adopt award decisions and sign contracts in accordance with the conditions of this Decision;
 - monitor the performance of the contracting parties including acceptance of reports and other deliverables;
 - manage payments and recoveries procedures with the exception of not enforced recovery of debts on the Union budget,
 - ensure the application of penalties within the meaning of Article 109 of the Financial Regulation in agreement with the parent Directorate(s)-General

(b) provide support in programme implementation, in particular:

- collect, process and distribute data, and in particular compile, analyse and transmit to the Commission all information required to guide implementation of the programme, promote coordination with other Union programmes, the Member States or international organisations [...];
- contribute to evaluation of the impact of the programme and to monitoring of the actual effect of its activities on the market;
- manage and direct a network, in particular concerning the target public (beneficiaries, recipients, projects, actors) [...];
- organise meetings, seminars or talks [if this is operational expenditure]; organise trainings in agreement with the Commission [...];
- carry out studies and evaluations, contribute to the monitoring and the evaluation of the implementation of the programme and of the ensuing follow-up actions;
- prepare recommendations for the Commission on implementation of the programme and its future development [...];
- plan and implement information operations;
- produce overall control of the Agency's operation and supervision data;

- contribute, at the request of the Commission, to preparatory work on work programmes and financing decisions;
- prepare the publication of the calls for proposals defined in the work programme;
- prepare information documents for potential beneficiaries in in line with any relevant models transmitted by the Commission;
- establish an information and communication strategy aligned with that of the Commission;
- [...].

Annex II

Description of the parts of the programme and tasks delegated to the Agency in the framework of [programme 2]

Annex XX

Budget lines for [*first year of delegation*] of which part of the appropriations corresponding to the tasks entrusted to the Agency shall be implemented by the Agency⁷⁶

⁷⁶ Director of the Agency acting as authorising officer by delegation.

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1. FRAMEWORK OF THE PROPOSAL

1.1. Title of the proposal

--

1.2. Nature of the proposal

The proposal relates to:

The **creation** of an executive agency

Acronym	Full name of the executive agency
----------------	-----------------------------------

◆ The agency will be entrusted with the management of the following EU programmes:

- - - <i>(including transfer of a programme or part of a programme from another executive agency)</i>

◆ The term of the agency will be as follows:

<i>Current duration of lifetime:</i> YYYY – YYYY	
-----------------------------------------------------	--

The **extension of the mandate and duration** of an executive agency

Acronym	Full name of the executive agency
----------------	-----------------------------------

◆ The mandate of the agency will be modified with the entrustment of the management of the following EU programmes:

- - - <i>(including transfer of a programme or part of a programme from another executive agency)</i>

◆ The term of the agency will be modified as follows:

<i>Current duration of lifetime:</i> YYYY – YYYY	<i>New duration of lifetime:</i> YYYY - YYYY
-----------------------------------------------------	-------------------------------------------------

1.3. MFF 2014 – 2020 programme(s) concerned by the proposal

<u>EU programme</u>	<.....>
financed under	Heading <.....> of multiannual financial framework <.....>

Current prices EUR million (to 3 decimal places)

Table 1.

			Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8	Year N+9	Total
• Operational appropriations envisaged for delegation													
<N° budget line>	Commitments	(1)											
Title of budget line	Payments	(2)											
<N° of budget line>	Commitments	(1)											
Title of budget line	Payments	(2)											
<N° of budget line>	Commitments	(1)											
Title of budget line	Payments	(2)											
<N° of budget line>	Commitments	(1)											
Title of budget line	Payments	(2)											
= Budget of the new EU programme to be delegated	Commitments	(=1 +3)											
	Payments	(=2 +3)											



Hints and tips:

- Please provide one table for each new EU programme concerned.
- Indicate the budget line and the **amount envisaged for delegation** (not the total amount of the programme).
- Insert the number of years as included in the Cost-benefit-analysis and corresponding to the legal duration of the spending programme.

1.3.1. Management of the EU programmes concerned

For each EU programme concerned, please provide the following information.

EU programme	<.....>
--------------	---------

The implementation of this EU programme has not started yet.

This EU programme is new but has a predecessor / predecessors

Predecessor programme (s)	<.....>
---------------------------	---------

This EU programme has no direct predecessor, but a similar programme (or parts thereof) may be used by way of comparison

Programme equivalent	<.....>
----------------------	---------

Short description of tasks to be delegated	<.....>
--------------------------------------------	---------

This EU programme will be implemented using the following management modes⁷⁹:

Direct management

Shared management with the Member States

Indirect management with the delegation of implementation tasks to:

- third countries or the bodies they have designated;
- international organisations and their agencies;
- the EIB and the European Investment Fund;
- bodies referred to in Articles 208 and 209;
- public law bodies;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to title V of the TEU, and identified in the relevant basic act.

⁷⁹

As referred to in Article 58 of the Financial Regulation.

1.3.2. Grounds for delegating the EU programmes concerned

EU programme



Ground 1

Ground 2

Ground 3



Hints and tips:

- Please summarize the reasons justifying the delegation to an executive agency
- Please mention shortcomings to be tackled and/or benefits to be gained by delegating the relevant tasks to an agency – in comparison to management by the Commission. Possible benefits:
 - Effectiveness and flexibility in the implementation of outsourced tasks (time to contract, time to pay satisfaction of beneficiaries etc.)
 - Improvements to the procedures for managing the programme (simplification i.a.)
 - Proximity of outsourced activities to final beneficiaries
 - Visibility of the EU programme concerned
 - Maintenance of a suitable level of know-how inside the Commission
 - ...
- Please substantiate. It is not sufficient to simply state that, for example, contract agents with technical and financial expertise are needed. You should also explain why this is the case and why externalising the tasks would be more beneficial in that respect than management by the Commission.
- If a triennial external evaluation has been carried out: please attach executive summary of evaluation and refer explicitly to benefits demonstrated in the analysis.
- Please indicate also disadvantages (for instance high staff turnover) identified and propose mitigating measures.

2. RESULTS OF THE COST – BENEFIT ANALYSIS

2.1. The scenarios - Global results

Scenario 1

Scenario 2

Scenario ...

In-house scenario

Preferred scenario:



Hints and tips:

- *Please briefly present the scenarios which were analysed for the executive agency.*
- *For the in-house scenario explain the main assumptions, for example, concerning re-internalisation of payment legacies after the winding-up of the existing agency.*

2.2. Comparison of “Management within Commission departments” versus the preferred “Executive agency” scenario



Hints and tips:

For each EU programme concerned, this part aims at explaining the two following scenario:

- *Management by Commission departments (hereafter referred to as "**Commission scenario**"),*
- *and Management through an executive agency" (hereafter referred to as "**Executive agency scenario**)*

2.2.1. Implementation of tasks – list of delegated tasks



Hints and tips:

- *Use the list of tasks from the instrument of delegation and its annexes when filling in the table.*

2.2.2. Comparison of impact on the human resources at cruising speed

Reference data for Commission scenario: needs-based assessment if the programmes were to be carried out by the Commission; for Agency: staff needs (full operation of programme implementation at the Agency, i.e. "cruising speed") estimated on the basis of similar tasks already implemented by the Agency and results of the Cost-benefit-analysis.

Table 2.2.2.

Estimated number of personnel, at cruising speed – year : YYYY -	Commission scenario		Executive agency scenario	
	in Commission services	in Commission services	in executive agency	
◆ Establishment Plan Posts				
Category AD (Administrator)				
<u>Of which:</u>				↓
Number of officials seconded by the Commission				
Number of temporary agents recruited by the agency				
Category AST (Assistant)				
<u>Of which:</u>				↓
Number of officials seconded by the Commission				
Number of temporary agents recruited by the agency				
NUMBER of POSTS:				
◆ External personnel				
- Contract agents				
- Seconded National Experts				
NUMBER of EXTERNAL PERSONNAL:				
TOTAL of HUMAN RESOURCES:				



Hints and tips:

- Please fill in one summary table for the agency.
- Please assure coherence with the agency's organigram (number of posts of responsibility = secondments)

2.2.3. Comparison of the impact on administrative expenditure

EU programme: <.....>

a. Estimated human resources need (in full time equivalents)

Table 2.2.3.a.

❖ "Commission" (or in house) scenario	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8	Year N+9	Year N+10	Year N+11	Total
Establishment plan posts													
External personnel													
Total number of human resources													

❖ Executive agency scenario	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11		Total			
	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA
Establishment plan Posts																												
External personnel																												
Total of number of human resources																												

b. Comparison of the operating (administrative) appropriations linked to the implementation of the EU programme*

Table 2.2.3.b.
places)

Current prices EUR million (to 3 decimal

❖ "Commission" (or in house) scenario	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8	Year N+9	Year N+10	Year N+11	Total
Total of administrative appropriations under Heading 5/outside Heading 5 (Administrative expenditure)													

❖ "Executive agency" scenario	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8	Year N+9	Year N+10	Year N+11	Total
- Under heading 5/outside Heading 5 (Administrative expenditure for supervision of delegated tasks)													
- Under heading ...: Operating subsidy to the executive agency, financed from the total envelope of the EU programmes concerned (without title III expenditure)													
Total of administrative appropriations													

*The comparison is made for the salary related costs and overheads. The expenditure related to the Title III are not included.



Hints and tips:


- Please provide one table for a) and b) for each new EU programme concerned.
- Insert the number of years as included in the Cost-benefit-analysis and/or corresponding to the legal duration of the spending programme.

2.2.4. Impact on the operational budget to be delegated
EU programme: <.....> (lines to be delegated)

Table 2.2.4. Commitment Appropriations (CA), in current prices, EUR million (to 3 decimal places)

❖ "Commission" (or in house) scenario	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11		Total		
	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	
Current mandate:																											
<N° of budget line>																											
<N° of budget line>																											
Programmes proposed for delegation:																											
<N° of budget line>																											
<N° of budget line>																											
<N° of budget line>																											
= Total																											

❖ "Executive agency" scenario	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11		Total		
	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	CA	PA	
◆ by the Executive Agency																											
<N° of budget line>																											
<N° of budget line>																											
<N° of budget line>																											
<N° of budget line>																											
= Total																											

 Hints and tips:

- Please provide one table for each new EU programme concerned.
- Insert the number of years as included in the Cost-benefit-analysis and/or corresponding to the legal duration of the spending programme.
- Insert number of budget lines as needed

3. DESCRIPTION of the DELEGATION PROPOSAL

3.1. The 2014 – 2020 EU programmes to be implemented

(and, if applicable, programme/ part of a programme shifted from another executive agency)

Table 3.1.

Current prices, EUR million (to 3 decimal places)

Delegation proposal													
Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8	Year N+9	Year N+10	Year N+11	Total	
Phasing-in		Cruising-speed							Phasing-out				
2014-2020 EU programmes													
• Operational appropriations													
N° budget line	Commitments												
	Payments												
N° budget line	Commitments												
	Payments												
Total operational appropriations for 2014-2020 programmes to be delegated	Commitments												
	Payments												
• Appropriations of an administrative nature financed from the envelope of the programme													
<N° budget line X> Appropriations linked to the operational line (...)	Commitments= Payments												
<N° budget line X> Appropriations linked to the operational line (...)	Commitments= Payments												

<N° budget line Y> Appropriations linked to the operational line (...)	Commitments= Payments													
<N° budget line Y> Appropriations linked to the operational line (...)	Commitments= Payments													
Total administrative appropriations to manage new programmes	Commitments= Payments													
Shift of a programme/ part of a programme from another executive agency														
• Operational appropriations														
N° budget line (...) ex budget line (...)	Commitments													
	Payments													
N° budget line (...) ex budget line (...)	Commitments													
	Payments													
Total operational appropriations for the shift of the legacy	Commitments													
	Payments													
• Appropriations of an administrative nature financed from the envelope of the programme														
<N° budget line X>	Commitments= Payments													

Appropriations linked to the operational line (...) ex budget line														
<N° budget line Y> Appropriations linked to the operational line (...) ex budget line	Commitments= Payments													
Total administrative appropriations to manage the shift of the legacy	Commitments= Payments													
Total (EU programmes 2014-2020 + programme/ part of a programme shifted from another agency)														
Total operational appropriations	Commitments													
	Payments													
Total administrative appropriations to manage new programmes	Commitments= Payments													
TOTAL	Commitments													
	Payments													



Hints and tips:

- Insert the number of years as included in the Cost-benefit-analysis and/or corresponding to the legal duration of the spending programme; Insert number of budget lines as needed

3.2. Human resources needed in the executive agency

3.2.1. Overall picture of human resources needed to implement the programmes proposed for delegation to the executive agency (plus, if applicable, for the implementation of a programme/ part of a programme shifted from another executive agency).

Table 3.2.1.

	New programmes (per programme):																							
	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11	
	Phasing-in				Cruising-speed												Phasing-out							
Establishment Plan Posts⁸⁰	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA
Seconded TA																								
Other TA																								
Sub-total																								
External personnel	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA
Contract agents																								
Seconded National Experts																								
Sub-total																								

	Shifted programme/ part of a programme (per programme)																							
	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11	
	Phasing-in				Cruising-speed												Phasing-out							
Establishment Plan Posts⁸¹	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA
Seconded TA																								
Other TA																								

⁸⁰ In line with Commission Regulation 58/2003, §18.1.: Community officials seconded Temporary Agents and other Temporary Agents

⁸¹ In line with Commission Regulation 58/2003, §18.1.: Community officials seconded Temporary Agents and other Temporary Agents

Sub-total																								
External personnel	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA
Contract agents																								
Seconded National Experts																								
Sub-total																								

TOTAL of Human resources considered necessary	Total delegation proposal																							
	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11	
	Phasing-in				Cruising-speed												Phasing-out							
	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA

3.2.2. Further explanation on posts considered necessary for the executive agency to implement
2014 – 2020 programmes delegated to executive agency

(plus, if applicable, for the implementation of a programme or part of a programme shifted from another executive agency).

Draft Establishment Plan Posts of the executive agency
- Temporary agents only -

Table 3.2.2.

	Year N	Year N+1
Grade AD15		
Grade AD14		
Grade AD13		
Grade AD12		
Grade AD11		
Grade AD10		
Grade AD9		
Grade AD8		
Grade AD7		
Grade AD6		
Grade AD5		
Sub-total AD, of which		
Officials seconded by the Commission		
Temporary agents recruited by agency		

Grade AST11		
Grade AST10		
Grade AST9		
Grade AST8		
Grade AST7		
Grade AST6		
Grade AST5		
Grade AST4		
Grade AST3		
Sub-total AST		
Grade AST/SC6		
Grade AST/SC5		
Grade AST/SC4		
Grade AST/SC3		
Grade AST/SC2		
Grade AST/SC1		
Sub-total AST/SC		
Total, of which		
Officials seconded by the Commission		

Temporary agents recruited by agency		
--------------------------------------	--	--



Hints and tips:

- *Please fill the draft establishment plan for the additional staff for the first two years.*

3.3. Total administrative cost implied by the proposal


Table 3.3.

Current prices, EUR million (to 3 decimal places)

<i>Per programme:</i>	Delegation proposal (new programmes plus shifted programme, if applicable)																							
	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11	
	Phasing-in				Cruising-speed												Phasing-out							
	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA
Title I																								
Title II																								
Title III																								
Sub-total																								

<u>Administrative cost of the implementation per year</u>	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11	
	Phasing-in				Cruising-speed												Phasing-out							
	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA	COM	EA

Administrative cost of the implementation for the period N to N+11	
Broken down between	Heading
	& Heading 5

 **Hints and tips:**

- Please provide one table for each new EU programme concerned.

- *Insert the number of years as included in the Cost-benefit-analysis and/or corresponding to the legal duration of the spending programme.*

4. IMPACT ON THE FUNCTIONNING OF THE EXECUTIVE AGENCY (CONSOLIDATED VIEW)

4.1. Impact on the total amount of operational budget to be managed by the executive agency.

Table 4.1.

		Delegation proposal											Total	
		Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8	Year N+9	Year N+10		Year N+11
2014-2020 EU programmes - Operational appropriations to be delegated														
		Phasing-in		Cruising-speed							Phasing-out			
N° budget line	Commitments													
	Payments													
N° budget line	Commitments													
	Payments													
Total operational appropriations - 2014-2020 programmes	Commitments													
	Payments													
Shift of a programme/ part of a programme from another executive agency – operational appropriations														
N° budget line	Commitments													
	Payments													
N° budget line	Commitments													
	Payments													
Total operational appropriations - shift of the programme	Commitments													
	Payments													

Current mandate – operational appropriations														
• Operational appropriations														
N° budget line	Commitments													
	Payments													
N° budget line	Commitments													
	Payments													
Total operational appropriations –current mandate	Commitments													
	Payments													
Total operational appropriations (new programmes plus, if applicable, shift of a programme from another agency)														
Total operational appropriations	Commitments													
	Payments													
TOTAL	Commitments													
	Payments													

4.2. Impact on the total staffing of the executive agency (consolidated view).

Table 4.2.a.

	Delegation proposal																							
	Year N		Year N+1		Year N+2		Year N+3		Year N+4		Year N+5		Year N+6		Year N+7		Year N+8		Year N+9		Year N+10		Year N+11	
	Phasing-in				Cruising-speed												Phasing-out							
	Current mandate *	Future **	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future
Establishment Plan Posts																								
Seconded TA																								
Other TA																								
Sub-total																								
External personnel																								
Contract agents																								
Seconded National Experts																								
Sub-total																								
TOTAL staffing of the executive agency																								

* As foreseen per current mandate

** New TOTAL (including current mandate)

Table 4.2.b.

Draft Establishment plan of the executive agency	N	
	Current	Future*
Grade AD15		
Grade AD14		
Grade AD13		
Grade AD12		
Grade AD11		
Grade AD10		
Grade AD9		
Grade AD8		
Grade AD7		
Grade AD6		
Grade AD5		
Total AD		
of which		
Officials seconded by the Commission		
Temporary agents recruited by agency		
Grade AST11		
Grade AST10		
Grade AST9		
Grade AST8		
Grade AST7		
Grade AST6		
Grade AST5		
Grade AST4		
Grade AST3		
Sub-total AST		
Grade AST/SC6		
Grade AST/SC5		
Grade AST/SC4		
Grade AST/SC3		
Grade AST/SC2		
Grade AST/SC1		
Sub-total AST/SC		
Total, of which		
Officials seconded by the Commission		
Temporary agents recruited by agency		
= TOTAL staffing of the executive agency (including management of the current mandate)		

* New TOTAL

4.3. Draft organisational chart of the Agency

[Please highlight the operational units affected by the proposal]

4.4. Impact on the Union financial contribution to the executive agency (consolidated view).

The level of detail per budget line is required for a complete programme (such as H2020). For the other programmes detail is per DG/ per programme).

Table 4.4.

Current prices, EUR m

		Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8
Union contribution to the Executive Agency for the implementation of the new programmes										
<N° budget line X> Appropriations linked to the operational line (...)	Commitments= Payments									
<N° budget line X> Appropriations linked to the operational line (...)	Commitments= Payments									
<N° budget line Y> Appropriations linked to the operational line (...)	Commitments= Payments									
<N° budget line Y> Appropriations linked to the operational line (...)	Commitments= Payments									
Total administrative appropriations to manage new programmes	Commitments= Payments									

Union contribution to the Executive Agency for the implementation of a programme/ part of a programme shifted from another executive agency													
<N° budget line X> Appropriations linked to the operational line (...)	Commitments= Payments												
<N° budget line Y> Appropriations linked to the operational line (...)	Commitments= Payments												
Total administrative appropriations to manage the shift of the programme	Commitments= Payments												
Union contribution to the Executive Agency for the management of the current mandate													
<N° budget line X> Appropriations linked to the operational line (...)	Commitments= Payments												
<N° budget line X> Appropriations linked to the operational line (...)	Commitments= Payments												
<N° budget line Y>	Commitments= Payments												

Appropriations linked to the operational line (...)														
<N° budget line Y> Appropriations linked to the operational line (...)	Commitments= Payments													
Total administrative appropriations	Commitments= Payments													
Total Union contribution to the Executive Agency (new programmes/shift of a programme from another agency plus current mandate)														
Total Union contribution on the budget line (...)	Commitments= Payments													
Total Union contribution on the budget line (...)	Commitments= Payments													
TOTAL	Commitments= Payments													

4.5. Overview of the expenditure under Title III (Programme support expenditure)

Current prices, EUR million (to 3 decimal places)

Table 4.5

		Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8	Year N+9	Year N+10	Year N+11	Total
Programme management expenditure														
Experts and external meetings	Commitments= Payments													
Missions: Programme Management	Commitments= Payments													
External Audits	Commitments= Payments													
Communication, Information and Linguistic services	Commitments= Payments													
Seminars & specific Training	Commitments= Payments													
Programme related IT expenses	Commitments= Payments													
Studies	Commitments= Payments													
Total														
Common Support Services Expenditure (if applicable)														
Selection of proposals – Building and infrastructure of the Common Evaluation Platform and associated costs	Commitments= Payments													
Selection of proposals and Programmes management – Specific ICT Systems, Data Provision and	Commitments= Payments													

Processing														
Validation Services and associated costs	Commitments= Payments													
Other Operating expenses for the Selection of proposals and programmes management	Commitments= Payments													
Meetings of experts and associated costs	Commitments= Payments													
Other expenses related to the Administrative management of programmes	Commitments= Payments													
Total	Commitments= Payments													
Total Title III expenditure	Commitments= Payments													

5. IMPACT OF THE DELEGATION ON COMMISSION HUMAN RESOURCES

N.B.: THE INFORMATION IS TO BE PROVIDED PER PROGRAMME CONCERNED.

THE CORRESPONDING IMPACT AT DG LEVEL WILL BE INCLUDED IN THE INTERNAL ANNEX TO THE FINANCIAL STATEMENT.

5.1. Frozen posts within the Commission Establishment plan

In accordance with Article 38.c of the Staff Regulations, the posts of Commission officials seconded to executive agencies remain vacant in the Commission during their secondment (i.e., the posts are 'frozen'). A corresponding number of posts are without budgetary coverage in the establishment plan of the Commission. This generates a corresponding reduction of administrative appropriations in the Commission Budget.

Table 5.1.

Number of secondments from Commission services to the executive agency	N		N+1		N+2		N+3		N+4		N+5		N+6		N+7		N+8		N+9		N+10		N+11		
	Current mandate*	Future**	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	Current mandate	Future	
TOTAL																									

* Planned secondments as per current mandate.

** New TOTAL (including current mandate)

5.2. Freed resources within the Commission services

Tasks transferred from Commission services to executive agencies free Commission resources for redeployment to other priorities in the annual allocation of human resources. In accordance with the budgetary procedure and the principle of transparency, the Commission informs the Budgetary Authority of its intentions as regards the redeployment of those freed administrative resources to other tasks in the Commission.

Table 5.2.

	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Year N+8	Year N+9	Year N+10	Year N+11
◆ Establishment Plan Posts												
Number of posts: freed												
◆ External personnel												
Contract agents (FTE)												
Seconded National Experts												
Number of external personnel freed												
= TOTAL FTE freed												

Appendix Vb

MODEL ANNEX
to the
SPECIFIC FINANCIAL STATEMENT

Executive Agency:

Title of the proposal/initiative:

.....

- 1. HUMAN RESOURCES TO BE FREED IN PARENT DG(s)**
- 2. POSTS TO BE FROZEN IN THE COMMISSION ESTABLISHMENT PLAN(s)**

This annex must accompany the specific financial statement of the executive agency when the interdepartmental consultation is launched.

The data tables are used as a source for the tables contained in the specific financial statement.

They are strictly for internal use within the Commission (upload in CISNet only).

N.B. Please ensure consistency with the Specific financial statement, namely chapter 5.1. and 5.2.

1. Human resources to be freed in parent DG(s)

In accordance with Article 13 § 6c of Council Regulation 58/2003 and the Revised working arrangements on executive agencies with the Committee of Budgets of the European Parliament⁸², tasks transferred from Commission services to executive agencies **free** Commission resources which should be identified as such. In accordance with the budgetary procedure and the principle of transparency, the Commission informs the Budgetary Authority on the estimated number of posts that could be freed. Freed posts include posts 'unfrozen' following the return of seconded officials once tasks have been transferred to the executive agency (see chapter 2.).

- The proposal/initiative does not free human resources in the parent DG(s)
- The proposal/initiative frees human resources, as identified in the cost-benefit-analysis (CBA), adding as appropriate the corresponding share of support and coordination function:

1.1. HEADING 5 (Operating budget)

Table 1.1., in FTE and EUR

Parent DG		Total Staff to be freed	Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary					
• Establishment plan posts (officials and temporary staff)												
DG X	AD											
	AST											
DG Y	AD											
	AST											
• External staff⁸³												

⁸² Note of Commissioner Dalia GRYBAUSKAITE to the Chairman of the Budget Committee (COBU) - Ref: DGE/ef (2007)S 85 of 16 October 2007

⁸³ CA= Contract Agent; SNE= Seconded National Expert. INT= agency staff ("Intérimaire")

DG X	CA												
	SNE												
	INT												
DG Y	CA												
	SNE												
	INT												
Total													

Posts freed will be made available by the DGs and returned to the Commission internal redeployment pool in the course of the annual allocation of resources. Administrative appropriations for external staff freed will be deducted from the annual allocation to the DG concerned.

1.2. RESEARCH BUDGET (Indirect actions)

Table 1.2., in FTE and EUR

Parent DG		Total Staff to be freed	Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary						
• Establishment plan posts (officials and temporary staff)													
DG ...	AD												
	AST												
DG ...	AD												
	AST												
• External staff													
DG ...	CA												
	SNE												
	INT												
DG ...	CA												
	SNE												
	INT												
Total													

Posts freed will be made available by the DGs and returned to the Commission internal redeployment pool in the course of the annual allocation of resources. Administrative appropriations for external staff freed will be deducted from the annual allocation to the DG concerned.

2. Posts to be frozen in the Commission's establishment plan(s)

In accordance with Article 18 § 2b of Council Regulation 58/2003, article 38.c of the Staff Regulations and the Revised working arrangements on executive agencies with the Committee of Budgets of the European Parliament⁸⁴, a number of posts corresponding to the number of Commission officials seconded to executive agencies is without budgetary coverage in the establishment plan of the Commission and generates a corresponding reduction of administrative appropriations in the Commission budget (see Abatement agencies executives in DB Working Document II). These are '**frozen**' posts from budgetary perspective.

This number is subject to fluctuations over time, depending on the stage in the lifetime of the executive agency. Moreover, this number can vary also following the application of Article 38.c of the Staff regulations: "(...) at the end of every six months, the official concerned may request that his secondment be terminated", and the time span between his/her mobility and his/her replacement.

Upon return of the previously seconded official, the 'frozen' post in the establishment plan of the Commission is '**unfrozen**', and **added to the pool of posts freed**. (A decrease of the total number of Commission officials seconded to the executive agencies in this regard means that the official has not been and will not be replaced by another Commission official, and therefore the post has been or will be freed.)

- The proposal/initiative does not foresee the secondment of officials to the executive agency
- The proposal/initiative envisages the secondment of officials as identified in the cost-benefit-analysis (CBA):

⁸⁴ See footnote 1

2.1. HEADING 5 (Operating budget)

Table 2.1., number of posts

Parent DG	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	... enter as many years as necessary
DG ...								
DG ...								
DG ...								
TOTAL								

2.2. RESEARCH BUDGET (Indirect actions)

Table 2.2., number of posts

Parent DG	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	... enter as many years as necessary
DG ...								
DG ...								
DG ...								
TOTAL								

Fill in the corresponding number of posts per function group and grade (seconded officials) in the first year of the mandate:

Table 2.3., number of posts

Category	Grade	Year N	
		Heading 5 posts	Research posts
AD	16		
AD	15		
AD	14		
AD	13		
AD	12		
AD	11		
AD	10		
AD	9		
AD	8		
AD	7		
AD	6		
AD	5		
Total AD			
AST	11		
AST	10		
AST	9		
AST	8		
AST	7		
AST	6		
AST	5		
AST	4		
AST	3		
AST	2		
AST	1		
Total AST			
AST/SC	6		
AST/SC	5		
AST/SC	4		
AST/SC	3		
AST/SC	2		
AST/SC	1		
Total AST/SC			
AD+AST+AST/SC (seconded officials)			
Total			

Appendix VI
Administrative budget nomenclature of the executive agencies

Each Executive Agency is totally free to establish as much as necessary Budget Articles and Budget Items inside the pre-established / common Budget Chapters.

Technical provisions:

- **no** use of the “**zero**” (“**0**”) inside the budget lines (**optional** for the Budget Articles and for the Budget Items)
- **no** use of the “**A0**” **in front of any budget line**

Title 1 - STAFF EXPENDITURE

Chapter 11 - Remunerations, Allowances and Charges

Temporary Agents - Remuneration, Allowances and Charges, Contract Agents - Remuneration, Allowances and Charges, Seconded National Experts - Allowances and Charges, Interim supportive agents, Trainees:

Items

- 1111 Temporary Agents - Remunerations
- 1112 Temporary Agents - Allowances
- 1121 Contract Agents - Remunerations
- 1122 Contract Agents - Allowances
- 1131 Seconded National Experts - Allowances and Charges (PM)
- 1141 Support services & trainees

12 - Professional Development and Social expenditure

Specific Charges for the Staff, Support Services for the Staff rights (*includes the SLA PMO for the calculation of the salaries of the Staff*), Recruitment process of the Personnel and Installation of Staff rights (*includes the SLA PMO for the installation of rights of the Staff*), General, Specific and Language Training Courses for the Staff Professional and Personal Development, Missions related to the Staff Professional and Personal Development, Medical Service, Mobility expenses for the Staff, Other Social expenses for the Staff, Representation expenses, Events and Internal meetings:

Items

- 1211 Recruitment expenses
- 1221 Individual entitlements
- 1231 Training
- 1232 Missions: Agency Management (PM)
- 1241 Medical Service
- 1242 Mobility & social expenses for the Staff
- 1251 Representation expenses, Events and Internal meetings

Title 2 - INFRASTRUCTURE AND OPERATING EXPENDITURE

Chapter 21 - Building expenditure

Rent / Usufruct instalments and associated costs, Charges of the Building and associated costs (*includes Management and Maintenance of the Building, Cleaning, Security, Taxes, Works, Insurances, Other building services and associated costs*):

Item 2111 Rental of building and associated costs

Chapter 22 - ICT expenditure

ICT Infrastructure, Equipment (Hardware), Office automation, Software, Licences, IT helpdesk, Maintenances and associated expenses, ICT Systems, Telecommunication technologies and expenses (subscriptions and use), associated costs and Other ICT Environment expenses , Data Processing and associated expenses (except for those related to programme management):

Items

- 2211 ICT Purchases, Hard - and Softwares & Maintenances
- 2212 ICT Services

Chapter 23 - Movable property and Current Operating expenditure

Furniture, Materials and Technical Installations and associated expenses, Works of handling and removal services, Office Supplies and associated expenses, Correspondence stamping and carriage costs, Library, Documentation and associated costs, Bank, Financial and Legal charges, Damages, Insurances on building content, Other insurances and Other Operating expenses

Items:

- 2311 Furniture, Technical Installations and associated expenses
- 2312 Office Supplies, documentation & correspondance
- 2313 Charges, Insurances & Other operating expenses

Title 3 - PROGRAMME SUPPORT EXPENDITURE

Chapter 31 - Programme Management expenditure

Communication, Information and Publications, Conferences, Seminars and Specific Training Courses for the Administrative Management of Programmes and associated costs, Linguistic Services (Translation and Interpretation), External Audits, Missions related to the Administrative Management of Programmes, Specific ICT Infrastructure, Environment and Systems costs related to the Programme Management (including Data Processing and associated expenses related to the Programme Management), Other expenses related to the Administrative Management of Programmes:

Items:

- 3111 Experts and external meetings
- 3112 Missions: Programme Management
- 3113 External Audits
- 3114 Communication, Information and Linguistic services
- 3115 Seminars & specific Training
- 3116 Programme related IT expenses
- 3117 Studies

(Specific to the Administrative and Logistical Support Services provided by REA)

Chapter 32 - Support Services expenditure

Building and Infrastructure of the Horizon 2020 Common Evaluation Platform and associated costs, Specific ICT Systems, Data Provision and Processing, Validation Services and associated costs.