

Proposal for a Council Regulation amending Regulation (EC) No 2667/2000 as regards the budgetary and financial rules applicable to the European Agency for Reconstruction and access to the Agency's documents

(2002/C 331 E/07)

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(Submitted by the Commission on 17 July 2002)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The provisions of Council Regulation (EC) No 2667/2000 of 5 December 2000 on the European Agency for Reconstruction ⁽¹⁾, amended by Regulation (EC) No 2415/2001 ⁽²⁾, should be harmonised with Council Regulation (EC, Euratom) No ... of ... on the Financial Regulation applicable to the general budget of the European Communities, and in particular Article 185 thereof.
- (2) The general principles and limits governing right of access to documents provided for in Article 255 of the Treaty have been laid down by 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 documents ⁽³⁾.
- (3) When Regulation (EC) No 1049/2001 was adopted, the three institutions agreed in a joint declaration that the agencies and similar bodies should implement rules in line with that Regulation.
- (4) Appropriate provisions should therefore be included in Regulation (EC) No 2667/2000 to make Regulation (EC) No 1049/2001 applicable to the European Agency for Reconstruction.
- (5) Regulation (EC) No 2667/2000 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2667/2000 is amended as follows:

1. Paragraph 14 of Article 4 is replaced by the following:

‘The Governing Board shall adopt the annual report on the Agency's activities and transmit it by 15 June at the latest to

the European Parliament, the Council, the Commission and the Court of Auditors.’

2. Article 5(1) point (f) is replaced by the following:

‘(f) preparation of the draft statement of estimates of the Agency's revenue and expenditure, and execution of its budget;’

3. Article 7 is replaced by the following:

‘Article 7

1. Each year, by 15 February at the latest, the Governing Board, on the basis of a draft drawn up by the Director, shall produce a statement of estimates of revenue and expenditure for the Agency for the following financial year. This statement of estimates, which shall include a draft establishment plan, shall be transmitted by the Governing Board to the Commission.

The statement of estimates shall be transmitted by the Commission to the European Parliament and the Council (hereinafter referred to as the “budgetary authority”) together with the preliminary draft general budget of the European Communities.

2. The Commission shall examine the statement of estimates, taking account of the priorities it has agreed and the overall financial guidelines for Community assistance to the reconstruction of the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia.

It shall establish on this basis, within the proposed limits of the overall amount to be made available for Community assistance to the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia, the indicative annual contribution for the budget of the Agency to be included in the preliminary draft general budget of the European Communities.

3. The budgetary authority shall determine the appropriations available for the subsidy to the Agency.

4. The budgetary authority shall adopt the establishment plan for the Agency.

5. The Governing Board, after receiving the Commission's opinion, shall adopt the budget of the Agency at the beginning of each financial year, adjusting it to the various contributions granted to the Agency and to funds from other sources.

⁽¹⁾ OJ L 306, 7.12.2000, p. 7.

⁽²⁾ OJ L 327, 12.12.2000, p. 3.

⁽³⁾ OJ L 145, 31.5.2001, p. 43.

6. In the interests of budgetary transparency, funds from sources other than the Community budget shall be shown separately in the Agency's revenue. In the expenditure, administrative and staff costs shall be clearly separate from operating costs for the programmes referred to in the first indent of Article 2(3).'

4. Article 8 is replaced by the following:

'Article 8

1. The Director shall implement the budget of the Agency.

2. The Commission's internal auditor shall exercise the same powers over the Agency as over Commission departments.

3. By 1 March at the latest following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies within the meaning of Article 128 of Regulation (EC, Euratom) No ... (*) (hereinafter "the general Financial Regulation").

4. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit the Agency's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for the financial year shall also be transmitted to the European Parliament and the Council.

5. On receipt of the Court of Auditors' observations on the Agency's provisional accounts, pursuant to Article 129 of the general Financial Regulation, the Director shall draw up the Agency's final accounts under his own responsibility and transmit them to the Governing Board for an opinion.

6. The Director shall, by 1 July at the latest following each financial year, transmit these final accounts to the European Parliament, the Council, the Court of Auditors and the Commission, together with the Governing Board's opinion.

7. The final accounts shall be published.

8. The Agency's Director shall send the Court of Auditors a reply to its observations by 30 September at

the latest. He shall also send this reply to the Governing Board.

9. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 30 April of year N + 2, give a discharge to the Director of the Agency in respect of the implementation of the budget for year N.

(*) OJ L ...'

5. Article 9 is replaced by the following:

'Article 9

The financial rules applicable to the Agency shall be adopted by the Governing Board after the Commission has been consulted. They may not depart from the framework Financial Regulation adopted by the Commission under Article 185 of the Financial Regulation applicable to the general budget of the European Communities unless specifically required for the Agency's operation and with the Commission's prior consent.'

6. A new Article 13 is inserted:

'Article 13a

Regulation (EC) No 1049/2001 of the European Parliament and of the Council (*) shall apply to documents held by the Agency.

The Governing Board shall adopt the arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of this Regulation.

Decisions taken by the Agency under Article 8 of Regulation (EC) No 1049/2001 may be appealed by means of a complaint to the Ombudsman or an action before the Court of Justice of the European Communities, under Articles 195 and 230 of the EC Treaty respectively.

(*) OJ L 145, 31.5.2001, p. 43.'

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.