

Proposal for a Council Regulation amending Regulation (EEC) No 1360/90 as regards the budgetary and financial rules applicable to the European Training Foundation and access to the Foundation's documents

(2002/C 331 E/10)

COM(2002) 406 final — 2002/0171(CNS)

(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 (EEC) No 1360/90 of 7 May 1990 establishing a European Training Foundation ⁽¹⁾ 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 ⁽²⁾.
- (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 (EEC) No 1360/90 to make Regulation (EC) No 1049/2001 applicable to the European Training Foundation, as should a clause guaranteeing a right of appeal against a refusal of access to documents.
- (5) Regulation (EEC) No 1360/90 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1360/90 is amended as follows:

⁽¹⁾ OJ L 131, 23.5.1990, p. 1. Regulation last amended by Regulation (EC) No 2555/2000 (OJ L 306, 7.12.2000, p. 1).
⁽²⁾ OJ L 145, 31.5.2001, p. 43.

1. The following Article 4a is inserted:

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

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

Decisions taken by the Foundation 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.'

2. Article 5(9) is replaced by the following:

'The Governing Board shall adopt the Foundation's annual report and transmit it by 15 June at the latest to the European Parliament, the Council, the Commission, the Economic and Social Committee and the Court of Auditors. The report shall also be transmitted to the Member States and, for information, to the eligible countries.'

3. The third indent of Article 7(1) is replaced by the following:

'— for the preparation of the draft statement of estimates of the Foundation's revenue and expenditure, and execution of its budget,'

4. Article 10(1), (2) and (3) are replaced by the following:

'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 Foundation 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 budget of the Communities.

2. The Commission shall examine the statement of estimates, having regard to the vocational training priorities in the eligible countries and to the overall financial orientations on economic aid to these countries.

It shall establish on this basis, and within the proposed limits of the overall amount to be made available for economic aid to the eligible countries, the annual contribution for the budget of the Foundation to be included in the preliminary draft general budget of the European Communities.

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

3. The budgetary authority shall adopt the establishment plan for the Foundation.'

5. Article 11(2), (3) and (4) are replaced by the following:

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

3. By 1 March at the latest following each financial year, the Foundation'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 Council Regulation (EC, Euratom) No ... on the Financial Regulation applicable to the general budget of the European Communities (*) (hereinafter "the general Financial Regulation").

4. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit the Foundation'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 that financial year shall also be transmitted to the European Parliament and the Council.

5. On receipt of the Court of Auditors' observations on the Foundation'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 respon-

sibility and transmit them to the Governing Board for an opinion.

6. The Governing Board of the Foundation shall deliver an opinion on the Foundation's final accounts.

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

8. The final accounts shall be published.

9. The Foundation'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.

10. 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 in respect of the implementation of the budget for year N.

(*) OJ L ...'

6. Article 12 is replaced by the following:

'Article 12

The financial rules applicable to the Foundation 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 Foundation's operation and with the Commission's prior consent.'

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.
