

**COUNCIL REGULATION (EC) No 1646/2003****of 18 June 2003****amending Regulation (EC) No 2667/2000 on the European Agency for Reconstruction**

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 <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Court of Auditors <sup>(3)</sup>,

Whereas:

- (1) Certain provisions of Council Regulation (EC) No 2667/2000 of 5 December 2000 on the European Agency for Reconstruction <sup>(4)</sup>, should be brought into line with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(5)</sup> (hereinafter referred to as the general Financial Regulation), 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 <sup>(6)</sup>.
- (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 conforming to those of 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, as should a provision on appeals against a refusal of access to documents.

- (5) Regulation (EC) No 2667/2000 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

1. Article 4(14) shall be replaced by the following:

'14. The Governing Board shall adopt the annual report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission and the Court of Auditors.

15. The Agency shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.'

2. Article 5(1)(e) shall be replaced by the following:

'(e) preparation of the draft statement of estimates of the Agency's revenue and expenditure, and execution of the Agency's budget.'

3. Articles 7, 8 and 9 shall be replaced by the following:

*'Article 7*

1. Each year, the Governing Board, on the basis of a draft drawn up by the Director, shall produce an estimate of revenue and expenditure for the Agency for the following financial year. This estimate, which shall include a draft establishment plan, shall be forwarded by the Governing Board to the Commission by 31 March at the latest.

2. The estimate shall be forwarded 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 Union.

3. The Commission shall examine the estimate, taking account of the priorities it has agreed and the overall financial guidelines for Community assistance for the reconstruction of Serbia and Montenegro and the Former Yugoslav Republic of Macedonia.

<sup>(1)</sup> OJ C 331 E, 31.12.2002, p. 167.

<sup>(2)</sup> Opinion delivered on 27 March 2003 (not yet published in the Official Journal).

<sup>(3)</sup> OJ C 285, 21.11.2002, p. 4.

<sup>(4)</sup> OJ L 306, 7.12.2000, p. 7. Regulation as last amended by Regulation (EC) No 2415/2001 (OJ L 327, 12.12.2001, p. 3).

<sup>(5)</sup> OJ L 248, 16.9.2002, p. 1 with Corrigendum in OJ L 25, 30.1.2003, p. 43.

<sup>(6)</sup> OJ L 145, 31.5.2001, p. 43.

It shall establish on this basis, within the proposed limits of the overall amount to be made available for Community assistance to Serbia and Montenegro and the Former Yugoslav Republic of Macedonia, the indicative annual contribution for the budget of the Agency.

4. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.

5. The budgetary authority shall authorise the appropriations for the subsidy to the Agency.

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

6. The budget of the Agency shall be adopted by the Governing Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

7. The Governing Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Governing Board within a period of six weeks from the date of notification of the project.

8. In the interests of budgetary transparency, funds from sources other than the general budget of the European Union 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).

#### Article 8

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

2. 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 in accordance with Article 128 of the general Financial Regulation.

3. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward 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 forwarded to the European Parliament and the Council.

4. 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 submit them to the Governing Board for an opinion.

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

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

7. The final accounts shall be published.

8. The 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 Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of the general Financial Regulation.

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.

#### 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 Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on 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.

(\*) OJ L 357, 31.12.2002, p. 72. Corrigendum in OJ L 2, 7.1.2003, p. 39.;

4. the following Article shall be inserted:

*'Article 13a*

1. 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 (\*) shall apply to documents held by the Agency.

2. The Governing Board shall adopt the arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of Council Regulation (EC) No 1646/2003 of 18 June 2003 amending Regulation (EC) No 2667/2000 on the European Agency for Reconstruction (\*\*).

3. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice, under the conditions laid down in Articles 195 and 230 of the Treaty respectively.

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

(\*\*) OJ L 245, 29.9.2003, p. 16.'

*Article 2*

This Regulation shall enter into force on the on the first day of the month following that of its publication in the *Official Journal of the European Union*.

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

Done at Luxembourg, 18 June 2003.

*For the Council*  
*The President*  
G. DRYG