

COMMON POSITION (EC) No 25/2006**adopted by the Council on 18 September 2006****with a view to the adoption of Regulation (EC) No .../2006 of the European Parliament and of the Council of ... establishing a European Institute for Gender Equality**

(2006/C 295 E/03)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 13(2) and 141(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Equality between men and women is a fundamental principle of the European Union. Articles 21 and 23 of the Charter of Fundamental Rights of the European Union set out a prohibition on any discrimination on grounds of sex and provide that equality between men and women must be ensured in all areas.
- (2) Article 2 of the Treaty provides that equality between men and women is one of the Community's essential tasks. Similarly, Article 3(2) of the Treaty requires the Community to aim to eliminate inequalities and to promote equality between men and women in all its activities and thus ensure the integration of the dimension of equality between men and women in all Community policies.
- (3) Article 13 of the Treaty empowers the Council to take appropriate action to combat discrimination *inter alia* on grounds of sex in all areas of Community competence.
- (4) The principle of equal opportunities and equal treatment of men and women in matters of employment and occupation is enshrined in Article 141 of the Treaty and a comprehensive body of legislation on equal treatment of men and women in relation to access to employment and working conditions including equal pay is already in place.
- (5) The Commission's first annual report on equality between men and women to the Spring European Council in 2004 concluded that significant gender gaps exist in most policy fields, that inequality between men and women is a multi-dimensional phenomenon that

has to be tackled by a comprehensive mix of policy measures and that enhanced efforts are needed to meet the Lisbon strategy targets.

- (6) The Nice European Council of 7-9 December 2000 called for 'Increased awareness, the pooling of resources and the exchange of experience, in particular through the establishment of a European Institute for gender issues'.
- (7) The feasibility study ⁽³⁾ carried out for the Commission concluded that there is a clear role for a European Institute for Gender Equality to carry out some of the tasks which the existing institutions do not currently deal with, specifically in the areas of coordination, centralisation and dissemination of research data and information, network building, the raising of visibility of equality between men and women, highlighting the gender perspective and the development of tools for improved integration of gender equality in all Community policies.
- (8) The European Parliament in its Resolution of 10 March 2004 on the European Union's policies on gender equality ⁽⁴⁾ called on the Commission to speed up the efforts leading to the setting-up of an Institute.
- (9) The Council of Employment, Social Affairs, Health and Consumers Affairs of 1-2 June 2004 and the European Council of 17-18 June 2004 supported the establishment of a European Institute for Gender Equality. The European Council asked the Commission to bring forward a specific proposal.
- (10) The collection, analysis and dissemination of objective, reliable and comparable information and data on equality between men and women, the development of appropriate tools for the elimination of all forms of discrimination on grounds of sex and the integration of the gender dimension in all policy areas, the promotion of dialogue among stakeholders and the raising of awareness among EU citizens are necessary so as to enable the Community to effectively promote and implement gender equality policy, in particular in an enlarged Union. It is therefore appropriate to establish a European Institute for Gender Equality which would assist the Community institutions and the Member States by carrying out those tasks.

⁽¹⁾ OJ C 24, 31.1.2006, p. 29.

⁽²⁾ Opinion of the European Parliament of 14 March 2006 (not yet published in the Official Journal), Council Common Position of 18 September 2006 and Position of the European Parliament of ... (not yet published in the Official Journal).

⁽³⁾ European Commission Feasibility Study for a European Gender Institute (conducted by PLS Ramboll Management, DK, 2002).

⁽⁴⁾ OJ C 102 E, 28.4.2004, p. 638.

- (11) Gender equality cannot be achieved by an anti-discrimination policy alone but requires measures to promote harmonious co-existence and balanced participation by men and women within society; the Institute should contribute to the attainment of that objective.
- (12) Given the importance of eliminating gender stereotypes in European society in all walks of life and of providing positive examples for women and men to follow, action to achieve that should also be included among the Institute's tasks.
- (13) Cooperation with the relevant authorities of the Member States and relevant statistical bodies, in particular Eurostat, is essential to promote the collection of comparable and reliable data at European level. Given that information on equality between men and women is relevant to all levels within the Community — local, regional, national and Community — it would be useful for such information to be available to Member States' authorities in order to help them formulate policies and measures at local, regional and national level in their spheres of competence.
- (14) The Institute should work as closely as possible with all Community programmes and bodies in order to avoid duplication and ensure the best possible use of resources, in particular as regards the European Foundation for the Improvement of Living and Working Conditions ⁽¹⁾, the European Agency for Safety and Health at Work ⁽²⁾, the Centre for the Development of Vocational Training ⁽³⁾ and the European Union Agency for Fundamental Rights ⁽⁴⁾.
- (15) The Institute should develop cooperation and dialogue with non-governmental and equal opportunities organisations, research centres, social partners, and other related bodies actively seeking to achieve equality at national and European level and in third countries. In
- the interest of efficiency, it is appropriate for the Institute to set up and coordinate an electronic European Network on Gender Equality with such entities and experts in the Member States.
- (16) In accordance with Article 3(2) of the Treaty it is appropriate to promote a balanced participation of men and women in the composition of the Management Board.
- (17) The Institute should enjoy maximum independence in the performance of its tasks.
- (18) The Institute should apply the relevant Community legislation concerning public access to documents as set out in Regulation (EC) No 1049/2001 ⁽⁵⁾ and the protection of individuals with regard to the processing of personal data as set out in Regulation (EC) No 45/2001 ⁽⁶⁾.
- (19) 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 ⁽⁷⁾, applies to the Institute.
- (20) For the contractual liability of the Institute, which is governed by the law applicable to the contracts concluded by the Institute, the Court of Justice should have jurisdiction to give judgment, pursuant to any arbitration clause, contained in the contract. The Court of Justice should also have jurisdiction in disputes relating to compensation for any damage arising from the non-contractual liability of the Institute.
- (21) An independent external evaluation should be undertaken to assess the impact of the Institute, the possible need to modify or extend its tasks and the timing of further such reviews.
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- ⁽¹⁾ Council Regulation (EEC) No 1365/75 of 26 May 1975 on the creation of a European Foundation for the Improvement of Living and Working Conditions (OJ L 139, 30.5.1975, p. 1). Regulation as last amended by Regulation (EC) No 1111/2005 (OJ L 184, 15.7.2005, p. 1).
- ⁽²⁾ Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work (OJ L 216, 20.8.1994, p. 1). Regulation as last amended by Regulation (EC) No 1112/2005 (OJ L 184, 15.7.2005, p. 5).
- ⁽³⁾ Council Regulation (EEC) No 337/75 of 10 February 1975 establishing a European Centre for the Development of Vocational Training (OJ L 39, 13.2.1975, p. 1). Regulation as last amended by Regulation (EC) No 2051/2004 (OJ L 355, 1.12.2004, p. 1).
- ⁽⁴⁾ Member States meeting in the framework of the European Council in December 2003 requested the Commission to prepare a proposal for a human rights agency by extending the mandate of the European Monitoring Centre on Racism and Xenophobia.
- ⁽⁵⁾ 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 (OJ L 145, 31.5.2001, p. 43).
- ⁽⁶⁾ 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 of the free movement of such data (OJ L 8, 12.1.2001, p. 1).
- ⁽⁷⁾ OJ L 357, 31.12.2002, p. 72. Regulation as last amended by Commission Regulation (EC, Euratom) No 1248/2006 (OJ L 227, 19.8.2006, p. 3).

(22) Since the objectives of this Regulation, namely to contribute to and strengthen the promotion of gender equality, including gender mainstreaming in all Community policies and the resulting national policies, and the fight against discrimination based on sex, and to raise EU citizens' awareness of gender equality by providing technical assistance to the Community institutions and the authorities of the Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

(23) Article 13(2) of the Treaty permits the adoption of Community measures in order to support and promote the objective of combating discrimination on grounds of sex beyond the field of employment. Article 141(3) of the Treaty is the specific legal basis for measures aimed to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. Therefore, Article 13(2) and Article 141(3) combined constitute the appropriate legal basis for adoption of this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1

Establishment of the Institute

A European Institute for Gender Equality (hereinafter referred to as 'the Institute') is hereby established.

Article 2

Objectives

The overall objectives of the Institute shall be to contribute to and strengthen the promotion of gender equality, including gender mainstreaming in all Community policies and the resulting national policies, and the fight against discrimination based on sex, and to raise EU citizens' awareness of gender equality by providing technical assistance to the Community

institutions, in particular the Commission, and the authorities of the Member States, as set out in Article 3.

Article 3

Tasks

1. To meet the objectives set in Article 2, the Institute shall:
 - (a) collect, analyse and disseminate relevant objective, comparable and reliable information as regards gender equality, including results from research and best practice communicated to it by Member States, Community institutions, research centres, national equality bodies, non-governmental organisations, social partners, relevant third countries and international organisations, and suggest areas for further research;
 - (b) develop methods to improve the objectivity, comparability and reliability of data at European level by establishing criteria that will improve the consistency of information and take into account gender issues when collecting data;
 - (c) develop, analyse, evaluate and disseminate methodological tools in order to support the integration of gender equality into all Community policies and the resulting national policies and to support gender mainstreaming in all Community institutions and bodies;
 - (d) carry out surveys on the situation in Europe as regards gender equality;
 - (e) set up and coordinate a European Network on Gender Equality, involving the centres, bodies, organisations and experts dealing with gender equality and gender mainstreaming in order to support and encourage research, optimise the use of available resources and foster the exchange and dissemination of information;
 - (f) organise an annual meeting of experts from the competent bodies specialised in gender equality issues in the Member States;
 - (g) organise ad hoc meetings of experts to support the institute's research work, encourage the exchange of information among researchers and promote the inclusion of a gender perspective in their research;
 - (h) in order to raise EU citizens' awareness of gender equality, organise, with relevant stakeholders, conferences, campaigns and meetings at European level, and present the findings and conclusions to the Commission;

- (i) disseminate information regarding positive examples of non-stereotypical roles for women and men in every walk of life, present its findings and initiatives designed to publicise and build on such success stories;
 - (j) develop dialogue and cooperation with non-governmental and equal opportunities organisations, universities and experts, research centres, social partners and related bodies actively seeking to achieve equality at national and European level;
 - (k) set up documentation resources accessible to the public;
 - (l) make information on gender mainstreaming available to public and private organisations;
 - (m) provide information to the Community Institutions on gender equality and gender mainstreaming in the accession and candidate countries.
2. The Institute shall publish an annual report on its activities.

Article 4

Areas of activity and working methods

1. The Institute shall carry out its tasks within the competences of the Community and in the light of the objectives adopted and priority areas identified in its annual programme, and with due regard to the available budgetary resources.
2. The work programme of the Institute shall be in line with the Community priorities in the field of gender equality and the work programme of the Commission, including its statistical and research work.
3. In pursuing its activities, the Institute shall, in order to avoid duplication and to ensure the best possible use of resources, take account of existing information from whatever source and in particular of activities already carried out by the Community institutions and by other institutions, bodies and competent national and international organisations and work closely with the competent Commission services, including Eurostat. The Institute shall ensure appropriate coordination with all relevant Community agencies and Union bodies to be determined in a memorandum of understanding where appropriate.
4. The Institute shall ensure that the information disseminated is comprehensible to the final users.
5. The Institute may enter into contractual relations, in particular subcontracting arrangements, with other organisations, in order to accomplish any tasks which it may entrust to them.

Article 5

Legal personality and capacity

The Institute shall have legal personality. It shall enjoy, in each of the Member States, the most extensive legal capacity accorded to legal persons under their laws. In particular, it may acquire or dispose of movable or immovable property and may be a party to legal proceedings.

Article 6

Independence of the Institute

The Institute shall carry out its activities independently in the public interest.

Article 7

Access to documents

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Institute.
2. The Management Board shall adopt arrangements for implementing Regulation (EC) No 1049/2001 within six months of the establishment of the Institute.
3. Decisions taken by the Institute pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the Ombudsman or form the subject of an action before the Court of Justice, under the conditions laid down in Articles 195 and 230 of the Treaty respectively.
4. Regulation (EC) No 45/2001 shall apply to the processing of data by the Institute.

Article 8

Cooperation with organisations at national and European level, international organisations and third countries.

1. To help it carry out its tasks, the Institute shall cooperate with organisations and experts in the Member States, such as equality bodies, research centres, universities, non-governmental organisations, social partners as well as with relevant organisations at European or international level and third countries.
2. Should agreements with international organisations or with third countries prove necessary for the Institute to carry out its tasks efficiently, the Community shall, in accordance with the procedure provided for in Article 300 of the Treaty, enter into such agreements with the international organisations or with third countries in the interests of the Institute. This provision shall not preclude ad-hoc cooperation with such organisations or third countries.

Article 9

Composition of the Institute

The Institute shall comprise:

- (a) a Management Board;
- (b) a Bureau;
- (c) a Director and his or her staff.

Article 10

Management Board

1. The Management Board shall consist of:

- (a) one member representing the Government of each Member State appointed by the Council on the basis of a proposal from the Member States;
- (b) three members representing the Commission, appointed by the Commission;
- (c) three members, without the right to vote, appointed by the Council, on the basis of a proposal from the Commission, each of whom represents one of the following groups:
 - (i) an appropriate non-governmental organisation at Community level which has a legitimate interest in contributing to the fight against discrimination on grounds of sex and the promotion of gender equality;
 - (ii) employers' organisations at Community level; and
 - (iii) workers' organisations at Community level.

2. The members of the Management Board shall be appointed in such a way as to secure the highest standards of competence and a broad range of relevant and transdisciplinary expertise in the area of gender equality.

The Commission and the Council shall aim to achieve a balanced representation between men and women on the Management Board.

Alternates who represent the member in his or her absence shall be appointed by the same procedure.

The list of the members and alternates of the Management Board shall be published by the Council in the *Official Journal of the European Union*, on the website of the Institute and on other relevant websites.

3. The term of office shall be five years and may be renewed once.

4. The Management Board shall elect its Chairperson and Vice-Chairperson to serve for a period of two and a half years, which may be renewed.

5. Each member of the Management Board referred to under paragraph 1(a) or (b), or in his or her absence his or her alternate, shall have one vote.

6. The Management Board shall take the decisions necessary for the operation of the Institute. In particular, it shall:

- (a) adopt, on the basis of a draft drawn up by the Director, as referred to in Article 12, after consultation with the Commission, the annual work programme and the medium-term work programme, covering a three-year period, in accordance with the budget and the available resources; the programmes may be reviewed whenever necessary; the first annual work programme shall be adopted not later than nine months after the appointment of the Director;
- (b) adopt the annual report referred to in Article 3(2), comparing, in particular, the results achieved with the objectives of the annual work programme; this report shall be forwarded by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions and shall be published on the website of the Institute;
- (c) exercise disciplinary authority over the Director and appoint or dismiss him or her pursuant to Article 12;
- (d) adopt the Institute's annual draft and final budgets.

7. The Management Board shall adopt the Institute's internal rules on the basis of a proposal drawn up by the Director after consultation with the Commission.

8. Decisions by the Management Board shall be taken by a majority of its members. The Chairperson shall have the casting vote. In the cases referred to in paragraph 6 and in Article 12(1), decisions shall be taken by a two-thirds majority of its members.

9. The Management Board shall adopt its rules of procedure on the basis of a proposal drawn up by the Director after consultation with the Commission.

10. The Management Board shall establish a Bureau of six members, as set out in Article 11.

11. The Chairperson shall convene the Management Board at least once a year. The Chairperson shall convene additional meetings on his or her own initiative or at the request of one-third of the members of the Management Board.

12. The Institute shall forward annually to the European Parliament and the Council (hereinafter referred to as the 'budgetary authority') any information relevant to the outcome of the evaluation procedures.

13. The Directors of the European Foundation for the Improvement of Living and Working Conditions, the European Agency for Safety and Health at Work, the Centre for the Development of Vocational Training and of the European Union Agency for Fundamental Rights may as appropriate be invited to attend meetings of the Management Board as observers in order to coordinate the respective working programmes as regards gender mainstreaming.

Article 11

Bureau

1. The Bureau shall be made up of the Chairperson and the Vice-Chairperson of the Management Board, three members from the Management Board representing the Member States and a representative of the Commission.

The term of office shall be two and half years and may be renewed.

The members of the Bureau shall be appointed by the Management Board with a view to ensuring the necessary range of relevant expertise for the operation of the Bureau.

2. Without prejudice to the responsibilities of the Director, as set out in Article 12, the Bureau shall monitor the implementation of the decisions of the Management Board and shall take all necessary administrative measures for the proper governing of the Institute between the meetings of the Management Board.

3. Decisions by the Bureau shall be taken by consensus. If no consensus can be reached, the Bureau shall refer the matter to the Management Board for decision.

4. The Bureau shall keep the Management Board fully and regularly informed of its activities and any decisions taken.

Article 12

Director

1. The Institute shall be headed by a Director appointed by the Management Board on a proposal from the Commission. Before being appointed, the candidate selected by the Management Board may be asked to make a declaration before the competent committee(s) of the European Parliament and answer questions from its/their members.

2. The Director's term of office shall be 5 years. On a proposal from the Commission and after evaluation, this term

of office may be extended once for a period of not more than 5 years. In the evaluation, the Commission shall assess in particular:

(a) the results achieved in the first term of office and the way they were achieved,

(b) the Institute's duties and requirements in the coming years.

3. The Director shall be responsible, under the supervision of the Management Board, for:

(a) performance of the tasks referred to in Article 3;

(b) preparing and implementing the Institute's annual and medium-term programmes of activities;

(c) preparing the meetings of the Management Board and the Bureau;

(d) preparing and publishing the annual report referred to in Article 3(2);

(e) all staff-related matters, and in particular exercising the powers provided for in Article 13(3);

(f) matters of day-to-day administration; and

(g) the implementation of effective monitoring and evaluation procedures relating to the performance of the Institute against its objectives according to professionally-recognised standards. The Director shall report annually to the Management Board on the results of the monitoring system.

4. The Director shall be accountable for the management of his or her activities to the Management Board and shall take part in its meetings without voting rights. He or she may also be invited by the European Parliament to report during a hearing on significant issues linked to the Institute's activities.

5. The Director shall be the Institute's legal representative.

Article 13

Staff

1. The Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities laid down by Council Regulation (EEC, ECSC, Euratom) No 259/68⁽¹⁾ and the rules adopted jointly by the European Community institutions for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the Institute.

⁽¹⁾ OJ L 56, 4.3.1968, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 2104/2005 (OJ L 337, 22.11.2005, p. 7).

2. The Management Board, in agreement with the Commission, shall adopt the necessary implementing measures, in accordance with the arrangements provided for in Article 110 of the Staff Regulations. The Management Board may adopt provisions to allow national experts from Member States to be employed on secondment at the Institute.

3. The Institute shall exercise in respect of its staff the powers devolved to the appointing authority.

Article 14

Drawing up of the budget

1. Estimates of all the revenue and expenditure of the Institute shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the budget of the Institute.

2. The revenue and expenditure shown in the budget of the Institute shall be in balance.

3. The revenue of the Institute shall, without prejudice to other resources, comprise:

- (a) a subsidy from the Community, entered in the general budget of the European Union (Commission section);
- (b) payments received for services rendered;
- (c) any financial contributions from the organisations or third countries referred to in Article 8;
- (d) any voluntary contribution from the Member States.

4. The expenditure of the Institute shall include staff remuneration, administrative and infrastructure costs and operating expenses.

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

6. The estimate shall be forwarded by the Commission to the budgetary authority together with the preliminary draft general budget of the European Union.

7. 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.

8. The budgetary authority shall authorise the appropriations for the subsidy to the Institute and shall adopt the establishment plan for the Institute.

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

10. The Management 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 Management Board within a period of six weeks from the date of notification of the project.

Article 15

Implementation of the budget

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

2. By 1 March at the latest following each financial year, the Institute'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 Council Regulation (EC, Euratom) No 1605/2002⁽¹⁾ (hereinafter referred to as 'the Financial Regulation').

3. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward the Institute's provisional accounts to the Court of Auditors, together with the report mentioned in paragraph 2. The report shall also be forwarded to the European Parliament and the Council.

4. On receipt of the Court of Auditors' observations on the Institute's provisional accounts, pursuant to Article 129 of the Financial Regulation, the Director shall draw up the Institute's final accounts under his or her own responsibility and forward them to the Management Board for an opinion.

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

5. The Management Board shall deliver an opinion on the Institute's final accounts.

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

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 or she shall also send that reply to the Management 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 Financial Regulation.

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

11. The financial rules applicable to the Institute shall be adopted by the Management Board after the Commission has been consulted. They may not depart from Regulation (EC, Euratom) No 2343/2002 unless specifically required for the Institute's operation and with the Commission's prior consent.

Article 16

Languages

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community ⁽¹⁾ shall apply to the Institute.

2. The translation services required for the functioning of the Institute shall, in principle, be provided by the Translation Centre for the Bodies of the European Union set up by Council Regulation (EC) No 2965/94 ⁽²⁾.

Article 17

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Institute.

⁽¹⁾ OJ L 17, 6.10.1958, p. 385. Regulation as last amended by Council Regulation No 920/2005 (OJ L 156, 18.6.2005, p. 3).

⁽²⁾ Council Regulation (EC) No 2965/94 of 28 November 1994 setting up a Translation Centre for bodies of the European Union (OJ L 314, 7.12.1994, p. 1). Regulation as last amended by Regulation (EC) No 1645/2003 (OJ L 245, 29.9.2003, p. 13).

Article 18

Liability

1. The contractual liability of the Institute shall be governed by the law applicable to the contract in question.

The Court of Justice shall have jurisdiction pursuant to an arbitration clause contained in any contracts concluded by the Institute.

2. In the case of non-contractual liability, the Institute shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by the Institute or its servants in the performance of their duties.

The Court of Justice shall have jurisdiction in disputes relating to compensation for any such damage.

Article 19

Participation of third countries

1. The Institute shall be open to the participation of countries which have concluded agreements with the European Community by virtue of which they have adopted and apply Community legislation in the field covered by this Regulation.

2. Arrangements shall be made under the relevant provisions of those agreements, specifying in particular the nature, extent and manner in which those countries are to participate in the Institute's work, including provisions relating to participation in the initiatives undertaken by the Institute, financial contributions and staff. As regards staff matters, those agreements shall, at all events, be in accordance with the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities.

Article 20

Evaluation

1. By ... (*), the Institute shall commission an independent external evaluation of its achievements on the basis of terms of reference issued by the Management Board in agreement with the Commission. The evaluation shall assess the impact of the Institute on the promotion of gender equality and shall include an analysis of the synergy effects. It shall in particular address the possible need to modify or extend the tasks of the Institute, including the financial implications of any such modification or extension. The evaluation shall take into account the views of the stakeholders, at both Community and national level.

(*) The end of the third year following the entry into force of this Regulation.

2. The Management Board, in agreement with the Commission, shall decide the timing of future evaluations, taking into account the results of the evaluation report mentioned in paragraph 1.

Article 21

Review clause

The Management Board shall examine the conclusions of the evaluation mentioned in Article 20 and issue to the Commission such recommendations as may be necessary regarding changes in the Institute, its working practices and remit. The Commission shall forward the evaluation report and the recommendations to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and make them public. After examination of the evaluation report and the recommendations, the Commission may submit any proposals which it deems necessary for amendments to this Regulation.

Article 22

Administrative control

The operations of the Institute shall be subject to the supervision of the Ombudsman in accordance with the provisions of Article 195 of the Treaty.

Article 23

Start of the Institute's activities

The Institute shall be operational as soon as possible and in any event not later than ... (*).

Article 24

Entry into force

This Regulation shall enter into force on the 20th day 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 ..., on ...

For the European Parliament

The President

...

For the Council

The President

...

(*) Twelve months after the entry into force of this Regulation.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

On 8 March 2005, the Commission submitted to the Council, on the basis of Articles 13(2) and 141(3) of the Treaty, a proposal for a Regulation of the European Parliament and of the Council Directive establishing a European Institute for Gender Equality.

The European Parliament delivered its Opinion in 1st reading on 14 March 2006.

The Economic and Social Committee delivered its Opinion 27 September 2005.

The Commission adopted an amended proposal on 8 May 2006.

The Council adopted a Common Position on 18 September 2006 in accordance with the procedure laid down in Article 251 of the Treaty.

II. OBJECTIVE

The Regulation will establish a European Institute for Gender Equality, which should serve as a centre of excellence at EU level, providing technical support to the Community Institutions and the Member States, in particular in terms of the collection and analysis of comparable data and statistics, as well as the development of methodological tools to assist in the process of gender mainstreaming. The overall objectives of the Institute will be to contribute to and reinforce the promotion of gender equality, assist the Community institutions in the fight against discrimination based on sex, and to raise EU citizens' awareness of gender equality issues.

III. ANALYSIS OF THE COMMON POSITION

1. *General Observations*

The Council's common position has been established in accordance with the objectives of Articles 13(2) and 141(3) of the Treaty relating, respectively, to combating discrimination and the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

In adopting the common position, the Council has, with the exception of questions relating to the composition of the Management Board and the Advisory Forum, largely followed the line taken by the Commission in its amended proposal.

2. *The European Parliament's amendments*

In its first reading on 14 March 2006, the European Parliament adopted 52 amendments.

2.1. *European Parliament amendments accepted by the Council*

In its common position, the Council took into account 35 amendments. Out of these, the Council:

- accepted 17 amendments in full (Nos. 2, 6, 9, 59 & 74, 13, 18, 64 & 80, 65 & 81, 29, 35, 36, 38, 41, 42, 45, 53 and 55).
- accepted 4 amendments as reformulated by the Commission (Nos. 7, 8, 10 and 40).
- accepted the spirit of another 14 amendments (Nos. 3, 4, 5, 17, 60 & 76, 61 rev. & 77, 62 & 78, 20, 25, 63 & 79, 24, 28 and 48).

2.2. *European Parliament's amendments not accepted by the Council*

The Council did not accept 11 amendments for the reasons explained by the Commission in its amended proposal (Nos. 1, 23, 30, 31, 32, 33, 34, 46, 47, 52 and 54).

The Council also could not accept a further 6 amendments, with the question of the composition of the Management Board being the main area of difference between the Institutions.

— *Dialogue at international level (amendment 26, Article 3(1))*

The Council does not consider this amendment to be necessary as Article 8 specifically deals with 'cooperation with organisations at national and European level and international organisations and third countries' and sets out a procedure for such cooperation. Article 4, which outlines the areas of activity and working methods of the Institute, also refers to the need to 'take account of existing information from whatever source and in particular of activities already carried out by the Community institutions and by other institutions, bodies, competent national and international organisations ...'. Moreover, the Council considers that legal clarity could be compromised by adding this aspect to the already long list of tasks under Article 3.

— *Composition of the Management Board (Amendments 66 & 82, Article 10(1))*

In reaching a general approach in June 2005, the Council did not accept the Commission's original proposal for a restricted Management Board, preferring a fully representative Board of 25 members, accompanied by a small Bureau composed of six members (Article 11). In this scenario, the Commission would have three representatives on the Board and there would be three non-voting members representing an appropriate non-governmental organisation at Community level and the social partners.

Having received the opinion of the European Parliament in March 2006, the Council examined the merits of amendments 66 and 82, calling for a small Management Board comprised of nine members appointed by the Council and a representative of the Commission. Whilst this was considered to be an improvement on the Commission's original proposal, it was nonetheless unacceptable to the Council for a number of reasons:

- given the nature of the issue, the Council considered it important for each Member State to be represented on the Board and felt that this would also facilitate pooling of national expertise and experience in the area of gender equality, which is particularly important in the context of an enlarging Union.
- it was important for the Institute to function efficiently and thus a simple procedure for the appointment of Board members would be preferable. Moreover, it was considered that a small Bureau would be effective in ensuring the smooth running of the Board.
- as gender equality policy cut across a wide range of areas, the Council took the view that the Commission should have more than one representative on the Board in order to be able to make a solid contribution to the running of the Institute. The Council felt that a Commission representative should also participate in the executive Bureau.
- the Council agreed with the Commission that there should be three non-voting members representing the social partners and an appropriate non-governmental organisation at Community level.

It should also be noted that the Council's position in relation to the composition of the Management Board reflects the general horizontal position taken in the past on other Community agencies or bodies. Whilst several delegations were willing to reconsider their position in the case of the Institute due to its relatively small size and modest budget, it was acknowledged that it was impossible to say at this stage whether a smaller Board accompanied by a large Advisory Forum would in fact be more efficient than a representative Board assisted by a small Bureau. Moreover, the setting up of a small Bureau, which could meet more frequently than the Management Board, was an important consideration in ensuring the cost-effectiveness of the Institute.

— *Representation between men and women: 40 % quota (amendment 39, Article 10(2))*

The Council supports the concept of a balanced representation between men and women on the Management Board as set out in the common position. However, it does not wish unnecessarily to hamper the operation of the Institute by having an obligatory quota, which might be difficult to fulfil in practice given that there are generally more women involved in gender equality policy than men at the current time. Whilst achieving a gender balance is important, and there are moves to involve more men in this area, the Council considers that the experience and competence of the Board members in the field of gender equality are also important considerations to be taken into account.

- *Advisory Forum (amendments 67 & 83, 68 & 84 and 51, Article 12 of the Commission's original proposal)*

In the Council's preferred scenario of a large Management Board, assisted by a small Bureau, it was considered that the Advisory Forum, as envisaged by the Commission and the Parliament, was no longer necessary. Moreover, in order to ensure that the Institute would benefit from the valuable expertise available at a national level, Article 3 of the common position sets up a European Network on Gender Equality, as requested by the Parliament, and also provides for an 'annual meeting of experts from the competent bodies specialised in gender equality issues in the Member States'.

3. *Other changes made by the Council*

A number of other small technical changes, of a legal or linguistic nature, were agreed in the context of the Legal/Linguistic procedure between the European Parliament and the Council.

IV. CONCLUSION

The Council considers that, despite the differing opinions on the composition of the Management Board, the common position is in line with the fundamental objectives of the Commission's amended proposal.
