

**Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No .../2002 of the European Parliament and of the Council concerning common rules in the field of civil aviation and creating a European Aviation Safety Agency**

(2002/C 331 E/20)

COM(2002) 406 final — 2002/0181(COD)

*(Submitted by the Commission on 17 July 2002)*

THE EUROPEAN PARLIAMENT AND THE COUNCIL  
OF THE EUROPEAN UNION,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Regulation (EC) No .../2002 is amended as follows:

Having regard to the proposal from the Commission,

1. A new Article 23a is added:

Having regard to the opinion of the Economic and Social Committee,

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

Following consultation of the Committee of the Regions,

The Administrative Board shall adopt the arrangements for implementing Regulation (EC) No 1049/2001 by ...

Acting in accordance with the procedure referred to in Article 251 of the Treaty,

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, under Articles 195 and 230 of the EC Treaty respectively.'

Whereas:

(1) The provisions of Regulation (EC) No .../2002 should be harmonised with Regulation ... on the financial regulation applicable to the general budget of the European Communities, and in particular Article 185 thereof.

2. Paragraph 2(b) of Article 24 is replaced by the following:

(2) The general principles and limits governing right of access to documents provided for in Article 255 of the EC 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>(1)</sup>.

'The Administrative 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, the Court of Auditors and the Member States.'

(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.

3. Article 30(4) is replaced by the following:

(4) Appropriate provisions should therefore be included in Regulation (EC) No .../2002 to make Regulation (EC) No 1049/2001 applicable to the European Aviation Safety Agency, as should a clause guaranteeing a right of appeal against a refusal of access to documents.

'4. The term of office of the Executive Director and of the Directors shall not exceed five years. The Executive Director's term of office may, on a proposal from the Commission, be extended for one further period not exceeding five years. The terms of office of the Directors may, on a proposal from the Commission, be extended for further periods not exceeding five years each.'

(5) It would be useful to clarify the rules for the conditions and procedures applying to the renewal of the term of office of the Director and to harmonise the rules for all the Community bodies for which re-appointment is possible.

4. Article 48(3), (4), (5), (6) and (7) are replaced by the following:

*'Article 48*

(6) Regulation (EC) No .../2002 should therefore be amended accordingly,

3. Revenue and expenditure shall be in balance.

4. Each year the Administrative Board, on the basis of a draft drawn up by the Executive Director, shall produce a statement of estimates of revenue and expenditure for the Agency for the following financial year.

<sup>(1)</sup> OJ L 145, 31.5.2001, p. 43.

This statement of estimates, which shall include a draft establishment plan together with the provisional work programme, shall by 31 March at the latest be transmitted by the Administrative Board to the Commission and to the States with which the Community has concluded agreements within the meaning of Article 55.

On the basis of this statement of estimates, the Commission shall enter the corresponding amounts in the preliminary draft general budget of the European Communities, which it shall submit to the European Parliament and the Council (hereinafter referred to as "the budgetary authority").

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

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

On receipt of the statement of estimates, the States mentioned in the second subparagraph shall draw up their own preliminary draft budget.

After the general budget has been adopted by the budgetary authority, the Administrative Board shall adopt the Agency's final budget and work programme, adjusting them if necessary to the Community subsidy. It shall transmit them without delay to the Commission and the budgetary authority.

Any change to the budget, including the establishment plan, shall be subject to the procedure set out in this paragraph.'

5. Article 49(2), (3) and (4) are replaced by the following:

'Article 49

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 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.

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 Executive Director shall draw up the Agency's final accounts under his own responsibility and transmit them to the Administrative Board for an opinion.

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

7. The final accounts shall be published.

8. The Agency's Executive 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 Administrative 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 Executive Director in respect of the implementation of the budget for year N.'

6. Article 52 is replaced by the following:

'Article 52

The financial rules applicable to the Agency shall be adopted by the Administrative 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.'