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PROPOSAL FOR AMENDMENT

**OF THE CONSTITUENT ACTS OF COMMUNITY BODIES FOLLOWING THE
ADOPTION OF THE NEW FINANCIAL REGULATION**

(Presented by the Commission)

EXPLANATORY MEMORANDUM

1. General

The new Financial Regulation applicable to the general budget of the EC will enter into force on 1 January 2003. It presents a new approach concerning the budgetary and financial status of the decentralised Community Agencies.

The most important novelties concerning Community Agencies are as follows:

- (Article 185):
- The Commission adopts a framework Financial Regulation applicable to the bodies set up by the Communities, having legal personality and which actually receive grants from the general budget. The financial rules of these bodies may not depart from the framework Regulation unless specifically required for their operation and with the Commission's prior consent.
- Discharge for the implementation of the budgets of the bodies referred to in paragraph 1 is to be given by the European Parliament, acting on a recommendation by the Council.
- The Commission's internal auditor exercises the same powers over these bodies as over Commission departments.
- The above-mentioned bodies must apply the accounting rules established by the Commission's accounting officer so that their accounts can be consolidated with the Commission's accounts.
- (Article 46(3)(d)): The establishment plans of the bodies defined in Article 185(1) are to be decided by the general budgetary authority.

These novelties require corresponding amendments to the legal acts establishing the Agencies concerned. While the full details of the financial and budgetary regime applicable to a given Agency are contained in the respective Financial Regulation, the legal act establishing the Agency (typically a Council Regulation) also contains provisions concerning financial and budgetary issues (e.g. the establishment and implementation of the budget, arrangements for budget control, the presentation of accounts, discharge and the procedure for adopting the Agency's Financial Regulation).

It is therefore necessary to make changes to the various legal acts establishing the Agencies in order to implement the new system. These changes are the subject of the present proposals.

Concerning those decentralised bodies which do not fall within the definition of Article 185(1), one change in their regulatory framework seems unavoidable in the light of one fundamental aspect of the new Financial Regulation, i.e. the dropping of all centralised *ex ante* financial control.

In these proposals the Commission also tackles two further questions concerning the decentralised Community bodies.

The first is connected with the current general reform process, viz. the question of transparency and public access to documents. During the recasting process the institutions

agreed to include in the new Financial Regulation a provision that the public should have access to information relating to the decentralised bodies to the extent laid down by the EC regulatory framework. Furthermore, when adopting European Parliament and Council Regulation (EC) No 1049/2001 on public access to Parliament, Council and Commission documents, the three institutions agreed in a joint declaration that the Community Agencies should apply the same rules as regards access to documents. To put this agreement into effect, the Commission is proposing to amend the basic acts setting up the 15 decentralised bodies.

The second question concerns the procedure for appointing the Directors of the Community bodies. When the constituent acts were adopted, it was the Council's intention to allow for the possibility of renewing the terms of office of these Directors, but the Commission considers that the way most of them are worded at the moment does not properly reflect this aim. The provision for renewing a term of office suggests only that the present holder of the post may apply for a further term of office. However, this does not exempt the Community bodies from applying the procedure laid down in the constituent acts. This interpretation is derived from the parallel wording used in Article 214(1) of the EC Treaty on the appointment of Commission Members, and in Articles 223 and 225 on the appointment of judges to the Court of Justice. The special position of Directors of Community bodies warrants retaining this parallel approach and so departing from the interpretation of Article 8 of the Conditions of Employment of Other Servants of the European Communities, which allows a contract to be extended without a new selection procedure.

In order to make it clear that a new selection procedure is not necessary at the end of each Director's term of office, the Commission therefore proposes to clarify the existing texts.

On a proposal from the relevant management organ, it will be possible to extend the contract without engaging a new selection procedure. This possibility would make for a balance between the need for continuity in the management of Community bodies and the advantage of opening up the body to new ideas and new policies. The restriction to a single extension would not stop the person concerned applying for the same post at the end of the second term of office and taking part in a new selection procedure. A person could then have more than two terms of office after successfully passing a new selection procedure.

2. Scope of the proposals:

Taking into account the above-mentioned development of the general recasting process, it is assumed that the new arrangements (Articles 185 and 46(3)(d)) will apply to the thirteen existing Community Agencies, namely

- the European Centre for the Development of Vocational Training (Thessaloniki);¹
- the European Foundation for the Improvement of Living and Working Conditions (Dublin);²
- the European Environment Agency (Copenhagen);³
- the European Training Foundation (Turin);⁴

¹ Regulation (EC) No 337/75 of 10 February 1975.

² Regulation (EC) No 1365/75 of 26 May 1975.

³ Regulation (EC) No 1210/90 of 7 May 1990.

- the European Monitoring Centre for Drugs and Drug Addiction (Lisbon);⁵
- the European Agency for the Evaluation of Medicinal Products (London);⁶
- the European Agency for Safety and Health at Work (Bilbao);⁷
- the Translation Centre for the Bodies of the EU (Luxembourg);⁸
- the European Monitoring Centre on Racism and Xenophobia (Vienna);⁹
- the European Agency for Reconstruction (Thessaloniki);¹⁰
- the European Food Safety Authority;¹¹
- the European Aviation Safety Agency;¹²
- the European Maritime Safety Agency;¹³

as well as to one body established under the Third Pillar, but treated as a traditional Community body in budgetary and financial terms, Eurojust.¹⁴

There are two decentralised Community bodies which do not receive grants from the general budget, namely

- the Office for Harmonisation in the Internal Market (Alicante)¹⁵
- and
- the Community Plant Variety Office (Angers).¹⁶

They therefore do not fall within the definition of Article 185. However, they are affected by the proposals to bring their internal control mechanisms into line with the new Financial Regulation.

Finally, it was also intended to cover the European Railway Agency (COM(2002) 23 final). However, since the legislative procedure to set up this new agency is at an early stage, it has been decided not to include it in the present proposal.

⁴ Regulation (EC) No 1360/90 of 7 May 1990.
⁵ Regulation (EC) No 302/93 of 8 February 1993.
⁶ Regulation (EC) No 2309/93 of 22 July 1993.
⁷ Regulation (EC) No 2062/94 of 18 July 1994.
⁸ Regulation (EC) No 2965/94 of 28 November 1994.
⁹ Regulation (EC) No 1035/97 of 2 June 1997.
¹⁰ Regulation (EC) No 2667/2000 of 5 December 2000.
¹¹ Regulation (EC) No 178/2002 of 28 January 2002.
¹² COM(2000) 595 final, 4.12.2000. Regulation (EC) No .../2002 of ... June 2002.
¹³ COM(2002) 802 final, 8.12.2000. Regulation (EC) No ... /2002 of ... June 2002.
¹⁴ Council Decision 2002/187/JHA of 28 February 2002.
¹⁵ Regulation (EC) No 40/94 of 20 December 1993.
¹⁶ Regulation (EC) No 2100/94 of 27 July 1994.

As regards transparency, the amendments to include provisions regarding access to documents will concern the fifteen existing Community Agencies (irrespective of the applicability of Article 185), but not Eurojust.¹⁷

Clarification of the provisions covering the procedure for appointing the Directors of the agencies is proposed for these thirteen Community bodies. This is not necessary in the case of Regulation 1360/90 as amended by Regulation 1572/98, which is used as the model for the proposed wording, or for Eurojust. In the case of Eurojust, the Administrative Director is not the head of the agency but comes under the authority of the College and its President (Article 29(4) of Decision 2002/187/JHA). In this case, therefore, the Administrative Director's position is not commensurable with that of Members of the Commission or of the Court of Justice. Regulation 2667/2000 establishing the European Agency for Reconstruction makes no provision for renewing the term of office of its Director. There is therefore no proposal to amend that Regulation in that particular respect.

3. The substance of the present proposals:

3.1. Concerning the fourteen bodies receiving grants from the general budget and therefore covered by Article 185 of the new Financial Regulation, the main elements of the proposals are as follows:

- - as a result of Article 185 itself:
 - the European Parliament, acting on a recommendation from the Council, becomes the discharge authority;
 - the powers of the Commission's Internal Auditor are spelled out and centralised *ex ante* control is dropped;
 - provisions are laid down on the presentation of accounts that are in line with the recasting;
- - in line with a declaration made by the Commission on Article 185:
 - The Commission has committed itself to consulting Parliament, the Council and the Court of Auditors on the framework Financial Regulation to be adopted under Article 185(1). For this reason, there will be no further need to maintain in the legal acts establishing the various decentralised bodies a formal requirement to consult the Court on each individual Financial Regulation;
- - as a result of Article 46(3)(d):
 - a rule provides that the establishment plan is adopted by the general budget authority;
- - in order to provide a degree of technical harmonisation:
 - the responsibility for implementing the budget will lie with the Director (which is currently not the case for the two "first-generation" Agencies, CEDEFOP Thessaloniki and the Dublin Foundation);

¹⁷ Regulation (EC) No 1049/2001 is not directly applicable to the Third Pillar.

- competence for the adoption of each Agency's individual Financial Regulation will rest with the respective body's management board or equivalent (after the Commission has been consulted). This will harmonise the individual procedures considerably. Currently, responsibility for adopting each body's Financial Regulation rests either with the Council or with the management board or equivalent, with or without the involvement of the Commission and the Court of Auditors in the process. These disparities are simply historical accidents in the development of the agencies, and are not objectively justified;
 - the terminology used in the field of budgetary procedure is harmonised to some extent with the terminology of the new general Financial Regulation;
 - the present Financial Regulations¹⁸ of the two "first-generation" agencies" are repealed:
 - hitherto, the Financial Regulations of CEDEFOP Thessaloniki and the Dublin Foundation have been Council Regulations. As already mentioned, there is no justification for maintaining these exceptions to the general rule. In the present circumstances, such a procedure no longer seems appropriate for this kind of instrument.
- 3.2. As regards the two Community agencies not covered by Article 185, it must be borne in mind that the new Financial Regulation implies a fundamental change concerning the audit and control mechanisms. Thus, it seems logical that in the Regulations setting up these agencies, at least the control provisions should be modernised (in particular as one of them - CPVO Angers - still relies upon the Commission's Financial Controller, a function which is to be abolished with the entry into force of the new general Financial Regulation).
- 3.3. It will be recalled that the Commission in 1997 had already presented proposals for amending the Regulations setting up nine of the aforementioned decentralised bodies.¹⁹ Taking into account that these proposals have in part become obsolete and are in part covered by the present proposals as well, the Commission takes the opportunity formally to withdraw them.
- 3.4. As regards the question of transparency in the fifteen existing agencies, it is proposed to introduce a clause to the following effect:
- Regulation No 1049/2001 applies to documents of the agencies;
 - the management boards will adopt the necessary implementing rules;
 - the Court of Justice is competent to decide on appeals against decisions made by the agencies on access to documents.

¹⁸ Regulations (EC) No 1416/76 and No 1417/76 of 1 June 1976.

¹⁹ COM(1997) 489 final, 6.10.1997, amended by COM(1998) 289 final, 4.5.1998.

3.5. As for the procedure for appointing the Directors of the Community bodies, it is proposed to align the wording of the relevant provisions of the constituent acts on Article 7(1) of Regulation No 1360/90 of 7 May 1990²⁰ as amended by Regulation No 1572/98 of 17 July 1998.²¹

4. Procedural issues

4.1. The following procedures apply to the 18 basic acts directly affected by the present document:

- Article 308 (Council unanimity after consulting Parliament): Regulations (EC) Nos 337/75, 1365/75, 1360/90, 302/93, 2309/93, 2062/94, 2100/94, 40/94, 2965/94, 1035/97 (with Article 213) and 2667/2000;
- Article 175 (Article 251 procedure, plus consultation of the Economic and Social Committee and the Committee of the Regions): Regulation (EC) No 1210/90;
- Article 251 (codecision): Regulation (EC) No 178/2002 (with Articles 37, 95, 133 and 152(4)(b); i.e. also with the consultation of the Economic and Social Committee and the Committee of the Regions), COM(2000) 595 final (with Article 80(2)), COM(2000) 802 final (with Article 80(2));
- Article 279 (Council unanimity, after consulting Parliament and the Court of Auditors): Regulations (EC) Nos 1416/76 and 1417/76;
- Article 34(2)(c) (with Article 31 of the EU Treaty (Council unanimity): Council Decision 2002/187/JHA.

4.2. As regards the European Agency for the Evaluation of Medicinal Products, the constituent act in force (Regulation No 2309/93) is to be replaced by a new constituent act following the Commission proposal COM(2001) 404 final. If Regulation No 2309/93 is replaced by a new constituent act, the proposal for the amendment of that constituent act should be read as a proposal for the amendment of this new constituent act.

In that event the Commission will provide all the technical expertise necessary to help the legislative authority to adapt the proposal to the relevant provisions of this new act.

5. Need for a fast track procedure

Since the new Financial Regulation must, as already mentioned, enter into force on 1 January 2003, the present proposals must be adopted, under the appropriate legislative procedure, by the end of 2002.

²⁰ OJ L 131, p.1.

²¹ OJ L 206, p.1.

The Commission invites all institutions concerned by the adoption of these proposals to speed up the procedure so that the amendments to the legal bases of the bodies concerned may enter into force in parallel with the new Financial Regulation.

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 2965/94 as regards the budgetary and financial rules applicable to the Translation Centre for the Bodies of the European Union and access to the Centre's documents

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,²²

Having regard to the opinion of the European Parliament,²³

Whereas:

- (1) The provisions of Regulation (EC) No 2965/94 of 28 November 1994 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) Article 10 of Regulation (EC) No 2965/94 should be revised to clarify the arrangements for financing the Centre.
- (3) 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.²⁴
- (4) 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.
- (5) Appropriate provisions should therefore be included in Regulation (EC) No 2965/94 to make Regulation (EC) No 1049/2001 applicable to the Translation Centre for the Bodies of the European Union, as should a clause guaranteeing a right of appeal against a refusal of access to documents.
- (6) Regulation (EC) No 2965/94 should therefore be amended accordingly.

²² OJ C , p. .

²³ OJ C , p. .

²⁴ OJ L 145, 31.5.2001, p. 43.

- (7) 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,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2965/1994 is amended as follows:

- (1) Paragraph 3 of Article 8 is replaced by the following:

"The Management Board shall adopt the annual report on the Centre'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 bodies referred to in Article 2."

- (2) Article 9(1) is replaced by the following:

"The Centre shall be under the authority of a Director appointed by the Management Board, on a proposal from the Commission, for a period of five years, which, on a proposal from the Commission, may be extended for one further period not exceeding five years."

- (3) Paragraph 2(b) of Article 10 is replaced by the following:

"Subject to the provisions set out in subparagraph (c), the Centre's revenue shall comprise

- payments made by the bodies for which the Centre works and by the institutions and organs with which collaboration has been agreed in return for work performed by it, and
- a Community subsidy, in particular to finance interinstitutional activities."

- (4) Article 13 is replaced by the following:

"Article 13

1. Estimates of all the revenue and expenditure of the Centre shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the budget of the Centre, which shall include an establishment plan.

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

3. Each year the Management Board, on the basis of a draft drawn up by the Director, shall produce a statement of estimates of revenue and expenditure for the Centre for the following financial year. This statement of estimates, which shall include a draft establishment plan, shall be transmitted by the Management Board to the Commission by 31 March at the latest.

The Commission shall take account of the statement of estimates in drawing up the forecasts of subsidies for the bodies referred to in Article 2 in the preliminary draft general budget of the European Communities (hereinafter "the general budget").

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.

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

4. The Management Board shall adopt the Centre's budget before the beginning of the budget year, adjusting it as necessary to the Community subsidy referred to in Article 10(2)(b) in the light of the payments made by the bodies referred to in Article 2."

(5) Paragraphs 2 and 3 of Article 14 are replaced by the following:

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

3. By 1 March at the latest following each financial year, the Centre'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 * (hereinafter "the general Financial Regulation").

4. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit the Centre'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 Centre's provisional accounts, pursuant to Article 129 of the general Financial Regulation, the Director shall draw up the Centre's final accounts under his own responsibility and transmit them to the Management Board for an opinion.

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

7. The final accounts shall be published.

8. The Centre'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 Management 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 Centre in respect of the implementation of the budget for year N."

* OJ L "

(6) Article 15 is replaced by the following:

"Article 15

The financial rules applicable to the Centre shall be adopted by the Management 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 Centre's operation and with the Commission's prior consent."

(7) A new Article 18a is inserted:

"Article 18a

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

The Management 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 Centre 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."

* 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.

Done at Brussels,

*For the Council
The President*

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

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,²⁵

Having regard to the opinion of the European Parliament,²⁶

Whereas:

- (1) The provisions of Council Regulation (EC) No 2667/2000 of 5 December 2000 on the European Agency for Reconstruction,²⁷ amended by Regulation (EC) No 2415/2001,²⁸ should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,²⁹ 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.³⁰
- (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,

²⁵ OJ C , p. .

²⁶ OJ C , p. .

²⁷ OJ L 306, 7 December 2000, p. 7

²⁸ OJ L 327, 12 December 2000, p. 3

²⁹ OJ L

³⁰ OJ L 145, 31.5.2001, p. 43.

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.

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).

(3) 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) No³¹ (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,, p."

³¹

(4) 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."

(5) 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.

Done at Brussels,

*For the Council
The President*

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 1210/90 as regards the budgetary and financial rules applicable to the European Environment Agency and the European Environment Information and Observation Network and access to the Agency's documents

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175 thereof,

Having regard to the proposal from the Commission,³²

Having regard to the opinion of the Economic and Social Committee,³³

Having regard to the opinion of the Committee of the Regions,³⁴

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

Whereas:

- (1) The provisions of Council Regulation (EC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network³⁵ should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,³⁶ 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.³⁷
- (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.

³² OJ C , p. .

³³ OJ C [...], [...], p. [...].

³⁴ OJ C [...], [...], p. [...].

³⁵ OJ L 120, 11.5.1990, p. 1. Regulation as amended by Regulation (EC) No 933/1999 (OJ L 117, 5.5.1999, p. 1).

³⁶ OJ L

³⁷ OJ L 145, 31.5.2001, p. 43.

- (4) Appropriate provisions should therefore be included in Regulation (EC) No 1210/90 to make Regulation (EC) No 1049/2001 applicable to the European Environment Agency, as should a clause guaranteeing a right of appeal against a refusal of access to documents.
- (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 Executive Director and to harmonise the rules for all the Community bodies for which re-appointment is possible,
- (6) Regulation (EC) No 1210/90 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1210/90 is amended as follows:

- (1) Article 6 is replaced by the following:

"Article 6

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

The Management Board shall adopt the practical 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."

- (2) Article 8(6) is replaced by the following:

6. The Management 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) Article 9(1) is replaced by the following:

"The Agency shall be under the authority of an Executive Director appointed by the Management Board, on a proposal from the Commission, for a period of five years, which, on a proposal from the Commission, may be extended for one further period not exceeding five years."

- (4) Article 12(1) and (2) are replaced by the following:

1. Each year the Management 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. This statement of estimates, which shall include a draft establishment plan, shall be transmitted by the Management Board to the Commission by 31 March at the latest.

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

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

(4) Article 13(2), (3) and (4) are replaced by the following:

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 Council Regulation (EC) 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 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 Executive Director shall draw up the Agency's final accounts under his own responsibility and transmit them to the Management Board for an opinion.

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

7. The Executive Director of the Agency 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 Management Board's opinion.

8. The final accounts shall be published.

9. 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 Management 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 Executive Director in respect of the implementation of the budget for year N."

* OJ L "

(6) Article 14 is replaced by the following:

"Article 14

The financial rules applicable to the Agency shall be adopted by the Management 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."

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.

Done at Brussels,

For the Council
The President

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 2309/93 as regards the budgetary and financial rules applicable to the European Agency for the Evaluation of Medicinal Products and access to the Agency's documents

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,³⁸

Having regard to the opinion of the European Parliament,³⁹

Whereas:

- (1) The provisions of Council Regulation (EC) No 2309/93 of 22 July 1993 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products⁴⁰ should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,⁴¹ 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.⁴²
- (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 2309/92 to make Regulation (EC) No 1049/2001 applicable to the European Agency for the Evaluation of Medicinal Products, as should a clause guaranteeing a right of appeal against a refusal of access to documents.

³⁸ OJ C , p. .

³⁹ OJ C , p. .

⁴⁰ OJ L 214, 24.08.1993, p. 1. Regulation as amended by Commission Regulation (EC) No 649/98 (OJ L 88, 24.3.1998, p. 7).

⁴¹ OJ L

⁴² OJ L 145, 31.5.2001, p. 43.

- (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 Executive Director and to harmonise the rules for all the Community bodies for which re-appointment is possible,
- (6) Regulation (EC) No 2309/93 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2309/93 is amended as follows:

(1) Article 55(1) is replaced by the following:

"1. "The Agency shall be under the authority of an Executive Director appointed by the Management Board, on a proposal from the Commission, for a period of five years, which, on a proposal from the Commission, may be extended for one further period not exceeding five years."

(a) in paragraph 2, the fifth indent is replaced by the following:

"- for the preparation of the draft statement of estimates of the Agency's revenue and expenditure, and execution of its budget,"

(b) paragraph 3 is replaced by the following:

"Each year the Executive Director shall submit a draft work programme for the coming year to the Management Board for approval, making a distinction between the Agency's activities concerning medicinal products for human use and those concerning veterinary medicinal products."

(c) Paragraph 4 is deleted.

(2) Article 56(5) is replaced by the following:

"The Management 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 Economic and Social Committee, the Court of Auditors and the Member States. »

(3) Article 57 is replaced by the following:

"Article 57

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

2. The Agency's revenues shall consist of a contribution from the Community and fees paid by undertakings for obtaining and maintaining Community marketing authorisations and for other services provided by the Agency.

The expenditure of the Agency shall include staff remuneration, administrative and infrastructure costs, and operating expenses, and expenses resulting from contracts entered into with third parties.

3. Each year, by 15 February at the latest, the Management 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. This statement of estimates, which shall include a draft establishment plan, shall be transmitted by the Management Board to the Commission by 31 March at the latest.

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.

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

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

6. The Management Board shall adopt the Agency's definitive budget before the beginning of the budget year, adjusting it as necessary to the Community subsidy and the Agency's other resources.

7. The Executive Director shall implement the budget of the Agency.

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

9. 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").

10. 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.

11. 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 Management Board for an opinion.

12. The Management Board of the Agency shall deliver an opinion on the Agency's final accounts.

13. 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 Management Board's opinion.

14. The final accounts shall be published.

15. 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 Management Board.

16. 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.

17. The financial rules applicable to the Agency shall be adopted by the Management 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."

* OJ L "

(4) A new Article 63a is inserted:

"Article 63a

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

The Management 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, 31.05.2001, 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.

Done at Brussels,

*For the Council
The President*

Proposal for a

COUNCIL REGULATION

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

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,⁴³

Having regard to the opinion of the European Parliament,⁴⁴

Whereas:

- (1) The provisions of Council Regulation (EC) No 1360/90 of 7 May 1990 establishing a European Training Foundation⁴⁵ should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,⁴⁶ 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.⁴⁷
- (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 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 (EC) No 1360/90 should therefore be amended accordingly,

⁴³ OJ C , p. .

⁴⁴ OJ C , p. .

⁴⁵ 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).

⁴⁶ OJ L

⁴⁷ OJ L 145, 31.5.2001, p. 43.

HAS ADOPTED THIS REGULATION:

Article 1

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

(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, 31.05.2001, 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 responsibility 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.

Done at Brussels,

For the Council
The President

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1365/75 as regards the budgetary and financial rules applicable to the European Foundation for the Improvement of Living and Working Conditions and access to the Foundation's documents and repealing Regulation (EEC) No 1417/76

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 279 and 308 thereof,

Having regard to the proposal from the Commission,⁴⁸

Having regard to the opinion of the European Parliament,⁴⁹

Whereas:

- (1) The provisions of Council Regulation (EC) No 1365/75 of 7 May 1990 on the creation of a European Foundation for the Improvement of Living and Working Conditions should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,⁵⁰ and in particular Article 185 thereof. Pursuant to that Article, the European Foundation for the Improvement of Living and Working Conditions must adopt a Financial Regulation in conformity with the framework Financial Regulation adopted by the Commission. Consequently, Council Regulation (EEC) No 1416/76 must be repealed with effect from the entry into force of the Financial Regulation adopted by the Administrative Board of the Foundation.
- (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.⁵¹
- (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 1365/75 to make Regulation (EC) No 1049/2001 applicable to the European Foundation for the

⁴⁸ OJ C , p. .

⁴⁹ OJ C , p. .

⁵⁰ OJ L [], [.....], p. [...].

⁵¹ OJ L 145, 31.5.2001, p. 43.

Improvement of Living and Working Conditions, as should a clause guaranteeing a right of appeal against a refusal of access to documents.

- (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,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1365/75 is amended as follows:

- (1) Article 8(3) is replaced by the following:

"3. The director and deputy director shall be appointed for a maximum period of five years. The term of office of the director may be extended for one further period not exceeding five years. The term of office of the deputy director may be extended for further periods not exceeding five years each."

- (2) Articles 13, 14, 15 and 16 are replaced by the following:

"Article 13

The Administrative Board shall adopt the annual report on the Foundation's activities and prospects, 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."

Article 14

1. Estimates of all the revenue and expenditure of the Foundation shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the budget of the Foundation, which shall include an establishment plan.

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

Article 15

1. Each year the Administrative 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 Administrative Board to the Commission by 31 March at the latest.

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

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

3. The Administrative Board shall adopt the Foundation's budget before the beginning of the budget year, adjusting it to the subsidy granted by the budgetary authority. The budget as thus adopted shall be transmitted by the Commission to the budgetary authority.

Article 16

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

2. The Director shall implement the budget of the Foundation.

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

4. 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 the general Financial Regulation.

5. 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 the financial year shall also be transmitted to the European Parliament and the Council.

6. 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 responsibility and transmit them to the Administrative Board for an opinion.

7. The Administrative Board of the Foundation shall deliver an opinion on the Foundation's final accounts.

8. The Director of the Foundation 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 Administrative Board's opinion.

9. The final accounts shall be published.

10. 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 Administrative Board.

11. 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 Foundation in respect of the implementation of the budget for year N.

* OJ L [], [.....], p. [...].

(2) The following Article 18a is inserted:

"Article 18a

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

The Administrative 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."

Article 2

Regulation (EEC) No 1417/76 is repealed with effect from entry into force of the financial regulation adopted by the Administrative Board pursuant to Article 16(1) of Regulation (EEC) No 1365/75, as amended by this Regulation.

Article 3

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.

Done at Brussels,

For the Council
The President

Proposal for a

COUNCIL DECISION

amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2)(c) thereof,

Having regard to the initiative of the Commission,⁵²

Having regard to the opinion of the European Parliament,⁵³

Whereas

- (1) Although Eurojust is a body established under the Treaty on European Union, on the basis of Article 41 of the Treaty on European Union, it is widely assimilated to the decentralised bodies set up by the Communities as far as budgetary and financial issues are concerned;
- (2) For this reason, the provisions of Decision 2002/187/JHA should be harmonised with Council Regulation (EC, Euratom) No of on the financial regulation applicable to the general budget of the European Communities,⁵⁴ and in particular Article 185 thereof.
- (3) Decision 2002/187/JHA should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2002/187/JHA is hereby amended as follows:

- (1) Article 32(1) is replaced by the following:

"1. The President, on behalf of the College, shall report to the Council in writing every year on the activities of Eurojust.

⁵² OJ C , p. .
⁵³ OJ C , p. .
⁵⁴ OJ L

For this purpose the College shall adopt an annual report on the activities of Eurojust and on any criminal policy problems within the Union highlighted as a result of those activities. In that report, Eurojust may also make proposals for the improvement of judicial cooperation in criminal matters.

The annual report shall be transmitted by 15 June at the latest to the European Parliament, the Council, the Commission and the Court of Auditors.

The President shall also submit any report or any other information on the operation of Eurojust which may be required of him by the Council."

(2) Articles 35, 36 and 37 are replaced by the following:

"Article 35

Drawing up of the budget

1. Each year the College, on the basis of a draft drawn up by the Administrative Director, shall produce a statement of estimates of revenue and expenditure for Eurojust for the following financial year. This statement of estimates, which shall include a draft establishment plan, shall be transmitted by the College to the Commission by 31 March at the latest.

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 budgetary authority shall determine the appropriations available for the subsidy to Eurojust.

3. The budgetary authority shall adopt the establishment plan for Eurojust.

4. On the basis of the annual subsidy decided upon by the budgetary authority, the College shall adopt the definitive budget of Eurojust before the beginning of the budget year, adjusting it to the various contributions granted to Eurojust and to the funds from other sources.

Article 36

Implementation of the budget and discharge

1. The Administrative Director shall, as authorising officer, implement the Eurojust budget. He shall report to the College on the implementation of the budget.

2. By 1 March at the latest following each financial year, the accounting officer of Eurojust 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 No*.

3. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit Eurojust's provisional accounts to the European Parliament, the Council

and the Court of Auditors, together with a report on the budgetary and financial management for that financial year.

4. On receipt of the Court of Auditors' observations on Eurojust's provisional accounts, pursuant to Article 129 of Regulation (EC) No, the Administrative Director shall draw up Eurojust's final accounts under his own responsibility and transmit them to the College of Eurojust for an opinion.

5. The College of Eurojust shall deliver an opinion on Eurojust's final accounts.

6. The Administrative 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 College's opinion.

7. The final accounts shall be published.

8. The Administrative Director of Eurojust 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 College of Eurojust.

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 Administrative Director of Eurojust in respect of the implementation of the budget for year N."

Article 37

Financial regulation applicable to the budget

The financial rules applicable to Eurojust's budget shall be adopted by the College 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 Eurojust's operation and with the Commission's prior consent.

* OJ L "

(3) Article 38(1) is replaced by the following:

"1. The responsibility for putting in place internal control systems and procedures suitable for carrying out his tasks shall lie with the authorising officer."

Article 2

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

Done at Brussels,

*For the Council
The President*

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 2100/94 as regards the internal audit and control systems applicable to the Community Plant Variety Office and access to the Office's documents

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,⁵⁵

Having regard to the opinion of the European Parliament,⁵⁶

Whereas:

- (1) The provisions of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights⁵⁷ 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. With the entry into force of Council Regulation (EC, Euratom) No of on the financial regulation applicable to the general budget of the European Communities,⁵⁸ the concept of *ex ante* financial control in the European institutions and bodies to which Article 185 of the Financial Regulation applies will be replaced by more modern control and audit systems.
- (2) The Community Plant Variety Office should have control and audit systems comparable with those of the above-mentioned European institutions and bodies.
- (3) 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.⁵⁹
- (4) 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.

⁵⁵ OJ C , p. .

⁵⁶ OJ C , p. .

⁵⁷ OJ L 227, 19.4.1994, p. 1. Regulation amended by Regulation (EEC) No 2506/95 (OJ L 258, 28.10.1995, p. 3).

⁵⁸ OJ L

⁵⁹ OJ L 145, 31.5.2001, p. 43.

- (5) Appropriate provisions should therefore be included in Regulation (EC) No 2100/94 to make Regulation (EC) No 1049/2001 applicable to the Community Plant Variety Office, as should a clause guaranteeing a right of appeal against a refusal of access to documents.
- (6) It would be useful to clarify the rules for the conditions and procedures applying to the renewal of the term of office of the President and to harmonise the rules for all the Community bodies for which re-appointment is possible.
- (7) Regulation (EC) No 2100/94 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2100/1994 is amended as follows:

- (1) The following Article 33a is inserted:

"Article 33a

Access to documents

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

The Administrative Council 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 Office 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 43(2) is replaced by the following:

"2. The President's term of office shall not exceed five years. The term may be extended, on a proposal from the Commission after the Administrative Council has been consulted, for one further period not exceeding five years."

In Article 43(3) the words "in paragraphs 1 and 2" are replaced by "in paragraph 1" and the following sentence is added:

"Their term of office may be extended, on a proposal from the Commission after the Administrative Council has been consulted, for additional periods not exceeding five years each."

- (3) Article 111(1) is replaced by the following:

"1. An internal audit function shall be set up within the Office, to be performed in compliance with the relevant international standards. The internal auditor, appointed by the President, shall be responsible to him for verifying the proper operation of budget implementation systems and procedures.

The internal auditor shall advise the President on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

The responsibility for putting in place internal control systems and procedures suitable for carrying out his tasks shall lie with the authorising officer."

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.

Done at Brussels,

For the Council
The President

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 302/93 as regards the budgetary and financial rules applicable to the European Monitoring Centre for Drugs and Drug Addiction and access to the Centre's documents

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,⁶⁰

Having regard to the opinion of the European Parliament,⁶¹

Whereas:

- (1) The provisions of Council Regulation (EC) No 302/93 of 8 February 1993 on the establishment of a European Monitoring Centre for Drugs and Drug Addiction⁶² should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,⁶³ 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.⁶⁴
- (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 302/93 to make Regulation (EC) No 1049/2001 applicable to the European Monitoring Centre for Drugs and Drug Addiction.

⁶⁰ OJ C , p. .

⁶¹ OJ C , p. .

⁶² OJ L 36, 12.2.1993, p. 1. Regulation last amended by Regulation (EC) No 2220/2000 (OJ L 253, 7.10.2000, p. 1).

⁶³ OJ L

⁶⁴ OJ L 145, 31.5.2001, p. 43.

(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.

(6) Regulation (EC) No 302/93 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 302/93 is amended as follows:

(1) The following Article 6a is inserted:

"Article 6a

Access to documents

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

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

OJ L 145, 31.05.2001, p.43."

(2) Article 8(5) is replaced by the following:

"The Management Board shall adopt the annual report on the Centre'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) Article 9(1) is replaced by the following:

"The Agency shall be under the authority of a Director appointed by the Management Board, on a proposal from the Commission, for a period of five years, which, on a proposal from the Commission, may be renewed for one further period not exceeding five years."

In Article 9(1), the fourth indent is replaced by the following :

"- the preparation of the draft statement of estimates of the Centre's revenue and expenditure and on the implementation of the budget,"

(4) Article 11 is replaced by the following:

"Article 11

Budget

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

2. The revenue and expenditure shown in the budget shall be in balance.
3. The Centre's revenue shall, without prejudice to other resources, consist of a subsidy from the Community entered under a specific heading of the general budget of the European Communities (Commission Section), payments for services rendered and any financial contributions from the organisations and bodies and non-Community countries mentioned in Articles 12 and 13 respectively.
4. The Centre's expenditure shall include:
 - (a) - staff remuneration, administrative and infrastructure expenses, and operating costs
 - (b) - expenditure in support of the national information networks which form part of the Reitox network and expenditure relating to contracts with the specialised centres.
5. Each year, by 15 February at the latest, the Management Board, on the basis of a draft drawn up by the Director, shall produce a statement of estimates of revenue and expenditure for the Centre for the following financial year. This statement of estimates, which shall include a draft establishment plan, shall be transmitted by the Management Board to the Commission by 31 March at the latest, together with the Centre's work programme.

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.
6. The budgetary authority shall determine the appropriations available for the subsidy to the Centre.
7. The budgetary authority shall adopt the establishment plan for the Centre.
8. The Management Board shall adopt the Centre's definitive budget before the beginning of the budget year, adjusting it as necessary to the Community subsidy and the Centre's other resources.
9. The Director shall implement the budget of the Centre.
10. The Commission's internal auditor shall exercise the same powers over the Centre as over Commission departments.
11. By 1 March at the latest following each financial year, the Centre'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 * (hereinafter "the general Financial Regulation").
12. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit the Centre'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.

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

14. The Management Board of the Centre shall deliver an opinion on the Centre's final accounts.

15. The 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 Management Board's opinion.

16. The final accounts shall be published.

17. The Centre'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 Management Board.

18. 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.

19. The financial rules applicable to the Centre shall be adopted by the Management Board after the Commission has been consulted. It 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 Centre's operation and with the Commission's prior consent.

OJ L

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.

Done at Brussels,

For the Council
The President

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1035/97 as regards the budgetary and financial rules applicable to the European Monitoring Centre on Racism and Xenophobia and access to the Centre's documents

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 284 and 308 thereof,

Having regard to the proposal from the Commission,⁶⁵

Having regard to the opinion of the European Parliament,⁶⁶

Whereas:

- (1) The provisions of Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia⁶⁷ should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,⁶⁸ 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.⁶⁹
- (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 1035/97 to make Regulation (EC) No 1049/2001 applicable to the European Monitoring Centre on Racism and Xenophobia.
- (5) A clause should also be included to provide a right of appeal against a refusal of access under Article 8 of Regulation (EC) No 1049/2001.

⁶⁵ OJ C , p. .

⁶⁶ OJ C , p. .

⁶⁷ OJ L 151, 10.06.1997, p. 1

⁶⁸ OJ L

⁶⁹ OJ L 145, 31.5.2001, p. 43.

(6) 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.

(7) Regulation (EC) No 1035/97 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1035/97 is amended as follows:

(1) Article 2(2) point (g) is replaced by the following:

"(g) publish an annual report on the situation regarding racism and xenophobia in the Community, also highlighting examples of good practice, and an annual report on the Centre's own activities;"

(2) The following Article 5a is inserted:

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

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

(3) Article 8 is amended as follows:

(a) paragraph 3(b) is replaced by the following:

"(b) adopt the two annual reports referred to in Article 2(2)(g) and its conclusions and opinions and transmit them to the European Parliament, the Council, the Commission, the Economic and Social Committee and the Committee of the Regions; it shall ensure publication of the annual reports referred to in Article 2(2)(g); the annual report on the Centre's activities shall be transmitted by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors, the Economic and Social Committee and the Committee of the Regions."

(4) Article 10(1) is replaced by the following:

"1. The Centre shall be under the authority of a Director appointed by the Management Board, on a proposal from the Commission, for a period of five years, which, on a proposal from the Commission, may be extended for one further period not exceeding five years."

(5) Article 12 is replaced by the following:

"Article 12

Budget

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

2. The revenue and expenditure shown in the budget shall be in balance.
3. The revenue of the Centre shall, without prejudice to other resources, comprise:
 - (a) a subsidy from the Community, entered under a specific heading in the general budget of the European Communities (Commission section);
 - (b) payments received for services rendered;
 - (c) any financial contributions from the organisations referred to in Article 7;
 - (d) any voluntary contribution from the Member States.
4. The expenditure of the Centre shall include staff remuneration, administrative and infrastructure costs, and operating expenses, and expenses resulting from contracts entered into with the institutions and bodies belonging to the Raxen network or with third parties.
5. Each year, by 15 February at the latest, the Management Board, on the basis of a draft drawn up by the Director, shall produce a statement of estimates of revenue and expenditure for the Centre for the following financial year. This statement of estimates, which shall include a draft establishment plan, shall be transmitted by the Administrative Board to the Commission by 31 March at the latest.

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.

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

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

7. The Management Board shall adopt the Centre's definitive budget before the beginning of the budget year, adjusting it as necessary to the Community subsidy and the Centre's other resources.

8. The Director shall implement the budget of the Centre.

9. The Commission's internal auditor shall exercise the same powers over the Centre as over Commission departments.

10. By 1 March at the latest following each financial year, the Centre'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 * (hereinafter "the general Financial Regulation").

11. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit the Centre'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.

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

13. The Management Board of the Centre shall deliver an opinion on the Centre's final accounts.

14. The 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 Management Board's opinion.

15. The final accounts shall be published.

16. The Centre'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 Management Board.

17. 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.

18. The financial rules applicable to the Agency shall be adopted by the Management 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 Centre'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.

Done at Brussels,

For the Council
The President

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 40/94 as regards the internal audit and control systems applicable to the Office for Harmonisation in the Internal Market and access to the Office's documents

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,⁷⁰

Having regard to the opinion of the European Parliament,⁷¹

Whereas:

- (1) The provisions of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark,⁷² which established the Office for Harmonisation in the Internal Market, 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. With the entry into force of Council Regulation (EC, Euratom) No of on the financial regulation applicable to the general budget of the European Communities,⁷³ the concept of *ex ante* financial control in the European institutions and bodies to which Article 185 of the Financial Regulation applies will be replaced by more modern control and audit systems.
- (2) The Office for Harmonisation in the Internal Market should have control and audit systems comparable with those of the above-mentioned European institutions and bodies.
- (3) 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.⁷⁴

⁷⁰ OJ C , p. .

⁷¹ OJ C , p. .

⁷² OJ L 11, 14.01.1994, p. 1. Regulation amended by Regulation (EEC) No 3288/94 (OJ L 349, 31.12.1994, p. 83).

⁷³ OJ L

⁷⁴ OJ L 145, 31.5.2001, p. 43.

- (4) 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.
- (5) Appropriate provisions should therefore be included in Regulation (EC) No 40/94 to make Regulation (EC) No 1049/2001 applicable to the Office for Harmonisation in the Internal Market, as should a clause guaranteeing a right of appeal against a refusal of access to documents.
- (6) It would be useful to clarify the rules for the conditions and procedures applying to the renewal of the term of office of the President and to harmonise the rules for all the Community bodies for which re-appointment is possible.
- (7) Regulation (EC) No 40/94 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 40/94 is amended as follows:

- (1) The following Article 118a is inserted:

Access to documents

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

The Administrative 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 Office 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.

- (2) Article 2(2) is replaced by the following:

"2. The President's term of office shall not exceed five years. The term of office may be extended, on a proposal from the Commission after the Administrative Board has been consulted, for one further period not exceeding five years.

In Article 120(3) the following sentence is added:

"Their term of office may be extended, on a proposal from the Commission after the Administrative Board has been consulted, for additional periods not exceeding five years each."

(3) Article 136 is replaced by the following:

"Article 136

Financial control

1. An internal audit function shall be set up within the Office, to be performed in compliance with the relevant international standards. The internal auditor, appointed by the President, shall be responsible to him for verifying the proper operation of budget implementation systems and procedures.

2. The internal auditor shall advise the President on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

3. The responsibility for putting in place internal control systems and procedures suitable for carrying out his tasks shall lie with the authorising officer."

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.

Done at Brussels,

For the Council
The President

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 2062/94 as regards the budgetary and financial rules applicable to the European Agency for Safety and Health at Work and access to the Agency's documents

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,⁷⁵

Having regard to the opinion of the European Parliament,⁷⁶

Whereas:

- (1) The provisions of Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work⁷⁷ 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.⁷⁸
- (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 2062/94 to make Regulation (EC) No 1049/2001 applicable to the European Agency for Safety and Health at Work, as should a clause guaranteeing a right of appeal against a refusal of access to documents.
- (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 President and to harmonise the rules for all the Community bodies for which re-appointment is possible.

⁷⁵ OJ C , p. .

⁷⁶ OJ C , p. .

⁷⁷ OJ L 216, 20.08.1994, p. 1. Regulation as amended by Regulation (EC) No 1643/95 (OJ L 156, 7.6.1995, p. 1).

⁷⁸ OJ L 145, 31.5.2001, p. 43.

(6) Regulation (EC) No 2064/94 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2062/94 is amended as follows:

(1) Article 6 is replaced by the following:

"Article 6

Access to documents

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

The Administrative 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, 31.05.2001, p.43."

(2) Article 10(2) is replaced by the following:

"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 Economic and Social Committee, the Court of Auditors, the Member States and the Advisory Committee on Safety, Hygiene and Health Protection at Work."

(3) Article 11(1) is replaced by the following:

"1. The Agency shall be under the authority of a Director appointed by the Administrative Board, on a proposal from the Commission, for a period of five years, which, on a proposal from the Commission after the Administrative Board has been consulted, may be extended for one further period not exceeding five years."

(4) Articles 13, 14 and 15 are replaced by the following:

"Article 13

Estimates - Adoption of the budget

1. Each year, by 15 February at the latest, the Administrative 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 Administrative Board to the Commission by 31 March at the latest.

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

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

4. The Administrative Board shall adopt the Agency's definitive budget before the beginning of the budget year, adjusting it as necessary to the Community subsidy and the Agency's other resources.

Article 14

Implementation of the budget

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 Council 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 Administrative Board for an opinion.

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

7. The 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.

8. The final accounts shall be published.

9. 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 Administrative 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.

Article 15

Financial regulation

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."

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.

Done at Brussels,

*For the Council
The President*

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 178/2002 as regards the budgetary and financial rules applicable to the European Food Safety Agency and access to the Agency's documents

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37, 95, 133 and Article 152(4)(b) thereof,

Having regard to the proposal from the Commission,⁷⁹

Having regard to the opinion of the Economic and Social Committee,⁸⁰

Having regard to the opinion of the Committee of the Regions,⁸¹

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

Whereas:

- (1) The provisions of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁸² should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,⁸³ 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.⁸⁴
- (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 178/2002 to make Regulation (EC) No 1049/2001 applicable to the European Food Safety

⁷⁹ OJ C , p. .

⁸⁰ OJ C , p. .

⁸¹

⁸² OJ L 31, 1.2.2002, p. 1.

⁸³ OJ L

⁸⁴ OJ L 145, 31.5.2001, p. 43.

Authority, as should a clause guaranteeing a right of appeal against a refusal of access to documents.

- (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 Executive Director and to harmonise the rules for all the Community bodies for which re-appointment is possible.
- (6) Regulation (EC) No 178/2002 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 178/2002 is amended as follows:

(1) Article 25(9) is replaced by the following:

"9. The financial rules applicable to the Authority shall be adopted by the Management Board after the Commission has been consulted. They may not depart from the framework Financial Regulation adopted by the Commission under Article 185 of Council Regulation (EC, Euratom) No * (hereinafter "the general Financial Regulation") unless specifically required for the Authority's operation and with the Commission's prior consent."

* OJ L

(2) The first sentence of Article 26(1) is replaced by the following:

"The Executive Director shall be appointed by the Management Board, on the basis of a list of candidates proposed by the Commission after an open competition, following publication in the Official Journal of the European Communities and elsewhere of a call for expressions of interest. This appointment shall be for a period of five years, which, on a proposal from the Commission, may be renewed for one further period not exceeding five years."

Article 26 is amended as follows:

(a) paragraph 2(f) is replaced by the following:

"(f) the preparation of the Authority's statement of estimates of revenue and expenditure, and the execution of its budget;"

(b) Article 26(3) is replaced by the following:

"3. Each year, the Executive Director shall submit to the Management Board for approval:

- (a) a draft general report covering all the activities of the Authority in the previous year;
- (b) draft programmes of work.

The Executive Director shall, following adoption by the Management Board, transmit the programmes to the European Parliament, the Council, the Commission and the Member States, and shall have them published.

The Executive Director shall, following adoption by the Management Board and by no later than 15 June, transmit the Authority's general report to the European Parliament, the Council, the Commission, the Court of Auditors, the Economic and Social Committee and the Committee of the Regions, and shall have it published."

(c) Paragraph 4 is deleted.

(3) Article 41 is replaced by the following:

"Article 41

Access to documents

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

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

Decisions taken by the Authority 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."

(4) Article 43(5) is replaced by the following:

"5. By 31 March at the latest each year the Management 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 Authority for the following financial year. This statement of estimates, which shall include a draft establishment plan together with the provisional work programme, shall be transmitted by the Management Board to the Commission and to the countries with which the Community has concluded agreements in accordance with Article 49.

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") in accordance with Article 272 of the Treaty.

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

The budgetary authority shall adopt the establishment plan for the Authority."

(5) Article 44 is replaced by the following:

"Article 44

1. The Executive Director shall implement the Authority's budget.

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

3. By 1 March at the latest following each financial year, the Authority'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 Centre'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 Authority's provisional accounts, pursuant to Article 129 of the general Financial Regulation, the Executive Director shall draw up the Authority's final accounts under his own responsibility and transmit them to the Management Board for an opinion.

6. The Management Board of the Authority shall deliver an opinion on the Authority's final accounts.

7. 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 Management Board's opinion.

8. The final accounts shall be published.

9. The Authority'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 Management 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 Executive Director in respect of the implementation of the budget for year N."

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.

Done at Brussels,

*For the Council
The President*

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 337/75 as regards the budgetary and financial rules applicable to the European Centre for the Development of Vocational Training and access to the Centre's documents and repealing Regulation (EEC) No 1416/76

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 279 and 308 thereof,

Having regard to the proposal from the Commission,⁸⁵

Having regard to the opinion of the European Parliament,⁸⁶

Whereas:

- (1) The provisions of Council Regulation (EC) No 337/75 establishing a European Centre for the Development of Vocational Training should be harmonised with Council Regulation (EC, Euratom) No of on the Financial Regulation applicable to the general budget of the European Communities,⁸⁷ and in particular Article 185 thereof. Pursuant to that Article, the European Centre for the Development of Vocational Training must adopt financial rules in conformity with the framework Financial Regulation adopted by the Commission. Consequently, Council Regulation (EEC) No 1416/76 must be repealed with effect from the entry into force of the financial rules adopted by the Management Board of the Centre.
- (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.⁸⁸
- (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 337/75 to make Regulation (EC) No 1049/2001 applicable to the European Centre for the Development of Vocational Training, as should a clause guaranteeing a right of appeal against a refusal of access to documents.

⁸⁵ OJ C , p. .

⁸⁶ OJ C , p. .

⁸⁷ OJ L

⁸⁸ OJ L 145, 31.5.2001, p. 43.

- (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.
- (6) Regulation (EC) No 337/75 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 337/75 is amended as follows:

(1) Article 6(2) is replaced by the following:

“2. The Director's term of office shall not exceed five years and may be renewed, on a proposal from the Management Board, for a single period not exceeding five years.”

(2) Article 10 is replaced by the following:

"Article 10

1. Estimates of all the revenue and expenditure of the Centre shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the budget of the Centre, which shall include an establishment plan.

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

(3) Article 11 is replaced by the following:

"Article 11

Establishment of the budget

1. Each year the Management Board, on the basis of a draft drawn up by the Director, shall produce a statement of estimates of revenue and expenditure for the Centre for the following financial year. This statement of estimates, which shall include a draft establishment plan, shall be transmitted by the Management Board to the Commission by 31 March at the latest.

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 budgetary authority shall determine the appropriations available for the subsidy to the Centre.

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

3. The Management Board shall adopt the Centre's budget before the beginning of the budget year, adjusting it to the subsidy granted by the budgetary authority. The budget as thus adopted shall be transmitted by the Commission to the budgetary authority."

(4) Article 12 is replaced by the following:

"Article 12

1. The financial rules applicable to the Centre shall be adopted by the Management Board after the Commission has been consulted. They may not depart from the framework Financial Regulation adopted by the Commission under Article 185 of Council Regulation (EC, Euratom) No * (hereinafter "the general Financial Regulation") unless specifically required for the Authority's operation and with the Commission's prior consent."

2. The Director shall implement the budget of the Centre.

3. The Commission's internal auditor shall exercise the same powers over the Centre as over Commission departments."

* OJ L "

(5) Article 12a is replaced by the following:

"Article 12a

1. By 1 March at the latest following each financial year, the Centre'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.

2. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit the Centre'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.

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

4. The Centre's Management Board shall deliver an opinion on the Centre's final accounts.

5. The Director of the Centre 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 Management Board's opinion.

6. The final accounts shall be published.

7. The Centre'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 Management Board.

8. 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 Centre in respect of the implementation of the budget for year N."

(6) The following Article 12b is inserted:

"Article 12b

The Management Board shall adopt the annual report on the Centre's activities and prospects, 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."

(7) The following Article 14a is inserted:

"Article 14a

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

The Management 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 Centre 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.

Article 2

Regulation (EEC) No 1416/76 is repealed with effect from entry into force of the financial rules adopted by the Management Board pursuant to Article 12(1) of Regulation (EEC) No 337/75, as amended by this Regulation.

Article 3

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.

Done at Brussels,

*For the Council
The President*

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,⁸⁹

Having regard to the opinion of the Economic and Social Committee,⁹⁰

Following consultation of the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty,⁹¹

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) 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.⁹²
- (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/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.

* This number is not yet available

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92 OJ L 145, 31.5.2001, p. 43.

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

HAVE ADOPTED THIS REGULATION:

Article 1

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

- (1) A new Article 23a is added:

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

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

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."

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

"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) Article 30(4) is replaced by the following.

"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.

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

"Article 48

.....

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.

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."

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulation (EC) No * ... of the European Parliament and of the Council
setting up a European Maritime Safety Agency**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,⁹³

Having regard to the opinion of the Economic and Social Committee,⁹⁴

Following consultation of the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty,⁹⁵

Whereas:

- (1) The provisions of Regulation (EEC) No 2002/95 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) The general principles and limits governing right of access to documents 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.⁹⁶
- (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 .../2002 to make Regulation (EC) No 1049/2001 applicable to the European Maritime Safety Agency, as should a clause guaranteeing a right of appeal against a refusal of access to documents.

* This number is not yet available

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96 OJ L 145, 31.5.2001, p. 43.

- (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 Executive Director and to harmonise the rules for all the Community bodies for which re-appointment is possible,
- (6) Regulation (EC) No .../2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

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

(1) In Article 4, the following new paragraph 3 is added:

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

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

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."

(2) Article 10(2)(b) is replaced by the following:

"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) Article 16(2) is replaced by the following.

"2. The term of office of the Executive Director shall not exceed five years. This term of office may, on a proposal from the Commission, be extended for one further period not exceeding five years."

(4) Article 18(5) is replaced by the following:

"Article 18

.....

5. 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.

This statement of estimates, which shall include a draft establishment plan, 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 54.

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 Council and the European Parliament (hereinafter referred to as "the budgetary authority") in accordance with Article 272 of the Treaty.

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."

(5) Article 19(2), (3) and (4) are replaced by the following:

"Article 19

.....

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 21 is replaced by the following:

"Article 21

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."

Done at Brussels,

For the European Parliament
The President

For the Council
The President