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# COUNCIL REGULATION (EEC) No 1360/90 of 7 May 1990 establishing a European Training Foundation

(OJ L 131, 23.5.1990, p. 1)

Amended by:

| | | Official Journal | | |
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| | | No | page | date |
| ►**M1** | Council Regulation (EC) No 2063/94 of 27 July 1994 | L 216 | 9 | 20.8.1994 |
| ►**M2** | Council Regulation (EC) No 1572/98 of 17 July 1998 | L 206 | 1 | 23.7.1998 |
| ►**M3** | Council Regulation (EC) No 2666/2000 of 5 December 2000 | L 306 | 1 | 7.12.2000 |
| ►**M4** | Council Regulation (EC) No 1648/2003 of 18 June 2003 | L 245 | 22 | 29.9.2003 |

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# COUNCIL REGULATION (EEC) No 1360/90
## of 7 May 1990
## establishing a European Training Foundation

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ([1]),

Having regard to the opinion of the European Parliament ([2]),

Having regard to the opinion of the Economic and Social Committee ([3]),

Whereas the European Council meeting at Strasbourg on 8 and 9 December 1989 called upon the Council to adopt, at the beginning of 1990, the necessary decisions for the establishment of a European Training Foundation for Central and Eastern Europe, acting on a proposal from the Commission;

Whereas on 18 December 1989 the Council adopted Regulation (EEC) No 3906/89 ([4]) on economic aid to the Republic of Hungary and the Polish People's Republic which provides for aid in areas including training to support the process of economic and social reform in Hungary and Poland;

Whereas the Council may subsequently extend such aid to other countries of Central and Eastern Europe under a relevant legal act;

Whereas the process of economic and social reform will contribute to the development of mutually beneficial economic and commercial relationships between the countries of Central and Eastern Europe and the Community; whereas these intensified relationships will also contribute to a harmonious development of economic activities within the Community;

Whereas the European Training Foundation could make an important contribution to the effective provision of training assistance to the countries of Central and Eastern Europe eligible for economic aid to support the process of reform;

Whereas, for its contribution, the European Training Foundation will need to call upon the experience gained within the Community in the area of vocational training in implementing a common policy for vocational training and upon its institutions concerned with training;

Whereas there exist in the Community and in third countries, including the countries of Central and Eastern Europe, regional and/or national, public and/or private facilities which can be called upon to collaborate in the effective provision of aid in the area of training;

Whereas the status and structure of the European Training Foundation should facilitate a flexible response to the specific and differing requirements of the individual countries to be assisted, and allow it to carry out its functions in close cooperation with the existing national and international facilities;

Whereas the European Training Foundation should be endowed with legal personality, while maintaining a close corporate relationship with the Commission and respecting the overall political responsibilities of the Community and its institutions;

Whereas the European Training Foundation should have close links with the European Centre for the Development of Vocational Training,

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([1]) OJ No C 86, 4. 4. 1990, p. 12.
([2]) OJ No C 113, 7. 5. 1990.
([3]) Opinion delivered on 25 April 1990 (not yet published in the Official Journal).
([4]) OJ No L 375, 23. 12. 1989, p. 11.

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with the Trans-European Mobility Scheme for University Studies (Tempus) and any other schemes instituted by the Council to provide aid in the area of training to countries of Central and Eastern Europe;

Whereas the European Training Foundation should be open to the participation of countries which are not members of the Community and which share the commitment of the Community and the Member States to the provision of aid to Central and Eastern Europe in the training field under arrangements to be laid down in agreements between the Community and themselves;

Whereas the Treaty does not provide, for the action concerned, powers other than those of Article 235,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Objectives**

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This Regulation hereby establishes the European Training Foundation (hereinafter referred to as the 'Foundation'), whose objective shall be to contribute to the development of the vocational training systems of:

— the countries of Central and Eastern Europe designated as eligible for economic aid by the Council in Regulation (EEC) No 3906/89 or in any subsequent relevant legal act,

— the new independent States of the former Soviet Union and Mongolia which are the beneficiaries of the programme to assist economic reform and recovery pursuant to Regulation (Euratom, EC) No 1279/96 or any subsequent relevant legal act,

— the Mediterranean non-member countries and territories which are the beneficiaries of the financial and technical measures to accompany the reform of their economic and social structures pursuant to Regulation (EC) No 1488/96 or any subsequent relevant legal act, and

— the countries which are beneficiaries under Regulation (EC) No 2666/2000 ([1]) or any subsequent relevant legal act.

Those countries shall be hereinafter referred to as the 'eligible countries'.

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The Foundation shall in particular:

— seek to promote effective cooperation between the Community and the eligible countries in the field of vocational training,

— contribute to the coordination of assistance provided by the Community, its Member States and the third countries referred to in Article 16.

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*Article 2*

**Scope**

Following the general guidelines established at Community level, the Foundation shall work in the training field, covering initial and continuing vocational training as well as retraining for young people and adults, including in particular management training.

([1]) OJ L 306, 7.12.2000, p. 1.

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*Article 3*

**Functions**

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For the purpose of achieving the objectives set out in Article 1, the Foundation shall, within the limits of the powers conferred on the governing board and following the general guidelines established at Community level:

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(a) provide assistance in the definition of training needs and priorities through the implementation of measures of technical assistance in the training field, and through cooperation with the appropriate designated bodies in the eligible countries;

(b) act as a clearing house to provide the Community, its Member States and the third countries referred to in Article 16, together with the eligible countries and all other interested parties, with information on current initiatives and future needs in the training field, and provide a framework through which offers of assistance can be channelled;

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(c) on the basis of (a) and (b);

— examine the scope for joint ventures of training assistance including pilot projects, for the setting up of specialized multinational teams for specific projects and for identifying operations which could be cofinanced,

— fund the design and the preparation of such projects, the implementation of which may be financed by contributions from one or several countries, together with the Foundation, or, in exceptional cases, from the Foundation on its own;

▼M2

— implement, at the request of the Commission or of the eligible countries in cooperation with the governing board, vocational training programmes agreed on by the Commission and one or more of the eligible countries as part of the Community policy of assistance to these countries, using multidisciplinary teams of specialists in close collaboration with the competent authorities in the countries involved and drawing actively on the experience of Community vocational training programmes; in the selection of projects to be managed by the Foundation, priority will be given to projects of an innovative value and - for the candidate countries for accession - to projects which relate directly to the Community's programmes in the field of vocational training;

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(d) for activities and projects which are funded by the Foundation: arrange for the appropriate public and/or private bodies with a proven training record and the necessary expertise to design, prepare, implement and/or manage projects on a flexible, decentralized basis;

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(e) confer on the governing board the power to lay down tendering procedures for projects funded or co-financed by the Foundation, taking due account of the procedures established pursuant to Regulation (EEC) No 3906/89, in particular Article 7 thereof, pursuant to Regulation (Euratom, EC) No 1279/96, in particular Articles 6 and 7 thereof, Regulation (EC) No 1488/96, in particular Article 8 thereof, or in any subsequent relevant legal act;

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(f) in collaboration with the Commission, assist in the monitoring and evaluation of the overall effectiveness of training assistance to the eligible countries;

(g) disseminate information and encourage exchanges of experience, through publications, meetings, and other appropriate means;

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(h) within the general framework of this Regulation, undertake such other tasks as may be agreed between the governing board and the Commission.

*Article 4*

**General provisions**

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

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The Foundation shall cooperate with the other relevant Community bodies, in particular Cedefop, with the support of the Commission.

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2. Representatives of the social partners at European level which are already active in the work of the Community institutions, and international organizations active in the training field, may be associated with the work of the Foundation, notably as provided for in Articles 5 (8) and 6 (1) and (2).

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*Article 4a*

**Access to documents**

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents [1] shall apply to documents held by the Foundation.

2. The Governing Board shall adopt practical arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of Council Regulation (EC) No 1648/2003 amending Regulation (EEC) 1360/90 of 18 June 2003 establishing a European Training Foundation [2].

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

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*Article 5*

**Governing board**

1. ►M2 The Foundation shall have a governing board consisting of one representative of each Member State and three representatives of the Commission. ◄

An alternate member may represent or accompany each member of the governing board; when accompanying a member, the alternate member shall attend without having the right to vote.

2. The representatives of the Member States shall be appointed by the Member States concerned.

The Commission shall appoint the members who are to represent it.

3. The term of office of representatives shall be three years. It shall be renewable.

4. The governing board shall be chaired by one of the representatives of the Commission. The chairman shall not vote.

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[1] OJ L 145, 31.5.2001, p. 43.
[2] OJ L 245, 29.9.2003, p. 22.

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The governing board shall adopt its rules of procedure.

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The representatives of the Member States on the governing board shall each have one vote. The representatives of the Commission shall have one vote between them.

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Decisions of the governing board shall require a twothirds majority of the members of the board, except in the case referred to in paragraph 5.

5. The governing board shall determine, by a unanimous decision of its members, the rules governing the languages of the Foundation, taking into account the need to ensure access to, and participation in, the work of the Foundation by all interested parties.

6. The chairman shall convene the governing board at least twice a year and at the request of at least a simple majority of the members of the board.

The Chairman shall be responsible for informing the board of other Community activities relevant to their work and of the expectations from the Foundation in the forthcoming year.

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7. On the basis of a draft submitted by the director of the Foundation, the governing board, in consultation with the Commission, shall examine the preliminary draft annual work programme for the following year by 30 November at the latest. The final adoption of the work programme shall take place at the beginning of each year, within the framework of a three-year on-going perspective. Where necessary, the programme may be adapted during the year using the same procedure in order to ensure greater effectiveness of Community policies.

The projects and activities in the annual work programme shall be accompanied by an estimate of the necessary expenditure and by allocations of staff and budgetary resources.

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8. The governing board shall approve, as necessary and on a case-by-case basis, the setting up of *ad hoc* sectoral working parties involving all the countries or organizations contributing to the finance of the different projects concerned as well as other interested parties, including where appropriate representatives of social partners.

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

10. The Foundation shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.

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*Article 6*

**Advisory forum**

1. The Foundation shall have an advisory forum appointed by the governing board.

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The members of the forum shall be selected from experts among training and other circles concerned in the work of the Foundation, taking into account the need to ensure the presence of representatives of the social partners, of the Commission, of those international organisations active in the provision of training assistance, and of the eligible countries and territories.

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There shall be appointed two experts from each of the Member States, from each of the eligible countries and from the social partners at European level.

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2. The governing board shall seek nominations for appointment from:

— each of the Member States,

— each of the eligible countries,

— the Commission,

— the social partners at European level which are already active in the work of the Community institutions, and

— relevant international organisations.

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3. The term of office of the members of the advisory forum shall normally be for three years, subject to regular review by the governing board.

4. The task of the advisory forum shall be to deliver opinions to the governing board either at the request of the board or on its own initiative concerning the annual work programme of the Foundation referred to in Article 5 (7).

All opinions shall be communicated to the governing board.

5. The director of the Foundation shall be the chairman of the advisory forum.

The advisory forum shall draw up its rules of procedure, subject to the approval of the governing board.

6. The advisory forum shall be convened by its chairman once a year.

*Article 7*

**The director**

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1. The director of the Foundation shall be appointed by the governing board on a proposal from the Commission for a period of five years. This term of office may be extended once for a period which may not exceed five years.

The director shall be responsible for:

— the preparation and organisation of the work of the governing board, of any *ad hoc* working parties convened by the governing board and, in particular, for the preparation of the draft annual work programme of the Foundation, taking into account the general guidelines established at Community level,

— the day-to-day administration of the Foundation,

▼M4

— the preparation of the draft estimate of the Foundation's revenue and expenditure and the execution of its budget,

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— the preparation and publication of reports specified under this Regulation,

— all staff matters,

— undertaking the tasks with which he is charged pursuant to Article 3 and those set out in the annual work programme referred to in Article 5(7),

— implementing the governing board's decisions and the guidelines set down for the Foundation's activities.

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2. The director shall be accountable to the governing board for his activities and shall attend its meetings.

3. The director shall be the legal representative of the Foundation.

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*Article 8*

**Links with other Community actions**

The Commission, in cooperation with the governing board and, where appropriate, in accordance with the procedures set out in Article 9 of Regulation (EEC) No 3906/89, Article 8 of Regulation (Euratom, EC) No 1279/96 and Article 11 of Regulation (EC) No 1488/96 or in any subsequent relevant legal act, shall ensure consistency and, where necessary, complementarity between the work of the Foundation and other actions at Community level, both within the Community and in assistance to the eligible countries, with particular reference to actions under the Tempus programme and to the other programmes and actions for training that are implemented at Community level, including Med-Campus.

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*Article 9*

**Budget content**

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

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

3. The revenue of the Foundation shall comprise, without prejudice to other types of income, a subsidy from the general budget of the European Communities, payments made as remuneration for services performed as well as finance from other sources.

4. The budget shall also include details of any funds made available by the eligible countries themselves for projects benefiting from financial assistance from the Foundation.

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*Article 10*

**Budgetary procedure**

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

2. The estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the 'budgetary authority') together with the preliminary draft general budget of the European Union.

3. The Commission shall examine the estimate, having regard to the vocational training priorities in the eligible countries and to the overall financial orientations on economic aid to these countries. On the basis of the estimate, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.

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 Union.

4. The budgetary authority shall authorise the appropriations for the subsidy to the Foundation.

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

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

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

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

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*Article 11*

**Budget implementation and control**

1. The director shall implement the budget of the Foundation.

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

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

4. 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 Foundation's final accounts under his own responsibility and forward them to the Governing Board for an opinion.

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

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

7. The final accounts shall be published.

8. 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.

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

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

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*Article 12*

**Financial Rules**

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 Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities [1] unless specifically required for the Foundation's operation and with the Commission's prior consent.

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*Article 13*

**Privileges and immunities**

The Protocol on the privileges and immunities of the European Communities shall apply to the Foundation.

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*Article 14*

**Staff rules**

The staff of the Foundation shall be governed by the rules and regulations applicable to the officials and other servants of the European Communities.

The Foundation shall exercise over its staff the powers devolved to the appointing authority.

The governing board shall, in agreement with the Commission, adopt the appropriate implementing rules.

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*Article 15*

**Legal liability**

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

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

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

3. The personal liability of servants towards the Foundation shall be governed by the relevant provisions applying to the staff of the Foundation.

*Article 16*

**Participation of third countries**

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1. The Foundation shall be open to the participation of countries which are not members of the European Community and which share the commitment of the Community and the Member States to the provision of aid in the training field to the eligible countries defined in Article 1, under arrangements to be laid down in agreements between the Community and themselves, following the procedure laid down in Article 228 of the Treaty.

[1] OJ L 357, 31.12.2002, p. 72, with Corrigendum in OJ L 2, 7.1.2003, p. 39.

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The agreements shall, *inter alia,* specify the nature and extent of and the detailed rules for the participation by these countries in the work of the Foundation including provisions on financial contributions and staff.

2. Participation of such countries in the *ad hoc* working parties provided for in Article 5 (8) may be decided as necessary by the governing board without the need for an agreement.

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*Article 17*

**Monitoring and evaluation procedure**

The Commission shall, in consultation with the governing board, establish a monitoring and evaluation procedure of the experience acquired in the work of the Foundation. This procedure should be carried out with the help of external experts. The Commission shall present the first results of this procedure in a report to be submitted to the European Parliament, the Council and the Economic and Social Committee before 31 December 2000 and thereafter every three years.

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*Article 18*

**Review**

This Regulation shall be reviewed by the Council on a proposal from the Commission within five years of its entry into force.

*Article 19*

This Regulation shall enter into force on the day following that on which the competent authorities have decided on the seat of the Foundation (1).

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

(1) The date of entry into force of the Regulation shall be published in the Official Journal.