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(Acts whose publication is obligatory)

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, 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;

(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.

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

HAS ADOPTED THIS REGULATION:

Article 1

Objectives

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

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.

Article 2

Scope

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.

Article 3

Functions

For the purpose of achieving the objectives set out in Article 1, the Foundation shall:

(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;

(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, and 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;

(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;

(e) for projects funded or cofinanced by the Foundation, tendering procedures shall be laid down by the governing board referred to in Article 5, taking full account of the procedures established in the context of Regulation (EEC) No 3906/89 and, in particular, Article 7 thereof; or in any subsequent relevant legal act;

(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;

(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.

The Foundation shall seek the cooperation of other Community bodies, in particular Cedefop.

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).

Article 5

Governing board

1. The Foundation shall have a governing board consisting of one representative of each Member State and two 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.

The governing board shall adopt its rules of procedure.

Each member of the governing board shall have one vote.

Decisions of the governing board shall require a two-thirds 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.

7. On the basis of a draft submitted by the director of the Foundation, and within the framework of a three-year rolling perspective, the governing board shall adopt, by 30 November each year at the latest, the annual work programme of the Foundation for the following year in consultation with the Commission.

The projects in the annual work programme shall be accompanied by an estimate of the necessary expenditure.

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.

9. The governing board shall, by 31 March each year at the latest, present a draft annual report on the activities of the Foundation for the previous year and their financing to the Commission.

The Commission shall approve the annual report and submit it to the European Parliament, the Council, the Economic and Social Committee and the Member States.

The Commission shall also forward this report, for information, to the eligible countries.

Article 6

Advisory forum

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

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 those international organizations active in the provision of training assistance, and of the eligible countries.

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.

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

— each of the Member States,

— each of the eligible countries,

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

— relevant international organizations.

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

1. The director of the Foundation shall be appointed by the governing board, on a proposal from the Commission, for a term of office of five years, which shall be renewable.

The director shall be responsible :

— for the preparation and organization 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,

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

— for the preparation of the statement of revenue and expenditure and execution of the budget of the Foundation,

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

— for all staff matters,

— for undertaking the tasks referred to in Article 3.

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.

Article 8

Links with other Community actions

The Commission, in cooperation with the governing board and, where appropriate, in accordance with the procedure set out in Article 9 of Regulation (EEC) No 3906/89, 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 scheme.

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.

Article 10

Budget procedure

1. The director shall establish each year a proposed draft budget for the Foundation covering running costs and the proposed operational programme for the following financial year and shall submit it to the governing board.

2. On this basis, the governing board shall, by 15 February at the latest, adopt a draft budget for the Foundation and submit it to the Commission.

3. The Commission shall assess the draft budget of the Foundation 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 countries of Central and Eastern Europe, the annual contribution for the budget of the Foundation to be included in the preliminary draft of the general budget of the European Communities.

4. The governing board, after receiving the advice of the Commission, shall adopt the budget of the Foundation at the beginning of each financial year, adjusting it to the several contributions granted to the Foundation and to its other resources.

Article 11

Budget implementation and control

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

2. The checking of the commitment and payment of all expenditure and the recording and recovery of all revenue of the Foundation will be undertaken by the financial controller appointed by the governing board on a proposal from the Commission.

3. By 31 March each year at the latest, the director shall submit to the Commission, the governing board and the Court of Auditors the detailed accounts of all revenue and expenditure from the previous financial year.

The Court of Auditors will examine these accounts in accordance with Article 206a of the Treaty.

4. The governing board shall give a discharge to the director in respect of the implementation of the budget.

Article 12

Financial rules

The governing board shall set down, following consultation of the Commission and the Court of Auditors, detailed financial rules specifying in particular the procedure for the establishment and implementation of the budget of the Foundation.

Article 13

Privileges and immunities

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

Article 14

Staff rules

The rules and regulations governing the statutory personnel of the Foundation, including the director, shall be analogous to those laid down in Council Regulation (ECSC, EEC, Euratom) No 1859/76 of 29 June 1976 laying down the conditions of employment of staff of the European Centre for the Development of Vocational Training [1], and shall be contained in a separate Regulation to be adopted by the Council on a proposal from the Commission.

[1] OJ No L 214, 6. 8. 1976, p. 1.

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

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 to Central and Eastern Europe in the training field, under arrangements to be laid down in agreements between the Community and themselves, following the procedure laid down in Article 228 of the Treaty.

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.

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.

It 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 1992.

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.

Done at Brussels, 7 May 1990.

For the Council

The President

G. COLLINS

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