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COUNCIL REGULATION (EEC) No 302/93
of 8 February 1993
on the establishment of a European Monitoring Centre for Drugs and Drug Addiction

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COUNCIL REGULATION (EEC) No 302/93

of 8 February 1993

on the establishment of a European Monitoring Centre for Drugs and Drug Addiction

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, at its meeting in Dublin on 25 and 26 June 1990, the European Council:

— ratified the 'Guidelines for a European Plan to Combat Drugs' submitted to it by the European Committee to Combat Drugs (Celad), and in particular the recommendation that 'a study be conducted by experts on the existing sources of information, their reliability and their usefulness, and on the need for and possible scope of a European Drugs Monitoring Centre and the financial implications of setting up such a Centre, on the understanding that the brief of this Centre would cover not only the social and health aspects but also other drugs-related aspects, including trafficking and repression',

— stressed that it was the responsibility of each Member State to develop an appropriate drug demand reduction programme and considered that effective action by each Member State, supported by joint action of the Twelve and the Community, should be a main priority over the coming years;

Whereas the findings of the feasibility study on the Centre and the European Plan to Combat Drugs submitted to the Rome European Council on 13 and 14 December 1990 should be borne in mind;

Whereas the European Council, at its meeting in Luxembourg on 28 and 29 June 1991, 'approved the setting up of a European Drugs Monitoring Centre on the understanding that the practical arrangements for its implementation, e.g. its size, institutional structure and computer systems, are still to be discussed and instructed Celad to continue work to that end and bring it rapidly to a successful conclusion, in liaison with the Commission and the other relevant political bodies';

Whereas the European Council, at its meeting in Maastricht on 9 and 10 December 1991, 'invited the institutions of the Community to employ all means to ensure that the act setting up the European Drugs Centre could be adopted before 30 June 1992';

Whereas the Community concluded, by Decision 90/611/EEC (4), the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, hereinafter referred to as the 'Vienna Convention', and deposited a declaration of competence regarding Article 27 thereof (5);

Whereas the Council adopted Regulation (EEC) No 3677/90 (6) for the implementation by the Community of the system provided for in Article 12 of the aforementioned Vienna Convention for monitoring trade in certain substances;

(1) OJ No C 43, 18. 2. 1992, p. 2.
(2) OJ No C 150, 15. 6. 1992, p. 54.
(3) OJ No C 223, 31. 8. 1992, p. 26.
(4) OJ No L 326, 24. 11. 1990, p. 56.
(5) OJ No L 326, 24. 11. 1990, p. 57.
(6) OJ No L 357, 20. 12. 1990, p. 1. Regulation, as amended by Regulation (EEC) No 900/92 (OJ No L 96, 10. 4. 1992, p. 1).

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Whereas the Council adopted Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering [1], which aims in particular to combat drug trafficking;

Whereas objective, reliable and comparable information concerning drugs, drug addiction and their consequences is required at Community level to help provide the Community and the Member States with an overall view and thus give them added value when, in their respective areas of competence, they take measures or decide on action to combat drugs;

Whereas the drug phenomenon comprises many complex and closely interwoven aspects which cannot easily be dissociated; whereas, therefore, the Centre should be entrusted with the task of furnishing overall information which will help to provide the Community and its Member States with an overall view of the drug and drug addiction phenomenon; whereas this task should not prejudice the allocation of powers between the Community and its Member States with regard to the legislative provisions concerning drug supply and demand;

Whereas the Centre's organization and working methods must be consistent with the objective nature of the results sought, namely the comparability and compatibility of sources and methods in connection with drug information;

Whereas the information compiled by the Centre will concern priority areas whose content, scope and implementing arrangements should be defined;

Whereas, during the first three-year period, special attention will be given to demand and demand reduction;

Whereas, in their resolution of 16 May 1989 concerning a European network of health data on drug abuse [2], the Council and the Ministers for Health of the Member States meeting within the Council invited the Commission to take possible initiatives in this area;

Whereas a European information network on drugs and drug addiction should be set up, to be coordinated and led at Community level by the European Drugs Monitoring Centre;

Whereas Convention 108 of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Date (1981) should be taken into account;

Whereas there already exist national, European and international organizations and bodies supplying information of this kind, and whereas the Centre should be able to carry out its tasks in close cooperation with them;

Whereas the Centre must have legal personality;

Whereas it is necessary to ensure that the Centre carries out its information task and to confer jurisdiction for this purpose on the Court of Justice;

Whereas it is desirable to recognize the possibility of opening the Centre to non-Community countries which share the interest of the Community and the Member States in the attainment of these objectives, under agreements to be concluded between them and the Community;

Whereas this Regulation could, if necessary, be adapted after a three-year period with a view to a decision on the possible extension of the Centre's tasks, taking into account, in particular, the evolution of Community powers;

Whereas, for the adoption of this Regulation the Treaty provides for no powers to act other than those laid down in Article 235,

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[1] OJ No L 166, 28. 6. 1991, p. 77.
[2] OJ No C 185, 22. 7. 1989, p. 1.

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HAS ADOPTED THIS REGULATION:

Article 1

Objective

1. This Regulation establishes the European Monitoring Centre for Drugs and Drug Addiction (EDMC), hereinafter referred to as 'the Centre'.

2. The Centre's objective is to provide, in the areas referred to in Article 4, the Community and its Member States with objective, reliable and comparable information at European level concerning drugs and drug addiction and their consequences.

3. The statistical, documentary and technical information processed or produced is intended to help provide the Community and the Member States with an overall view of the drug and drug addiction situation when, in their respective areas of competence, they take measures or decide on action.

4. The Centre may not take any measure which in any way goes beyond the sphere of information and the processing thereof.

5. The Centre shall not collect any data making it possible to identify individuals or small groups of individuals. It shall refrain from any transmission of information relating to specific named cases.

Article 2

Tasks

In order to achieve the objective set out in Article 1, the Centre shall perform the following tasks within its areas of activity:

A. *Collection and analysis of existing data*

It shall:

1. collect, register and analyse information, including data resulting from research, communicated by Member States as well as that emanating from Community, non-governmental national sources and competent international organizations;

2. carry out surveys, preparatory studies and feasibility studies, together with any pilot projects necessary to accomplish its tasks; organize meetings of experts and whenever necesssary set up *ad hoc* working parties for the purpose; it shall set up and make available open scientific documentation resources and assist in the promotion of information activities;

3. provide an organizational and technical system capable of supplying information on similar or complementary programmes or action pursued by the Member States;

4. establish and coordinate, in consultation and in cooperation with the competent authorities and organizations in the Member States, the network referred to in Article 5;

5. facilitate exchanges of information between decision-makers, researchers, specialists and those involved in combating drugs in governmental and non-governmental organizations;

B. *Improvement of data-comparison methods*

6. ensure improved comparability, objectivity and reliability of data at European level by establishing indicators and common criteria of a non-binding nature, compliance with which may be recommended by the Centre, with a view to greater uniformity of the measurement methods used by the Member States and the Community;

7. facilitate and structure exchange of information, in terms of both quality and quantity (databases);

C. *Dissemination of data*

8. make the information produced by it available to the Community, the Member States and competent organizations;

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9. ensure wide dissemination of work done in each Member State and by the Community itself, and, where appropriate, by non-Community countries or international organizations;

10. ensure wide dissemination of reliable non-confidential data, on the basis of data which it gathers it shall publish a yearly report on the state of the drugs problem;

D. *Cooperation with European and international bodies and organizations and with non-Community countries*

11. contribute to improving coordination between national and Community action in its areas of activity;

12. without prejudice to Member States' obligations with regard to transmission of information under the provisions of the United Nations Conventions on drugs, promote the incorporation of data on drugs and drug addiction gathered in the Member States or emanating from the Community into international monitoring and drug-control programmes, particularly those established by the United Nations Organization and its specialized agencies;

13. cooperate actively with the bodies referred to in Article 12.

Article 3

Work method

1. The Centre shall progressively carry out its tasks in the light of the objectives adopted in the three-year and annual work programmes and with due regard to the available resources.

2. In pursuing its activities, the Centre shall, in order to avoid duplication, take account of those already carried out by other existing or future institutions and agencies, notably the European Police Office (Europol), and shall ensure that it adds to their value.

Article 4

Priority areas of activity

The objectives and tasks of the Centre, as defined in Articles 1 and 2, shall be implemented following the order of priorities indicated in the Annex.

Article 5

European Information Network on Drugs and Drug Addiction (Reitox)

1. The Centre shall have at its disposal the European Information Network on Drugs and Drug Addiction (Reitox), a computer network forming the infrastructure for collecting and exchanging information and documentation; the network shall make use of, *inter alia,* an autonomous computer system linking the national drug information networks, the specialized centres in Member States and the information systems of the international or European organizations or bodies cooperating with the Centre.

2. In order to enable the network to be established as rapidly and efficiently as possible, the Member States shall, with in six months of the entry into force of this Regulation, notify the Centre of the main elements of their national information networks, including where appropriate the national monitoring centres, in the areas of activity mentioned in Article 4 and name any specialized Centres which in their judgment could make a useful contribution to the Centre's work.

3. The specialized centres shall be designated with the consent of the Member State in whose territory they are located, by a unanimous decision of the members of the management board, as referred to in the second subparagraph of Article 8 (2), for a period not exceeding the duration of each multiannual work programme as referred to in Article 8 (3). This designation shall be renewable.

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4. The Centre may, with the consent of the Member State in whose territory the centres are located, enter into contractual relations, in particular subcontracting arrangements, with governmental or non-governmental specialized centres as referred to in paragraph 3, in order to fulfil any tasks which it may wish to entrust to them. With the consent of the respective Member States, it may also enter into contracts, on an *ad hoc* basis and for specific tasks, with bodies which are not part of Reitox.

5. The allocation of specific tasks to the specialized centres shall appear in the Centre's multiannual programme mentioned in Article 8 (3).

Article 6

Protection and confidentiality of data

1. Where on the basis of this Regulation personal data which do not enable natural persons to be identified are also forwarded to the Centre in accordance with national law, such data may be used only for the stated purpose and under the conditions prescribed by the forwarding authority. This shall apply *mutatis mutandis* where personal data are communicated by the Centre to the competent authorities of the Member States or to international organizations and other European institutions.

2. Data on drugs and drug addiction provided to or by the Centre may be published subject to compliance with Community and national rules on the dissemination and confidentiality of information. Personal data may not be published or made accessible to the public.

3. Member States and the specialized centres shall be under no obligation to provide information classified as confidential under their national legislation.

Article 7

Legal status

The Centre shall have legal personality. It shall enjoy, in each Member State, the most extensive legal status granted to legal persons under their laws; in particular, it may purchase or dispose of movable and immovable property and may institute legal proceedings.

Article 8

Management Board

1. The Centre shall have a management board consisting of one representative from each Member State, two representatives from the Commission and two scientists particularly qualified in the field of drugs, designated by the European Parliament on the basis of their particular qualification in that field.

Each member of the management board may be assisted or represented by an alternative member. In the absence of the full member, the alternative member may exercise his right to vote. The management board may call in as non-voting observers representatives of international organizations with which the Centre cooperates in accordance with Article 12.

2. The chairman of the management board shall be elected by its members for a three-year period: his term of office shall be renewable once. The chairman shall take part in the voting. Each member of the management board shall have one vote.

The decisions of the management board shall be taken by a two-thirds majority of its members, except in the cases referred to in Article 5 (3), for which a unanimous decision by the members is required, and in paragraph 3 of this Article.

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The management board shall draw up its own rules of procedure.

The management board shall meet at least once a year.

3. The management board shall adopt a three-year work programme on the basis of a draft submitted by the Centre's Director, after consulting the Scientific Committee and seeking the opinions of the Commission and of the Council. The first three-year programme shall be adopted unanimously, within nine months of the entry into force of this Regulation. The management board, acting by a majority of three-quarters of its members, shall decide whether subsequent three-year programmes are to be adopted by the majority laid down in the second subparagraph of paragraph 2 of this Article or by unanimity.

4. Under the three-year work programme, the management board shall each year adopt the Centre's annual work programme on the basis of a draft submitted by the Director, after consulting the Scientific Committee and seeking the Commission's opinion. The programme may be adjusted in the course of the year in accordance with the same procedure.

5. By 31 January each year at the latest, the management board shall adopt an annual general report on the activities of the Centre. The Director shall forward this report to the European Parliament, the Council, the Commission and the Member States.

Article 9

Director

1. The Centre shall be headed by a Director appointed by the management board on a proposal from the Commission for a five-year period, which shall be renewable. The Director shall be responsible for:

— preparing and implementing the decisions and programmes adopted by the Centre's management board,

— day-to-day administration,

— preparing the Centre's work programmes,

— the preparation of a statement of revenue and expenditure and on the implementation of the budget,

— the preparation and publication of the reports provided for in this Regulation,

— all staff matters,

— performance of the tasks referred to in Article 1 and 2.

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

3. The Director shall be the Centre's legal representative.

Article 10

Scientific Committee

1. The management board and the Director shall be assisted by a Scientific Committee which shall deliver an opinion where provided for in this Regulation on any scientific matter concerning the Centre's activities which the management board or the Director may submit to it.

The opinions of the Scientific Committee shall be published.

2. The Scientific Committee shall consist of one representative from each Member State. The management board may appoint up to six other members having regard to their particular qualifications.

3. Members shall serve on the Scientific Committee for a three-year period, which shall be renewable.

4. The Scientific Committee shall elect its chairman for a three-year period.

5. The Scientific Committee shall be convened by its chairman at least once a year.

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Article 11

Budget

1. Estimates shall be drawn up of all the Centre's revenue and expenditure for each financial year, which shall correspond to the calendar year, and shall be entered in the Centre's budget.

2. By 15 February each year at the latest, the Director shall draw up a preliminary draft budget covering the operational expenditure and the programme of work anticipated for the following financial year, and shall forward this preliminary draft to the management board together with an establishment plan.

3. Revenue and expenditure shall be in balance.

4. 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 organizations and bodies and non-Community countries mentioned in Articles 12 and 13 respectively.

5. The Centre's expenditure shall include, *inter alia:*

— staff remuneration, administrative and infrastructure expenses, and operating costs,

— expenditure in support of the national information networks which form part of the Reitox network and expenditure relating to contracts with the specialized centres.

6. The management board shall adopt the draft budget and forward it to the Commission, which on that basis shall establish the relevant estimates in the preliminary draft general budget of the European Communities, which it shall put before the Council pursuant to Article 203 of the Treaty.

7. The management board shall adopt the Centre's final budget before the beginning of the financial year, adjusting it where necessary to the Community subsidy and the Centre's other resources.

8. The Director shall implement the budget.

9. Monitoring of the commitment and payment of all the Centre's expenditure and of the establishment and recovery of all the Centre's revenue shall be carried out by the Commission's financial controller.

10. By 31 March each year at the latest, the Director shall forward to the Commission, the management board and the Court of Auditors the accounts for all the Centre's revenue and expenditure in respect of the preceding financial year.

The Court of Auditors shall examine them in accordance with Article 206a of the Treaty.

11. The management board shall give a discharge to the Director in respect of the implementation of the budget.

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12. After receiving the opinion of the Court of Auditors, the management board shall adopt internal financial provisions laying down in particular the detailed rules for establishing and implementing the Centre's budget.

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Article 12

Cooperation with other organizations and bodies

Without prejudice to relations which the Commission may maintain pursuant to Article 229 of the Treaty, the Centre shall actively seek the cooperation of international organizations and other, particularly European, governmental and non-governmental agencies competent in the sector of drugs.

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Article 13

Non-Community countries

1. The Centre shall be open to the participation of those non-Community countries which share the Community's interests and those of its Member States in the Centre's objectives and work, on the basis of agreements entered into between them and the Community on the basis of Article 235 of the Treaty.

2. The management board may take a decision on the involvement of experts proposed by non-Community countries in the *ad hoc* working parties provided for in Article 2 (2), subject to an undertaking from the interested parties to observe the rules referred to in Article 6.

Article 14

Privileges and immunities

The Protocol on the Privileges and immunities of the European Communities shall apply to the Centre.

Article 15

Staff Regulations

The staff of the Centre shall be subject to the regulations and rules applicable to the officials and other servants of the European Communities.

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

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

Article 16

Liability

1. The contractual liability of the Centre shall be governed by the law applicable to the contract in question. The Court of Justice shall have jurisdiction pursuant to an arbitration clause contained in a contract concluded by the Centre.

2. In the case of non-contractual liability, the Centre shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by the Centre or its servants in the performance of their duties. The Court of Justice shall have jurisdiction in disputes relating to compensating for any such damage.

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

Article 17

Jurisdiction fo the Court of Justice

The Court of Justice shall have jurisdiction in actions brought against the Centre under the conditions provided for in Article 173 of the Treaty.

Article 18

Report

During the third year following the entry into force of this Regulation, the Commission shall forward to the European Parliament and to the Community a progress report on the Centre's activities, together with

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proposals, if appropriate, to modify or extend its tasks, taking into account, in particular, the evolution of Community powers.

Article 19

Entry into force

This Regulation shall enter into force on the day following the decision of the competent authorities on the seat of the Centre.

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

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ANNEX

A. The work of the Centre shall be carried out with due regard to the respective powers of the Community and its Member States in the area of drugs, as those powers are defined by the Treaty.

The information gathered by the Centre shall relate to the following priority areas:

1. demand and reduction of the demand for drugs;
2. national and Community strategies and policies (with special emphasis on international, bilateral and Community policies, action plans, legislation, activities and agreements);
3. international cooperation and geopolitics of supply (with special emphasis on cooperation programmes and information on producer and transit countries);
4. control of trade in narcotic drugs, psychotropic substances and precursors, as provided for in the relevant present or future international conventions and Community acts (1);
5. Implications of the drugs phenomenon for producer, consumer and transit countries, within areas covered by the Treaty, including money laundering, as laid down by the relevant present or future Community acts (2).

B. The Commission shall make available to the Centre, for dissemination, the information and statistical data which it possesses pursuant to its powers.

C. During the first three-year period special attention will be given to demand and demand reduction.

(1) — The relevant international conventions currently in force include, in particular, the United Nations Conventions, in so far as the Community is or could become party to them.

— The relevant Community acts currently in force include in particular Council Regulation (EEC) No 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain subtances to the illicit manufacture of narcotic drugs and psychotropic substances.

— This involves only information which the Member States are obliged to supply to the Commission on the basis of existing and future Community legislation.

(2) — Of the relevant Community acts currently in force the one concerning money laundering is the Council Directive of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering.

— This involves only information which the Member States are obliged to supply to the Commission on the basis of existing and future Community legislation.