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COUNCIL REGULATION (EC) No 2062/94
of 18 July 1994
establishing a European Agency for Safety and Health at Work

(OJ L 216, 20.8.1994, p. 1)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 1643/95 of 29 June 1995	L 156	1	7.7.1995
►**M2**	Council Regulation (EC) No 1654/2003 of 18 June 2003	L 245	38	29.9.2003
►**M3**	Council Regulation (EC) No 1112/2005 of 24 June 2005	L 184	5	15.7.2005

Amended by:

►**A1**	Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded	L 236	33	23.9.2003

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COUNCIL REGULATION (EC) No 2062/94
of 18 July 1994
establishing a European Agency for Safety and Health at Work

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European 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 safety, hygiene and health at work are among the priorities of an effective social policy;

Whereas the Commission has described the measures which it intends to take in this area in its programme concerning safety, hygiene and health at work ([4]), and in its action programme concerning the implementation of the Community Charter of Fundamental Social Rights for Workers;

Whereas, in its Resolution of 21 December 1987 on safety, hygiene and health at work ([5]), the Council welcomed the Commission communication on its programme concerning safety, hygiene and health at work and, *inter alia*, called on the Commission to examine ways of improving the exchange of information and experience in the field covered by the Resolution, particularly as regards the gathering and dissemination of data and the advisability of setting up Community machinery to study the repercussions at national level of Community measures in this field;

Whereas that Resolution also called for intensified cooperation with and between bodies active in this field;

Whereas the Council also stressed the fundamental importance of employers and workers being aware of the issues involved and having access to information if the measures advocated in the Commission's programme were to prove successful;

Whereas collection, treatment and analysis of detailed, reliable and objective scientific, technical and economic data are necessary in order to provide the Community bodies, the Member States and those involved in the field with the information to enable them to respond to all the requests addressed to them, to introduce essential measures for the protection of the health and safety of workers and to provide the persons concerned with adequate information;

Whereas there are already organizations in the Community and the Member States which provide this type of information and services;

Whereas, in order to obtain the maximum benefit at Community level from work already carried out by these organizations, it is appropriate to establish a network to form a European monitoring system for collecting information on health and safety at work, to be coordinated at Community level by a European Agency for Safety and Health at Work;

Whereas, in order to be able to respond more effectively to requests addressed to them, Community bodies, the Member States and those involved in the field should be able to have recourse to an Agency in order to obtain technical, scientific and economic data of use in the field of health and safety at work;

([1]) OJ No C 271, 16. 10. 1991, p. 3.
([2]) OJ No C 128, 9. 5. 1994.
([3]) OJ No C 169, 6. 7. 1992, p. 44.
([4]) OJ No C 28, 3. 2. 1988, p. 3.
([5]) OJ No C 28, 3. 2. 1988, p. 1.

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Whereas it is therefore appropriate to establish a European Agency for Safety and Health at Work responsible for assisting, *inter alia*, the Commission in carrying out tasks in the field of safety and health at work and, in that context, for contributing to the development of future Community action programmes relating to the protection of safety and health at work, without prejudice to the Commission's sphere of competence;

Whereas the Decision taken by common agreement between the Representatives of the Governments of the Member States, meeting at Head of State and Government level on 29 October 1993, on the location of the seats of certain bodies and departments of the European Communities and of Europol [1] stipulated that the Agency for Health and Safety at Work was to have its seat in Spain, in a town to be determined by the Spanish Government; whereas the Spanish Government has designated the city of Bilbao for that purpose;

Whereas the rules and structure of the Agency must be geared towards the objective nature of the results desired and should be such that it can carry out its work in cooperation with existing national Community and international bodies;

Whereas the Agency must be able to invite as observers representatives of third countries, of Community institutions and bodies and of international organizations which share the interests of the Community and the Member States in the aim of the Agency;

Whereas the Agency should have legal personality while maintaining close links with existing Community bodies and programmes, in particular with the European Foundation for the Improvement of Living and Working Conditions, in order to avoid any duplication;

Whereas it is important that the Agency have very close functional links with the Commission and the Advisory Committee on Safety, Hygiene and Health Protection at Work;

Whereas, with regard to its translations, the Agency will use the Translation Centre for the bodies of the European Union once the Centre becomes operational;

Whereas the general budget of the European Communities should contribute to the operation of the Agency; whereas the amounts deemed necessary are to be laid down under the annual budget procedure, in accordance with the financial estimates;

Whereas, for the adoption of this Regulation, the Treaty does not provide for powers other than those referred to in Article 235,

HAS ADOPTED THIS REGULATION:

Article 1

Establishment of the Agency

A European Agency for Safety and Health at Work, hereinafter referred to as the 'Agency', is hereby established.

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Article 2

Objective

In order to improve the working environment, as regards the protection of the safety and health of workers as provided for in the Treaty and successive Community strategies and action programmes concerning health and safety at the workplace, the aim of the Agency shall be to provide the Community bodies, the Member States, the social partners and those involved in the field with the technical, scientific and economic information of use in the field of safety and health at work.

[1] OJ No C 323, 30. 11. 1993, p. 1.

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Article 3

Role

1. For the purpose of achieving the aim described in Article 2, the Agency's role shall be to:

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(a) collect, analyse and disseminate technical, scientific and economic information in the Member States in order to pass it on to the Community bodies, Member States and interested parties; this collection shall take place to identify risks and good practices as well as existing national priorities and programmes and provide the necessary input to the priorities and programmes of the Community;

(b) collect and analyse technical, scientific and economic information on research into safety and health at work and on other research activities which involve aspects connected with safety and health at work and disseminate the results of the research and research activities;

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(c) promote and support cooperation and exchange of information and experience amongst the Member States in the field of safety and health at work, including information on training programmes;

(d) organize conferences and seminars and exchanges of experts from the Member States in the field of safety and health at work;

(e) supply the Community bodies and the Member States with the objective available technical, scientific and economic information they require to formulate and implement judicious and effective policies designed to protect the safety and health of workers; to that end, provide the Commission in particular with the technical, scientific and economic information it requires to fulfil its tasks of identifying, preparing and evaluating legislation and measures in the area of the protection of the safety and health of workers, notably as regards the impact of legislation on enterprises, with particular reference to small and medium-sized enterprises;

(f) establish, in cooperation with the Member States, and coordinate the network referred to in Article 4, taking into account the national, Community and international bodies and organizations which provide this type of information and services;

(g) collect and make available information on safety and health matters from and to third countries and international organizations (WHO, ILO, PAHO, IMO, etc.);

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(h) provide technical, scientific and economic information on methods and tools for implementing preventive activities, identify good practices and promote preventive actions, paying particular attention to the specific problems of small and medium-sized enterprises. With regard to good practices, the Agency should in particular focus on practices which constitute practical tools to be used in drawing up an assessment of the risks to safety and health at work, and identifying the measures to be taken to tackle them;

(i) contribute to the development of Community strategies and action programmes relating to the protection of safety and health at work, without prejudice to the Commission's sphere of competence;

(j) The Agency shall ensure that the information disseminated is comprehensible to the end users. To achieve this objective, the Agency shall work closely with the national focal points referred to in Article 4(1), in accordance with the provisions of Article 4(2).

2. The Agency shall work as closely as possible with the existing institutions, foundations, specialist bodies and programmes at Community level in order to avoid any duplication. In particular, the Agency shall ensure appropriate cooperation with the European Foundation for the Improvement of Living and Working Conditions, without prejudice to its own aims.

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Article 4

Network

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1. The Agency shall set up a network comprising:

— the main component elements of the national information networks, including the national social partners' organisations, according to national legislation and/or practice;

— the national focal points;

— any future topic centres.

2. The Member States shall regularly inform the Agency of the main components of their national health and safety at work information networks, including any institution which in their judgement could contribute to the work of the Agency, taking into account the need to ensure the fullest possible coverage of their territory.

The competent national authorities or a national institution designated by them as a national focal point shall coordinate and/or transmit the information to be supplied at national level to the Agency, in the framework of an agreement between each focal point and the Agency on the basis of the work programme adopted by the Agency.

The national authorities shall take into account the point of view of social partners at national level in accordance with national legislation and/or practice.

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3. The national authorities shall inform the Agency of the names of institutions established in their national territory which are able to cooperate with it on certain topics of particular interest and thus to act as topic centres of the network. The Agency shall have the power to conclude agreements with such institutions.

4. Topic centres for special tasks may form part of the network.

They shall be designated by the ►M3 Governing Board ◄ referred to in Article 8 for a limited and agreed period of time.

5. Topics of particular interest identified as well as the specific tasks of the topic centres shall be listed in the Agency's annual work programme.

6. In the light of experience gained, the Agency shall periodically re-examine the main component elements of the network as referred to in paragraph 2 and shall make such changes as may be decided on by the ►M3 Governing Board ◄, taking account of any new designations made by the Member States.

Article 5

Arrangements

1. In order to facilitate the operation of the network referred to in Article 4, the Agency may agree with the institutions designated by the ►M3 Governing Board ◄ pursuant to Article 4(4) upon the necessary arrangements, in particular contracts, for successfully carrying out the tasks which it may entrust to them.

2. Member States may provide, as regards the national institutions or organizations established in its territory, that such arrangements with the Agency shall be made in agreement with the national focal point.

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Article 6

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 Agency.

[1] OJ L 145, 31.5.2001, p. 43.

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2. The ►M3 Governing Board ◄ shall adopt the protocol arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of Conncil Regulation No 1654/2003 of 18 June 2003 amending Regulation (EC) No 2062/94 establishing a European Agency for Safety and Health at Work ([1]).

3. Decisions taken by the Agency 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 in Articles 195 and 230 of the Treaty respectively.

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Article 7

Legal personality

1. The Agency shall have legal personality.

2. It shall enjoy in all the Member States the most extensive legal capacity accorded to legal persons under their laws.

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Article 7a

Governing and management structures

The governing and management structure of the Agency shall comprise:

(a) a Governing Board;

(b) a Bureau;

(c) a Director.

Article 8

Governing Board

1. The Governing Board shall consist of:

(a) one member representing the Government from each Member State;

(b) one member representing the employers' organisations from each Member State;

(c) one member representing the employees' organisations from each Member State;

(d) three members representing the Commission.

2. The members referred to in points (a), (b) and (c) of paragraph 1 shall be appointed by the Council from the members and alternate members of the Advisory Committee on Safety and Health at Work.

The members referred to in paragraph 1(a) shall be appointed on a proposal from the Member States.

The members referred in paragraph 1(b) and (c) shall be appointed on a proposal by the respective groups' spokespersons on the Committee.

The proposals from the three groups within the Committee shall be submitted to the Council; the proposals shall also be forwarded to the Commission for information.

The Council shall at the same time appoint, under the same conditions as for the member, an alternate member to attend meetings of the Governing Board only in the absence of the member.

The Commission shall appoint the members and alternate members who are to represent it, taking into account a balanced representation of men and women.

When submitting the lists of candidates, the Member States, employers' organisations and employees' organisation shall endeavour to ensure that

([1]) OJ L 245, 29.9.2003, p. 38.

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the composition of the Governing Board fairly reflects the various economic sectors concerned and to ensure a balanced representation of men and women. These submissions shall take place within three months of the renewal of the membership of the Advisory Committee for Safety and Health at Work being renewed in accordance with the provisions of Articles 3(3) and (4) and 4(1) of Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work ([1]).

The list of the members of the Governing Board shall be published by the Council in the *Official Journal of the European Union* and by the Agency on its Internet site.

3. The term of office of members of the Governing Board shall be three years. It shall be renewable.

Exceptionally, the term of office of the members of the Governing Board who are in office on the day of the entry into force of this Regulation shall be extended until a new Governing Board has been appointed in accordance with the provisions of paragraph 2.

Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.

4. Within the Governing Board, the representatives of governments, employees' organisations and employers' organisations shall each form a group. Each group shall designate a coordinator who will take part in the meetings of the Governing Board. The coordinators of the employees' and employers' groups shall be representatives of their respective organisations at European level. Coordinators who are not appointed Board members within the meaning of paragraph 1 will take part in meetings without the right to vote.

The Governing Board shall elect its chair and three vice-chairs, one from each of the three groups referred to above and one from among the Commission representatives, to serve for a period of one year, which may be renewed.

5. The chair shall convene the Governing Board at least once a year. The chair shall convene additional meetings at the request of at least one-third of the members of the Governing Board.

6. All members of the Governing Board shall have one vote each and decisions shall be taken by an absolute majority. However, decisions in the framework of the annual work programme and with budgetary consequences for the national focal points shall also require the consent of the majority of the government group.

The Governing Board shall devise a written decision-making procedure, to which the first subparagraph shall apply *mutatis mutandis*.

7. The Governing Board, having received an opinion from the Commission, shall adopt its rules of procedure which shall lay down the practical arrangements for its activities. The rules of procedure, shall be transmitted for information to the European Parliament and the Council. However, within a period of three months of the rules of procedure being transmitted to it and acting by a simple majority, the Council may modify those rules.

8. The Governing Board shall establish a Bureau of 11 members. The Bureau shall be made up of the chair and the three vice-chairs of the Governing Board, one coordinator per group as referred to in the first subparagraph of paragraph 4, and one more representative of each group and of the Commission. Each group may designate up to three alternates to attend the meetings of the Bureau, in the absence of the full members.

9. Without prejudice to the responsibilities of the Director, as set out in Article 11, the Bureau shall, as delegated by the Governing Board,

([1]) OJ C 218, 13.9.2003, p. 1.

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monitor the implementation of the decisions of the Governing Board and take all necessary measures for the proper governing of the Agency between the Governing Board meetings. The Governing Board may not delegate to the Bureau the competences referred to in Articles 10, 13, 14 and 15.

10. The annual number of meetings of the Bureau shall be decided by the Governing Board. The chair of the Bureau shall convene additional meetings at the request of its members.

11. Decisions by the Bureau shall be taken by consensus. If no consensus can be reached, the Bureau shall refer the matter to the Governing Board for decision.

12. The Governing Board shall be fully and promptly informed on the activities of and the decisions taken by the Bureau.

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Article 9

Observers

The ►M3 Governing Board ◄ may, after consulting the Commission, invite representatives of non-member countries, of Community institutions and bodies and of international organizations as observers.

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The chair of the Governing Board and Director of the European Foundation for the Improvement of Living and Working Conditions shall have the option of attending meetings of the Governing Board as observers.

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Article 10

Annual work programme — Annual general report

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1. The Governing Board shall determine the strategic aims of the Agency. The Governing Board shall in particular adopt the budget, the four-year rolling programme and the annual programme on the basis of a draft drawn up by the Director referred to in Article 11, after consultation of the Commission services and the Advisory Committee on Safety and Health at Work.

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The programme may be adapted during the year using the same procedure.

The programme shall be adopted in accordance with the foregoing procedure and shall form part of a four-year rolling programme.

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2. The ►M3 Governing Board ◄ shall adopt the annual report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the European Economic and Social Committee, the Court of Auditors, the Member States and the Advisory Committee on Safety, Hygiene and Health Protection at Work.

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

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Article 11

The Director

1. The Agency shall be headed by a Director appointed by the ►M3 Governing Board ◄ on a proposal from the Commission for a period of five years, which shall be renewable.

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2. The Director shall be the legal representative of the Agency and shall be responsible for:

(a) the proper preparation and implementation of the decisions and programmes adopted by the Governing Board and the Bureau;

(b) the management and the day-to-day administration of the Agency;

(c) the preparation and publication of the report referred to in Article 10 (2);

(d) the performance of the tasks prescribed;

(e) all staff matters;

(f) the preparation of the Governing Board meetings and the Bureau meetings.

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3. The Director shall be accountable to the ►M3 Governing Board ◄ for his activities.

Article 12

Budget

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

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

3. The revenue of the Agency shall, without prejudice to other resources obtained from payments for services rendered by the Agency, consist of a subsidy from the Community entered in the general budget of the European Communities.

4. The expenditure of the Agency shall include, *inter alia*, staff remuneration, administrative and infrastructure expenses, operating costs and expenditure relating to contracts concluded with institutions or bodies in implementation of the work programme.

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Article 13

Draft estimate — Adoption of the budget

1. Each year the ►M3 Governing Board ◄, on the basis of a draft drawn up by the Director, shall produce an estimate of revenue and expenditure for the Agency for the following financial year. This estimate, which shall include a draft establishment plan, shall be forwarded by the ►M3 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 to the Council (hereinafter referred to as the 'budgetary authority') together with the preliminary draft general budget of the European Union.

3. 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.

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

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

5. The budget of the Agency shall be adopted by the ►M3 Governing Board ◄. It shall become final following final

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adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

6. The ►M3 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 budget authority has notified its intention to deliver an opinion, it shall forward its opinion to the ►M3 Governing Board ◄ within a period of six weeks from the date of notification of the project.

Article 14

Implementation of the budget

1. The Director shall implement the budget of the Agency.

2. 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 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 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 forwarded to the European Parliament and to the Council.

4. 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 submit them to the ►M3 Governing Board ◄ for an opinion.

5. The ►M3 Governing Board ◄ shall deliver an opinion on the Agency's final accounts.

6. The Director shall, by 1 July at the latest following each financial year, forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the ►M3 Governing Board ◄ 's opinion.

7. The final accounts shall be published.

8. The 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 ►M3 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.

Article 15

Financial regulation

The financial rules applicable to the Agency shall be adopted by the ►M3 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

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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 Agency's operation and with the Commission's prior consent.

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Article 16

Professional Secrecy

Members of the ►M3 Governing Board ◄, the Director, the staff and all other persons participating in the activities of the Agency shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

Article 17

Language arrangements

The language arrangements of the institutions of the Community shall apply to the Agency.

Article 18

Translation services

The translation services needed for the operation of the Agency shall be provided by the translation centre for the bodies of the Union once that centre becomes operational.

Article 19

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Agency.

Article 20

Staff

1. The staff of the Agency shall be subject to the Rules and Regulations applicable to officials and other servants of the European Communities.

2. The Agency shall exercise in respect of its staff the powers devolved to the Appointing Authority.

3. The ►M3 Governing Board ◄ shall, in agreement with the Commission, adopt the appropriate implementing rules.

Article 21

Liability

1. The Agency's contractual liability shall be governed by the law applicable to the contract in question.

The Court of Justice of the European Communities shall have jurisdiction to give judgment pursuant to an arbitration clause contained in a contract concluded by the Agency.

2. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by the Agency 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.

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

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

Article 22

Examination of legality

Member States, members of the ►M3 Governing Board ◄ and third parties directly and personally involved may refer to the Commission any act of the Agency, whether express or implied, for the Commission to examine the legality of that act.

Referral shall be made to the Commission within fifteen days of the day on which the party concerned first became aware of the act in question.

The Commission shall take a decision within one month. If no decision has been taken within this period, the case shall be deemed to have been dismissed.

Article 23

Review clause

No later than five years after the entry into force of this Regulation, on the basis of a Commission report, accompanied as appropriate by a proposal, the Council, having consulted the European Parliament, shall review this Regulation and any new assignment for the Agency that proves necessary.

Article 24

Entry into force of the Regulation

This Regulation shall enter into force on the 20th day following that of 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.

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Statement by Council and the Commission concerning the seat of the European Agency for Safety and Health at Work

On the occasion of the adoption of the Regulation establishing a European Agency for Safety and Health at Work, the Council and the Commission note that:

— the Representatives of the Member States, meeting at Head of State and Government level on 29 October 1993, decided that the European Agency for Safety and Health at Work was to have it seat in Spain, in a town to be determined by the Spanish Government;

— the Spanish Government has designated Bilbao as the seat of the Agency.