COUNCIL REGULATION (EC, Euratom, ECSC) No 2335/95

of 18 September 1995

amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities, with regard to the special provisions applicable to research and technological development appropriations

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78h thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 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 Court of Auditors [3],

Whereas the fourth framework programme of European Community activities in the field of research and technological development and demonstration (1994 to 1998) [4], adopted by the decision of the European Parliament and of the Council of 26 April 1994, introduced a new competitive approach for the Joint Research Centre (JRC), which means, amongst other things, that the JRC will gradually have to enter into competition with other bodies for the realization of certain projects financed by means of appropriations in the general budget, whether inside or outside the special subsection referred to in Article 92 (1) of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities [5], hereinafter referred to as 'the Financial Regulation';

Whereas this new competitive approach entails changes to certain provisions of the Financial Regulation so as to afford the JRC greater effectiveness in the management of its appropriations and thus enable it to compete with other similar centres;

Whereas, in this connection, the Commission should be given greater autonomy in this area for transferring appropriations;

Whereas appropriations obtained on a competitive basis should be treated as revenue from services for third parties so as to ensure total transparency in the accounts pertaining to such operations;

Whereas the Financial Regulation must be amended accordingly;

Whereas conciliation has taken place as provided in the Joint Declaration of the European Parliament, the Council and the Commission of 4 March 1975 [6] and in Article 127 of the Financial Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The Financial Regulation is hereby amended as follows:

1. in Article 92:

   (i) points (a), (b) and (e) in the second subparagraph of paragraph 1 shall be replaced by the following:

   '(a) direct action carried out in the establishments of the Joint Research Centre (JRC), in principle entirely financed from the general budget of the European Communities, and consisting of:

   — research programmes,

   — exploratory research activities,

   — scientific and technical support activities of an institutional nature;

   (b) indirect action consisting of programmes carried out under contracts to be concluded with third parties. The JRC may participate in these activities on the same basis as third parties. These activities shall in principle be partially financed from the general budget of the European Communities (shared-cost action projects);'

[1] OJ No C 237, 25. 8. 1994, p. 3.
[2] OJ No C 89, 10. 4. 1995, p. 212.
[3] OJ No C 383, 31. 12. 1994, p. 15.
[4] OJ No L 126, 19. 5. 1994, p. 1.
[5] OJ No L 356, 31. 12. 1977, p. 1. Regulation as last amended by Regulation (EC, Euratom, ECSC) No 2333/95 (see page 1 of this Official Journal).
[6] OJ No C 89, 22. 4. 1975, p. 1.

'(e) as regards other activities of a competitive nature carried out by the JRC:

— scientific and technical support activities under the R&TD framework programmes in principle entirely financed from the general budget,

— services for third parties.';

(ii) the following paragraphs shall be added:

'3. Notwithstanding paragraph 1, the JRC may receive funding covered by appropriations entered elsewhere than in the subsection referred to in that paragraph in respect of its participation on a competitive basis in activities implemented under Community policies financed, in principle, entirely from the general budget.

4. The provisions of Title IV on the conclusion of contracts shall apply to the cases referred to in the first indent of paragraph 1 (e) and in paragraph 3 of this Article.';

2. Article 93 (2) shall be replaced by the following:

'2. However, for the Joint Research Centre, appropriations for staff and appropriations for resources shall be entered in two separate chapters.';

3. the following subparagraphs shall be added to Article 94:

'In order to permit full comparison between forecasts and outturn, the table of equivalence of commitments and payments shall be presented with the same subdivisions and headings in the budget and in the revenue and expenditure account.

In the working document accompanying the preliminary draft budget, the Commission shall provide the necessary information concerning the foreseeable distribution and utilization of the commitment appropriations and the payment appropriations for the various budget headings for the duration of the action and also concerning development of the revenue originating from financing by third parties (public or private) and revenue from services for third parties.';

4. Article 95 shall be replaced by the following:

'*Article 95*

Notwithstanding Article 26 and without prejudice to paragraph 7 thereof, the Commission may, within the subsection referred to in Article 92, transfer appropriations from one title to another and from one chapter to another in respect of the activities referred to in Article 92 (1) (a).

These transfers may not have the effect of increasing or decreasing by more than 15 % in commitment appropriations and in payment appropriations the initial allocation entered in the budget for each of the programmes referred to in Article 92 (1) (a), excluding exploratory research. They may not have the effect of increasing the appropriations earmarked for exploratory research by more than 6 % in commitment appropriations and in payment appropriations of the initial allocation for the total of the programmes referred to above.

This special provision does not concern staff appropriations for the JRC.

For the purposes of the application of Article 26, the budget headings relating to the activities referred to in Article 92 (1) (b) (excluding JRC participation), (c) and (d) shall be regarded as chapters.';

5. the following paragraph shall be added to Article 96:

'4. The appropriations relating to the activities referred to in Article 92 (1) (b), as regards the participation of the JRC on a competitive basis, and (e) and (3) shall be treated as revenue from services to third parties provided for in paragraphs 1 and 2 of this Article.

The utilization of these appropriations shall be shown in a set of analytical accounts in the revenue and expenditure accounts for each category of action to which it relates; it shall be separate from revenue originating from financing by third parties (public or private) and from revenue from services provided for third parties in connection with the activities referred to in paragraphs 1 and 2 or activities of a different nature.'

Article 2

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

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

Done at Brussels, 18 September 1995.

For the Council

The President

P. SOLBES MIRA