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COUNCIL REGULATION (EC) No 2667/2000
of 5 December 2000
on the European Agency for Reconstruction

(OJ L 306, 7.12.2000, p. 7)

Amended by:

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►**M1**	Council Regulation (EC) No 2415/2001 of 10 December 2001	L 327	3	12.12.2001

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COUNCIL REGULATION (EC) No 2667/2000
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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) Assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia has been implemented essentially under Regulation (EC) No 1628/96 [2] and under Council Regulation (EC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe [3].

(2) Regulation (EC) No 1628/96, established the European Agency for Reconstruction.

(3) The Council adopted Regulation (EC) No 2666/2000 [4], which lays down a single legal framework for Community assistance to those countries and repeals Regulation (EC) No 1628/96.

(4) The provisions governing the establishment and operation of the European Agency for Reconstruction should therefore be adapted to Regulation (EC) No 2666/2000 and incorporated in a new Regulation, and the appropriate changes made at the same time.

(5) The Feira European Council of 19 and 20 June 2000 emphasised that the European Agency for Reconstruction, as an authority implementing the future CARDS programme, should be allowed to use its full potential in order to achieve the goals set by the Cologne European Council of 3 and 4 June 1999.

(6) The Treaty does not provide, for the adoption of this Regulation, powers other than those under Article 308,

HAS ADOPTED THIS REGULATION:

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Article 1

1. The Commission may delegate the following tasks to an Agency:

(i) implementation of Community assistance provided for in Article 1 of the Regulation (EC) No 2666/2000 to the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia;

(ii) implementation of Community assistance decided by the Commission on the basis of other available instruments for the countries concerned. In such cases this shall be done in accordance with the provisions of the relevant Regulations and Article 2(1)(b) and (c), Article 2(2), (3) and (4), Article 4 and Article 5(1)(a) to (c) and (h) of this Regulation shall not apply.

2. The European Agency for Reconstruction, hereinafter referred to as the 'Agency', shall be set up to that end with the aim of implementing the Community assistance referred to in paragraph 1.

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[1] Opinion delivered 15.11.2000 (Not yet published in the Official Journal).
[2] OJ L 204, 14.8.1996, p. 1. Regulation as amended by Regulation (EC) No 2454/1999 (OJ L 299, 20.11.1999, p. 1).
[3] OJ L 375, 23.12.1989, P. 11. Regulation as last amended by Regulation (EC) No 1266/1999 (OJ L 161, 26.6.1999, p. 68).
[4] See page 1 of this Official Journal.

▼B

Article 2

1. To achieve the objective laid down in the second subparagraph of Article 1, the Agency shall carry out the following tasks, within the limits of its powers and in accordance with the decisions taken by the Commission:

(a) gathering, analysing and communicating information to the Commission on:

(i) damage, the requirements for reconstruction and the return of refugees and displaced persons, and related initiatives taken by governments, local or regional authorities and the international community;

(ii) the urgent requirements of the communities concerned, taking account of the various population displacements and the possibilities for the return of those displaced;

(iii) the priority sectors and geographical areas requiring urgent assistance from the international community;

(b) preparing draft programmes for the reconstruction of the ►M1 Federal Republic of Yugoslavia and of the Former Yugoslav Republic of Macedonia ◄ and the return of refugees and displaced persons in accordance with guidelines provided by the Commission;

(c) implementing the Community assistance referred to in Article 1, wherever possible in cooperation with the local population and where necessary by drawing on the services of operators selected by tender. The Commission may accordingly make the Agency responsible for all operations required to implement the programmes referred to in (b), including:

(i) drawing up terms of reference;

(ii) preparing and evaluating invitations to tender;

(iii) signing contracts;

(iv) concluding financing agreements;

(v) awarding contracts, in accordance with the provisions of this Regulation;

(vi) evaluating draft programmes referred to in (b);

(vii) checking implementation of the draft programmes referred to in (b);

(viii) effecting payments.

2. The Board of Management referred to in Article 4 shall be kept informed on the implementation of the tasks listed in paragraph 1. It shall where necessary adopt recommendations which shall be communicated to the Commission and brought to the attention of the CARDS Committee set up by Article 10 of Regulation (EC) No 2666/2000.

3. Without prejudice to any operations cofinanced in the framework of the responsibilities entrusted to the Agency under Article 1, the Agency may implement reconstruction programmes, programmes for the restoration of civil society and the rule of law and programmes providing aid for the return of refugees and displaced persons which the Member States and other donors entrust to it, *inter alia* under the arrangements for cooperation established by the Commission with the World Bank, international financial institutions and the European Investment Bank (EIB).

Such implementation shall be subject to the following conditions:

(a) the financing must be provided in full by the other donors;

(b) the financing must cover any associated administrative costs;

(c) the duration thereof must be compatible with the deadline for winding up the Agency set in Article 14.

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4. The Commission may also entrust the Agency with following up (including monitoring, evaluation and auditing) decisions regarding support for the United Nations Interim Mission in Kosovo (UNMIK) taken within the framework of Regulation (EC) No 1080/2000 [1].

Article 3

The Agency 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 be a party to legal proceedings. The Agency shall be non-profit-making.

The Agency may establish operational centres with a considerable degree of management autonomy.

The Agency's general services shall be located at its seat in Thessaloniki.

Article 4

1. The Agency shall have a Governing Board composed of one representative from each Member State and two representatives of the Commission.

2. The Member State representatives shall be appointed by the Member State concerned, paying due regard to experience and qualifications relevant to the Agency's activities.

3. The term of office of representatives shall be thirty months.

4. The Governing Board shall be chaired by a Commission representative. The Chairman shall not vote.

5. The EIB shall appoint a non-voting observer.

6. The Governing Board shall adopt its rules of procedure.

7. The Commission and Member State representatives on the Governing Board shall each have one vote.

Governing Board decisions shall be adopted by a two-thirds majority.

8. The Governing Board shall determine by unanimous decision the rules governing the languages used by the Agency.

9. The Governing Board shall be convened by the Chairman whenever necessary, and at least once every three months. It shall also be convened at the request of the Agency's Director or at least a simple majority of its members.

10. The Governing Board shall be kept informed by the Director of the strategy framework, the multiannual programme and the annual action programme referred to in Article 3(1) of Regulation (EC) No 2666/2000, which shall include Community assistance to the ►M1 Federal Republic of Yugoslavia and to the Former Yugoslav Republic of Macedonia ◄ as well as the list of projects to be implemented.

11. The Director shall regularly report to the Governing Board on the progress of implementation of projects. The Governing Board may then approve recommendations concerning:

(a) conditions for implementation and proper execution of projects

(b) possible adjustments to projects currently being executed

(c) individual projects which may be particularly sensitive.

12. The Director shall regularly report to the Governing Board on the functioning and activities of the operational centres set up in accordance with Article 3. The Governing Board may approve recommendations to this effect.

[1] OJ L 122, 24.5.2000, p. 27.

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13. On a proposal from the Director, the Governing Board shall decide on:

(a) arrangements for evaluating the implementation and proper execution of projects;

(b) proposals for programmes by the other donors referred to in Article 2(3) for possible implementation by the Agency;

(c) setting the multiannual contractual framework with the provisional authority responsible for the administration of Kosovo, for implementation of the Community assistance referred to in Article 1(3) of Regulation (EC) No 2666/2000;

(d) whether representatives of the countries and organisations delegating implementation of their programmes to the Agency should be present as observers on the Governing Board;

(e) the establishment of new operational centres in accordance with the second subparagraph of Article 3.

14. The Governing Board shall present a draft annual report to the Commission by 31 March each year at the latest on the Agency's activities in the previous year and how they were financed.

The Commission shall adopt the annual report and submit it to the European Parliament and the Council.

Article 5

1. The Director of the Agency shall be appointed by the Governing Board on a proposal from the Commission for a term of office of thirty months. The term of office may be terminated by the same procedure.

The Director shall be responsible for:

(a) preparing the draft annual action programme referred to in Article 4(1)(b) of Regulation (EC) No 2666/2000 and its implementation;

(b) preparation and organisation of the work of the Governing Board and regularly informing the Board;

(c) informing the Governing Board of invitations to tender, procurement and contracts;

(d) day-to-day administration of the Agency;

(e) preparation of the statement of revenue and expenditure and execution of the Agency's budget;

(f) preparation and publication of the reports specified in this Regulation;

(g) all staff matters;

(h) implementation of the Governing Board's decisions and guidelines laid down for the Agency's activities.

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 Agency.

4. The Director shall hold the power of Appointing Authority.

5. The Director shall present a quarterly activity report to the European Parliament.

Article 6

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

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

3. The Agency's revenue shall comprise, without prejudice to other types of income, a subsidy from the general budget of the European

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Union, payments made as remuneration for services performed and funding from other sources.

4. The budget shall also include details of any funds made available by the recipient countries themselves for projects receiving financial assistance from the Agency.

Article 7

1. The Director shall establish each year a draft budget for the Agency covering administrative expenditure and operational expenditure for the following financial year, and shall submit it to the Governing Board.

2. On this basis, the Governing Board shall adopt a draft budget for the Agency by 15 February of each year at the latest, and shall submit it to the Commission.

3. The Commission shall assess the draft budget of the Agency having regard to the priorities it has established and the overall financial guidelines for Community assistance for the reconstruction of the ►M1 Federal Republic of Yugoslavia and of the Former Yugoslav Republic of Macedonia ◄.

It shall establish, on this basis and within the proposed limits of the overall amount to be made available for Community assistance to the ►M1 Federal Republic of Yugoslavia and to the Former Yugoslav Republic of Macedonia ◄, the indicative annual contribution to the Agency budget to be included in the preliminary draft general budget of the European Union.

4. The Governing Board, after receiving the opinion of the Commission, shall adopt the budget of the Agency at the beginning of each financial year, adjusting it to the various contributions granted to the Agency and to funds from other sources. The budget shall also specify the number, grade and category of staff employed by the Agency during the financial year in question.

5. For reasons of budgetary transparency, funds from sources other than the Community budget shall be entered separately in the Agency's revenue. In the expenditure section, administrative and staff costs shall be clearly separated from the operational costs of the programmes referred to in the first subparagraph of Article 2(3).

Article 8

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

2. The competent departments of the Commission shall be responsible for financial checks.

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 shall examine the accounts in accordance with Article 248 of the Treaty. It shall publish a report on the Agency's activities every year.

4. On a recommendation from the Council, the European Parliament shall give a discharge to the Director in respect of the implementation of the Agency's budget.

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Article 9

The Governing Board, having received the agreement of the Commission and the opinion of the Court of Auditors, shall adopt the Agency's Financial Regulation, specifying in particular the procedure to be used for drawing up and implementing the Agency's budget, in accordance with Article 142 of the Financial Regulation of the Council of 21 December 1977 applicable to the general budget of the European Communities ([1]).

Article 10

The Agency's staff shall be subject to the rules and regulations applicable to officials and other servants of the European Communities. The Governing Board, in agreement with the Commission, shall adopt the necessary implementing rules.

The Agency's staff shall consist of a strictly limited number of officials assigned or seconded by the Commission or Member States to carry out management duties. The remaining staff shall consist of other employees recruited by the Agency for a period strictly limited to its requirements.

Article 11

The translation services necessary for the operation of the Agency shall, as a rule, be provided by the Translation Centre of the bodies of the European Union.

Article 12

The Governing Board shall decide on the Agency's accession to the Interinstitutional Agreement on internal investigations by the European Anti-Fraud Office (OLAF). It shall adopt the provisions necessary for the conduct of internal investigations by OLAF.

Financing decisions and any implementing instrument or contract arising therefrom shall expressly provide that the Court of Auditors and OLAF may, if necessary, carry out on-the-spot checks on recipients of Agency funds and on the intermediaries distributing them.

Article 13

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

2. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to 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.

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

Article 14

Once the Commission considers that the Agency has fulfilled the mandate described in Article 1, it shall submit to the Council a proposal for the winding up of the Agency. In any event, on 30 June 2004 at the latest, the Commission shall submit to the Council an evaluation report on the application of this Regulation and a proposal on the status of the Agency.

Article 15

The Commission may delegate to the Agency the execution of the Community assistance decided upon for the ►**M1** Federal Republic of

([1]) OJ L 356, 31.12.1977, p. 1.

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Yugoslavia and for the Former Yugoslav Republic of Macedonia ◄ under Regulation (EC) No 1628/96.

Article 16

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

It shall apply until 31 December 2004.

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