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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:

		Official Journal		
		No	page	date
►M1	Council Regulation (EC) No 2415/2001 of 10 December 2001	L 327	3	12.12.2001
►M2	Council Regulation (EC) No 1646/2003 of 18 June 2003	L 245	16	29.9.2003
►M3	Council Regulation (EC) No 2068/2004 of 29 November 2004	L 358	2	3.12.2004
►M4	Council Regulation (EC) No 389/2006 of 27 February 2006	L 65	5	7.3.2006
►M5	Council Regulation (EC) No 1756/2006 of 28 November 2006	L 332	18	30.11.2006

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COUNCIL REGULATION (EC) No 2667/2000

of 5 December 2000

on the European Agency for Reconstruction

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 ►M3 to Serbia and Montenegro ◄ 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)

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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.

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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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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 ►M1 ►M3 Serbia and Montenegro ◄ 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

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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.

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]).

4. La Commission peut également charger l'Agence du suivi, notamment le contrôle, l'évaluation et l'audit, des décisions concernant le soutien à la Mission intérimaire des Nations unies pour le Kosovo (MINUK), prises dans le cadre du règlement (CE) nº 1080/2000 ([2]).

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5. The Commission may entrust the Agency with the implementation of assistance for encouraging the economic development of the Turkish Cypriot community within the framework of Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Regulation (EC) No 2667/2000 on the European Agency for Reconstruction ([3]).

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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.

([1]) OJ L 122, 24.5.2000, p. 27.
([2]) JO L 122 du 24.5.2000, p. 27.
([3]) OJ L 65, 7.3.2006, p. 5.

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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 ►M1 ►M3 to Serbia and Montenegro ◄ 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.

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.

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14. The 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 and the Court of Auditors.

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

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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.

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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;

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

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(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 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.

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Article 7

1. Each year, the 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 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 the Council (hereinafter referred to as the budgetary authority) together with the preliminary draft general budget of the European Union.

3. The Commission shall examine the estimate, taking account of the priorities it has agreed and the overall financial guidelines for

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Community assistance for the reconstruction of Serbia and Montenegro and the Former Yugoslav Republic of Macedonia.

It shall establish on this basis, within the proposed limits of the overall amount to be made available for Community assistance to Serbia and Montenegro and the Former Yugoslav Republic of Macedonia, the indicative annual contribution for the budget of the Agency.

4. 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.

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

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

6. The budget of the Agency shall be adopted by the Governing Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

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

8. In the interests of budgetary transparency, funds from sources other than the general budget of the European Union shall be shown separately in the Agency's revenue. In the expenditure, administrative and staff costs shall be clearly separate from operating costs for the programmes referred to in the first indent of Article 2(3).

Article 8

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 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 Governing Board for an opinion.

5. The Director shall, by 1 July at the latest following each financial year, forward the final accounts to the European Parliament, the

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Council, the Commission and the Court of Auditors, together with the Governing Board's opinion.

6. The Governing Board shall deliver an opinion on the Agency's final accounts.

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 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 9

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

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

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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.

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Article 13a

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.

2. The Governing Board shall adopt the arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of Council Regulation (EC) No 1646/2003 of 18 June 2003 amending Regulation (EC) No 2667/2000 on the European Agency for Reconstruction [2].

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 14

By 31 December 2005 the Commission shall report to the Council on the future of the mandate of the Agency. Any proposal to extend the mandate of the Agency beyond 31 December 2006 should be made by the Commission to the Council by 31 March 2006.

Article 15

The Commission may delegate to the Agency the execution of the Community assistance decided upon for Serbia and Montenegro and for the former Yugoslav Republic of Macedonia under Regulation (EC) No 1628/96.

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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 ►M5 31 December 2008 ◄.

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[1] OJ L 145, 31.5.2001, p. 43.
[2] OJ L 245, 29.9.2003, p. 16.

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