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COUNCIL REGULATION (EC) No 1321/2004

of 12 July 2004

on the establishment of structures for the management of the European satellite radio-navigation programmes

(OJ L 246, 20.7.2004, p. 1)

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COUNCIL REGULATION (EC) No 1321/2004

of 12 July 2004

on the establishment of structures for the management of the European satellite radio-navigation programmes

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) The European satellite radio-navigation policy is presently implemented through the EGNOS and Galileo programmes.

(2) Galileo is the first European space programme to be financed and managed by the European Union in association with the European Space Agency (ESA). It is expected to contribute to the development of numerous applications in areas that are associated, directly or indirectly, with Community policies, such as transport (positioning and measurement of the speed of moving bodies), insurance, motorway tolls, law enforcement (surveillance of suspects, measures to combat crime), customs and excise operations (investigations on the ground, etc.), agriculture (grain or pesticide dose adjustments depending on the terrain, etc.), fisheries (monitoring of boat movements).

(3) EGNOS is a tripartite programme between the European Community, the ESA and Eurocontrol aiming at augmenting the American GPS and Russian GLONASS signals for reliability purposes on a broad geographical area. It is independent from and complementary to Galileo.

(4) The conclusions of the European Council in Cologne (3 and 4 June 1999), Feira (19 and 20 June 2000), Nice (7 to 11 December 2000), Stockholm (23 and 24 March 2001, Laeken (14 and 15 December 2001), Barcelona (15 and 16 March 2002) and Brussels (20 and 21 March 2003) have stressed the strategic nature of Galileo.

(5) Given the strategic nature of the European satellite radio-navigation programmes and the need to ensure that essential public interests are adequately defended and represented, it is imperative to supervise the next phases of the system and the use of Community funds allocated to the programmes in accordance with the relevant political orientations of the Council and financial decisions of the budgetary authorities; ►C1 a Supervisory Authority for the European Global Navigation Satellite System (GNSS) (hereinafter referred to as the Authority) should therefore be set up. ◄

(6) On a number of occasions, and particularly in its conclusions of 5 April 2001 and 26 March 2002, the Council underlined that substantial private sector participation is a fundamental element for the success of Galileo in its deployment and operational phases.

[1] Opinion delivered on 31 March 2004 (not yet published in the Official Journal).

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(7) To this end, the Authority should conclude a concession contract with whichever consortium is selected on completion of the development phase of Galileo and take steps to ensure compliance by that consortium with the obligations — in particular the public service obligations — arising from the concession contract.

(8) The Authority should be the concession holder's sole interlocutor on the matter of frequencies.

(9) In parallel, Member States that have lodged files with the International Telecommunication Union on the use of the frequencies necessary to ensure the operation of the system should also allow the Authority to assign the right to use thereof to the concession holder for the duration of the concession, so as to enable the latter to provide the requisite services stipulated in the specifications.

(10) The Authority should be responsible for managing and controlling the use of the funds specifically allocated to it for the programmes.

(11) The Authority should assist the Commission in matters involving satellite radio-navigation, particularly in cases where legislative and regulatory measures prove necessary.

(12) The Authority should utilise ongoing research, development and technological assessment activities, in particular those carried out by ESA. Taking into account Council Resolution of 16 November 2000 on a European space strategy ([1]), cooperation with the ESA should exploit to the fullest the possibilities offered by the Framework Agreement between the European Community and the ESA, where relevant.

(13) The Authority should protect and valorise Community investment already done on space technology and infrastructure.

(14) Following its dissolution, the Galileo Joint Undertaking should transfer, according to the relevant rules of its Statutes, all property it has acquired to the Authority. All property developed by the concession holder during the deployment phase should be vested in the Authority unless otherwise agreed in advance, as the programme definition, development and validation phases have been financed almost entirely from public funds and all components thus developed should be put at the disposal of the concession holder.

(15) The legal status of the Authority should be such as to enable it to act as a legal person in the discharge of its tasks.

(16) In order to ensure effectively the accomplishment of the tasks of the Authority, the Member States and the Commission should be represented on an Administrative Board entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedure for decision making by the Authority, approve its work programme and appoint the Executive Director.

(17) The smooth functioning of the Authority requires that its Executive Director be appointed on the grounds of merit and documented administrative and managerial skills, as well as relevant competence and experience, and that he/she performs his/her duties with complete independence and flexibility as to the organisation of the internal functioning of the Authority. The Executive Director should prepare and take all necessary steps to ensure the proper accomplishment of the working programme of the Authority, should prepare each year a draft general report to be submitted to the Administrative Board, should draw up a draft

([1]) OJ C 371, 23.12.2000, p. 2.

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statement of estimates of revenues and expenditure of the Authority and should implement the budget.

(18) Procedures whereby office-holders are appointed should be transparent.

(19) The Administrative Board should have the possibility to set up a Scientific and Technical Committee to assist the Authority in technical questions and in the modernisation of the system.

(20) A System Safety and Security Committee should be established to assist the Authority on all aspects relating to the system's safety and security.

(21) In order to guarantee the full autonomy and independence of the Authority, it is considered necessary to grant it an autonomous budget whose revenue comes essentially from a contribution from the Community. The Community budgetary procedure remains applicable as far as any subsidies chargeable to the general budget of the European Union are concerned. Moreover, the Court of Auditors should undertake the auditing of accounts.

(22) Within its scope, its objectives and in the performance of its tasks, the Authority should comply in particular with the provisions applicable to Community institutions.

(23) The Authority should apply the relevant Community legislation concerning public access to documents and the protection of individuals with regard to the processing of personal data, it should also comply with the security principles applicable to the Council and the Commission services.

(24) It should be possible for third countries to participate in the Authority, provided they have concluded a prior agreement to this effect with the Community, particularly when these countries have been involved in the previous phases of the programme through their contribution to the Galileosat programme of the ESA.

(25) The European GNSS should be regarded as a sensitive infrastructure in terms of safety and reliability.

(26) Measures should be put in place to ensure the safety and reliability of the system against attacks (malicious or otherwise) and to prevent its use for purposes that could affect the security of the European Union or its Member States.

(27) The procedure set out in Council Joint Action 2004/552/CFSP of 12 July 2004 on aspects of the operation of the European satellite radio-navigation system affecting the security of the European Union [1] should be applicable in cases where a Member State considers that its national security is under threat.

(28) The Treaty provides for no powers, other than those in Article 308 thereof, for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Aim and objective

This Regulation sets up a Community agency, called the European GNSS Supervisory Authority (hereinafter referred to as the Authority), to manage the public interests relating to, and to be the regulatory authority for the European GNSS programmes.

[1] See page 30 of this Official Journal.

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Article 2

Tasks

1. The Authority shall carry out the following tasks:

(a) It shall be the licensing authority vis-à-vis the private concession holder responsible for implementing and managing the Galileo deployment and operating phases (hereinafter referred to as the concession holder); in this context, it shall conclude with the latter the concession contract; it shall ensure that the concession holder complies with the concession contract and the specifications annexed thereto and shall take all appropriate measures to ensure the continuity of services in case of default of the concession holder; it shall grant the concession holder the right to use the tangible and intangible assets referred to in Article 3(1) for the duration of the concession.

(b) It shall manage the funds specifically allocated to it for the European GNSS programmes and monitor the overall financial management in order to advise on the public sector contributions.

(c) It shall be entrusted with the responsibility — inherited from the Galileo Joint Undertaking — of managing the agreement with the economic operator charged with operating EGNOS and of presenting a framework on the future policy options concerning EGNOS, with due regard to the opinion of those parties who contributed to the funding of the development and deployment phases of EGNOS.

(d) It shall coordinate Member States' actions in respect of the frequencies necessary to ensure the operation of the system; it shall hold the right to use all these frequencies wherever the system is located; it shall deal directly with the concession holder on matters relating to the use of these frequencies.

(e) In order to assist the Commission in preparing proposals for the European GNSS programmes to be presented to the European Parliament and to the Council and in adopting the implementing rules, it shall prepare drafts thereof.

(f) It shall be responsible for the modernisation and development of new generations of the system.

(g) It may accomplish such budgetary implementation tasks as are entrusted to it by the Commission and that are linked to the European GNSS programmes in accordance with Article 54(2)(b) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ([1]).

(h) It shall ensure that the components of the system are duly certified; it shall empower the appropriate authorised certification bodies for issuing the relevant certificates and monitoring the respect of related standards and technical specifications.

(i) It shall enforce and verify compliance by the concession holder with instructions issued pursuant to Joint Action 2004/552/CFSP.

(j) Without prejudice to Article 22, it shall manage all aspects relating to the system's safety and security. In particular, it shall:

(i) approve the security annexes of industrial contracts;

(ii) define the security specifications of the system and its components, and the standards of security for information techniques;

([1]) OJ L 248, 16.9.2002, p. 1.

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(iii) define the cryptography which requires governmental approval;

(iv) ensure that the European GNSS signals/services are controlled in compliance with security criteria, as specified in (i) and (ii);

(v) be the European GNSS security accreditation authority, initiate and monitor the implementation of security procedures and perform system security audits;

(vi) regarding the Public Regulated Service (PRS):

— define the specifications and instructions for manufacturing PRS receivers, in accordance with the policy of access to PRS defined by the Council,

— provide guidelines for the implementation of PRS management rules in the Member States;

(vii) enforce and verify compliance by the concession holder with international rules and agreements (Wassenaar, Missile Technology Control Regime, international agreements, …);

(viii) implement the relevant provisions for the exchange, handling and storage of classified information;

(ix) develop coordination and consultation procedures on security-related matters with the Secretary-General of the Council of the European Union, High Representative for the Common Foreign and Security Policy (SG/HR);

(x) identify and inform the Council of possible measures that could be taken by the Council in the event of a threat to the security of the European Union or of a Member State arising from the operation or use of the system, or in the event of a threat to the operation of the system, in particular as the result of an international crisis;

(xi) give advice to the Council when invited to do so under Joint Action 2004/552/CFSP;

(xii) give advice on security policy issues in international agreements related to the European GNSS programmes.

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(k) with a view to the completion of the development phase of the Galileo programme, it shall take over, no later than at the end of the duration of the Galileo Joint Undertaking, the tasks assigned to the latter by Articles 2, 3 and 4 of the Annex to Regulation (EC) No 876/2002 ([1]). It shall, where appropriate and acting in accordance with a decision by the Administrative Board of the Galileo Joint Undertaking, attend to the proceedings involved in the winding up of the Joint Undertaking after 31 December 2006.

(l) it shall carry out all research of benefit to the development and promotion of the European GNSS programmes.

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2. The ESA shall be requested to provide the Authority with technical and scientific support.

Article 3

Ownership

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1. From the end of the duration of the Galileo Joint Undertaking, as referred to in Article 1 of the Regulation (EC) No 876/2002 and in Article 20 of its Annex, the Authority shall be the owner of all the

([1]) OJ L 138, 28.5.2002, p. 1.

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tangible and intangible assets created or developed during the entire development phase, including those owned by the Galileo Joint Undertaking in accordance with Article 6 of the Annex of that Regulation and those created or developed by the European Space Agency and by entities given responsibility by the latter or by the Galileo Joint Undertaking for activities for the development of the programme.

2. The Authority shall be the owner of all the tangible and intangible assets created or developed by the concession holder during the deployment and operation phases, including those created or developed by its subcontractors or by undertakings under its control or by their subcontractors.

3. Ownership rights shall cover all intellectual property rights within the meaning of Article 1(1) of Commission Regulation (EC) No 772/2004 of 27 April 2004 on the application of Article 81(3) of the Treaty to categories of technology transfer agreements [1] as well as all property rights within the meaning of Article 2 of the Convention of the 14th July 1967 establishing the Intellectual Property World Organisation, and in particular trade mark rights.

4. The modalities for the transfers of the tangible and intangible assets owned by the Galileo Joint Undertaking in accordance with Article 6 of the Annex to Regulation (EC) No 876/2002, will be established during the winding-up proceeding as laid down in Article 21 of the Annex of that Regulation.

5. The agreement concluded between the Authority and European Space Agency (ESA), in accordance with Article 3 of the Annex to Regulation (EC) No 876/2002, can foresee the modalities of exercise, by ESA on behalf of the Authority, of the right of ownership granted to the Authority by Paragraph 1.

6. The concession contract can foresee the modalities of exercise by the concession holder, on behalf of the Authority, of the right of ownership granted to the Authority by Paragraph 1.

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►M1 7. ◄ The Authority shall be the owner of all the tangible and intangible EGNOS assets subject to agreement with the EGNOS investors on the terms and conditions on the transfer from ESA of ownership of all or part of the EGNOS facilities and equipment.

Article 4

Legal status, local offices

1. The Authority shall be a body of the Community. It shall have legal personality.

2. In each of the Member State, the Authority shall enjoy the most extensive legal capacity accorded to legal persons under their law. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

3. The Authority may decide to establish local offices in Member States subject to their consent, or in other countries participating to the programme in accordance with Article 21.

4. The Authority shall be represented by its Executive Director.

[1] OJ L 123, 27.4.2004, p. 11.

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Article 5

Administrative Board

1. An Administrative Board is hereby set up to carry out the tasks listed in Article 6.

2. The Administrative Board shall be composed of one representative appointed by each Member State and one representative appointed by the Commission. The duration of the term of office of the Board members shall be five years. The term of office may be renewed once.

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A representative of the SG/HR and a representative of the ESA shall attend the Board meetings as observers.

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3. When appropriate, the participation of representatives of third countries and the conditions thereof shall be established in the arrangements referred to in Article 21.

4. The Administrative Board shall elect a Chairperson and a Deputy Chairperson from among its members. The Deputy Chairperson shall automatically take the place of the Chairperson if he/she is prevented from attending to his/her duties. The term of office of the Chairperson and of the Deputy Chairperson shall be two and a half years and shall expire when they cease to be members of the Administrative Board. The terms of office may be renewed once.

5. The meetings of the Administrative Board shall be convened by its Chairperson.

The Executive Director of the Authority shall take part in the deliberations.

The Administrative Board shall hold an ordinary meeting twice a year. In addition, it shall meet on the initiative of its Chairperson or at the request of at least a third of its members.

The Administrative Board may invite any person whose opinion can be of interest to attend its meetings as an observer. Where security issues are being discussed, a representative of the SG/HR and the Chairperson of the System Safety and Security Committee shall attend as observers. The members of the Administrative Board may, subject to the provisions of its rules of procedure, be assisted by advisers or experts.

The secretariat of the Administrative Board shall be provided by the Authority.

6. Unless otherwise provided in this Regulation, the Administrative Board shall take its decisions by a two-thirds majority of its members.

7. Each member shall have one vote. The Executive Director of the Authority shall not vote.

The rules of procedure shall establish the more detailed voting arrangements, in particular the conditions for a member to act on behalf of another member.

Article 6

Tasks of the Administrative Board

The Administrative Board shall:

(a) appoint the Executive Director pursuant to Article 7(2);

(b) adopt, by 30 November each year and after receiving the Commission's opinion, the work programme of the Authority for the coming year and forward it to the Member States, the European Parliament, the Council and the Commission. This work programme

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shall be adopted without prejudice to the annual Community budgetary procedure;

(c) perform its duties in relation to the Authority's budget pursuant to Articles 11 and 12;

(d) be responsible for all decisions related to the tasks set out in Article 2(j) which, in all cases, will be taken following consultation with, or on the basis of proposals from, the System Security and Safety Committee;

(e) exercise disciplinary authority over the Executive Director;

(f) adopt the special provisions necessary for the implementation of the right of access to the documents of the Authority, in accordance with Article 19;

(g) adopt the annual report on the activities and prospects of the Authority and forward it, by 15 June, to the Member States, the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Court of Auditors; the Authority shall forward to the budgetary authority all information relevant to the outcome of the evaluation procedures;

(h) adopt its rules of procedure.

Article 7

Executive Director

1. The Authority shall be managed by its Executive Director, who shall be completely independent in the exercise of his/her duties, without prejudice to the respective competencies of the Commission and the Administrative Board.

2. The Executive Director shall be appointed by the Administrative Board on the grounds of merit and documented administrative and managerial skills, as well as relevant competence and experience, from a list of at least three candidates proposed by the Commission. The Administrative Board shall take its decision by a three-quarters majority of its members.

Power to dismiss the Executive Director shall lie with the Administrative Board, according to the same procedure.

The term of office of the Executive Director shall be five years. This term of office may be renewed once.

3. The European Parliament or the Council may call upon the Executive Director to submit a report on the performance of his duties.

Article 8

Tasks of the Executive Director

The Executive Director:

(a) shall be responsible for representing the Authority and be in charge of its management;

(b) shall prepare the work of the Administrative Board. He/she shall participate, without having the right to vote, in the work of the Board;

(c) shall be responsible for implementing the annual work programme of the Authority under the control of the Administrative Board;

(d) shall take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to

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ensure the functioning of the Authority in accordance with this Regulation;

(e) shall draw up estimates of the Authority's revenue and expenditure in accordance with Article 11, and shall implement the budget in accordance with Article 12;

(f) shall prepare a draft general report each year and submit it to the Administrative Board;

(g) shall define the organisational structure of the Authority and submit it for approval to the Administrative Board. He/she shall establish a suitable permanent structure for the implementation of security-related decisions and the necessary security-related operational contacts;

(h) shall exercise, in respect of the staff, the powers laid down in Article 16;

(i) may adopt, after approval of the Administrative Board, the necessary measures to establish local offices in Member States in accordance with Article 4.

Article 9

Scientific and Technical Committee

1. Without prejudice to Article 2, the Administrative Board may set up a Scientific and Technical Committee and appoint its members and chairman from among acknowledged experts from Member States and the Commission. The Member States and the Commission shall propose candidates to that effect. When appropriate, the participation of representatives of third countries in the Committee and the conditions thereof shall be established in the arrangements referred to in Article 21.

2. The Scientific and Technical Committee may be given responsibility for:

(a) delivering opinions on technical questions or on proposals involving major changes in the design of the European GNSS system;

(b) making recommendations on the modernisation of the system;

(c) carrying out any other task necessary for the development of expertise in the area of satellite radio-navigation.

3. Subject to approval by the Administrative Board, the Scientific and Technical Committee shall draw up its rules of procedure.

Article 10

System Safety and Security Committee

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1. The Administrative Board shall establish a System Safety and Security Committee. It shall be composed of one representative per Member State and one for the Commission from among acknowledged security experts. A representative of the SG/HR and a representative of the ESA shall attend the Committee meetings as observers.

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2. The Committee shall be consulted on and may initiate proposals on the safety and security questions referred to in Article 2(j).

3. The Committee shall elect a Chairperson and a Deputy Chairperson from among its members and draw up its rules of procedure.

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Article 11

Budget

1. Without prejudice to other resources and dues yet to be defined, revenue of the Authority shall include a Community subsidy entered in the general budget of the European Union in order to ensure a balance between revenue and expenditure.

2. The expenditure of the Authority shall cover staff, administrative and infrastructure expenditure, operating costs and expenditure associated with the functioning of the Scientific and Technical Committee, the System Safety and Security Committee and the contracts and agreements concluded by the Authority with a view to implementing the European GNSS programmes.

3. The Executive Director shall draw up a draft statement of estimates of the revenue and expenditure of the Authority for the following year and shall forward it to the Administrative Board, together with a draft establishment plan.

4. Revenue and expenditure shall be in balance.

5. Each year the Administrative Board, on the basis of the draft statement of revenue and expenditure, shall produce a statement of estimates of revenue and expenditure for the Authority for the following financial year.

6. This statement of estimates, which shall include a draft establishment plan together with the provisional work programme, shall, by 31 March, be forwarded by the Administrative Board to the Commission and to the States with which the Community has concluded agreements in accordance with Article 21.

7. The statement of estimates 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.

8. On the basis of the statement of estimates, 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 general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.

9. The budgetary authority shall authorise the appropriations for the subsidy to the Authority and shall adopt the establishment plan for the Authority.

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

11. The Administrative Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which shall have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

12. Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Administrative Board within a period of six weeks after the date of notification of the project.

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Article 12

Implementation and control of the budget

1. The Executive Director shall implement the budget of the Authority.

2. By 1 March following each financial year, the accounting officer of the Authority 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 Regulation (EC, Euratom) No 1605/2002.

3. By 31 March following each financial year, the Commission's accounting officer shall forward the provisional accounts of the Authority to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report shall also be forwarded to the European Parliament and the Council.

4. On receipt of the Court of Auditors' observations on the provisional accounts of the Authority, under Article 129 of Regulation (EC, Euratom) No 1605/2002, the Executive Director shall draw up the final accounts of the Authority under his/her own responsibility and submit them to the Administrative Board for an opinion.

5. The Administrative Board shall deliver an opinion on the final accounts of the Authority.

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

7. The final accounts shall be published.

8. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September. He/she shall also send this reply to the Administrative Board.

9. The Executive Director shall submit to the European Parliament, at the latter's request, all information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of Regulation (EC, Euratom) No 1605/2002.

10. The European Parliament, on a recommendation from the Council acting on a qualified majority, shall, before 30 April of the year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

Article 13

Financial provisions

The financial rules applicable to the Authority shall be adopted by the Administrative Board after the Commission has been consulted. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities [1] unless such departure is specifically required for the operation of the Authority and the Commission has given its prior consent.

[1] OJ L 357, 31.12.2002, p. 72.

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Article 14

Anti-fraud measures

1. In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) [1] shall apply without restriction.

2. The Authority shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti Fraud Office (OLAF) [2] and shall issue, without delay, appropriate provisions applicable to all staff of the Authority.

3. The decisions concerning funding, and the implementing agreements and instruments resulting therefrom, shall explicitly stipulate that the Court of Auditors and OLAF may, if necessary, carry out on-the-spot checks on the recipients of funding of the Authority and the agents responsible for allocating it.

Article 15

Privileges and immunities

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

Article 16

Staff

1. The Staff Regulations of Officials of the European Communities, the Conditions of employment of other servants of the European Communities and the rules adopted jointly by the institutions of the European Community for the purposes of the application of those Staff Regulations and Conditions of employment shall apply to the staff of the Authority. The Administrative Board, in agreement with the Commission, shall adopt the necessary detailed rules of application.

2. Without prejudice to Article 8, the powers conferred on the appointing authority by the Staff Regulations and the Conditions of employment of other servants shall be exercised by the Authority with respect to its own staff.

3. The staff of the Authority shall consist of servants recruited by the Authority as necessary to perform its tasks, but may also include officials assigned or seconded by the Commission or the Member States on a temporary basis.

Article 17

Liability

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

2. In the event of non-contractual liability, the Authority shall, in accordance with the general principles common to the laws of the

[1] OJ L 136, 31.5.1999, p. 1.
[2] OJ L 136, 31.5.1999, p. 15.

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Member States, make good any damage caused by its departments or by its servants in the performance of their duties.

3. The Court of Justice shall have jurisdiction in any dispute relating to compensation for damage referred to in paragraph 2.

4. The personal liability of its servants towards the Authority shall be governed by the provisions laid down in the Staff Regulations or Conditions of employment applicable to them.

Article 18

Languages

1. The provisions laid down in Regulation No 1 of 15 April 1958 determining the languages to be used in the European Economic Community [1] shall apply to the Authority.

2. The translation services required for the functioning of the Authority shall be provided by the Translation Centre for the bodies of the European Union.

Article 19

Access to documents and protection of data of a personal character

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 [2] shall apply to documents held by the Authority.

2. The Administrative Board shall adopt arrangements for implementing Regulation (EC) No 1049/2001 within six months after the entry into force of this Regulation.

3. Decisions taken by the Authority in pursuance of Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or an action before the Court of Justice of the European Communities, under Articles 195 and 230 of the EC Treaty respectively.

4. When processing data relating to individuals, the Authority shall be subject to the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [3].

Article 20

Security rules

The Authority shall apply the security principles contained in Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal Rules of Procedure [4]. This shall cover, *inter alia*, provisions for the exchange, handling and storage of classified information.

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(1) OJ 17, 6.10.1958, p. 385/58. Regulation as last amended by the 2003 Act of Accession.
(2) OJ L 145, 31.5.2001, p. 43.
(3) OJ L 8, 12.1.2001, p. 1.
(4) OJ L 317, 3.12.2001, p. 1.

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Article 21

Participation of third countries

1. The Authority shall be open to the participation of third countries, which have entered into agreements with the European Community to this effect.

2. Under the relevant provisions of these agreements, arrangements shall be developed specifying, in particular, the nature, extent and manner in which these countries will participate in the work of the Authority, including provisions relating to participation in the initiatives undertaken by the Authority, financial contributions and staff.

3. The participation of any third country in the Authority shall be submitted for approval to the Council.

Article 22

Aspects relating to the security of the European Union or its Member States

In cases where the operation of the system affects the security of the Union or its Member States, the responsibilities and competence of the European Union, including in exceptional cases where the urgency of the situation is such that it requires immediate action, are set out in Joint Action 2004/552/CFSP.

Article 23

Entry into force

This Regulation shall enter into force on the 10th day following its publication in the *Official Journal of the European Union*.

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