REPORT

on the proposal for a Council Regulation on support to bodies set up by the international community after conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements (COM(2000) 95 - C5-0118/2000 - 2000/0042(CNS))

Committee on Budgets

Rapporteur: Armin Laschet
### Symbols for procedures

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* Consultation procedure

**I Cooperation procedure (first reading)

**II Cooperation procedure (second reading)

*** Assent procedure

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(The type of procedure depends on the legal basis proposed by the Commission)
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By letter of 6 March 2000 the Council consulted Parliament, pursuant to Article 308 of the EC Treaty, on the proposal for a Council Regulation on support to bodies set up by the international community after conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements (COM(2000) 95 – 2000/0042(CNS)).

At the sitting of 13 March 2000 the President of Parliament announced that she had referred this proposal to the Committee on Budgets as the committee responsible and to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Budgetary Control for their opinions (C5-0118/2000).

The Committee on Budgets appointed Armin Laschet rapporteur at its meeting of 21 March 2000.

It considered the Commission proposal and draft report at its meetings of 28 March and 18 April 2000.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Terence Wynn, chairman; Armin Laschet, rapporteur; Kathalijne Maria Buitenweg, Chantal Cauquil, Den Dover, Göran Färm, Markus Ferber, Salvador Garriga Polledo, Catherine Guy-Quint, Anne Elisabet Jensen, Juan Andrés Naranjo Escobar, Bartho Pronk (for John Joseph McCartin), Heide Rühle, Per Stenmarck, Kyösti Tapio Virrankoski and Ralf Walter.

The opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Budgetary Control are attached.

The report was tabled on 19 April 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.
LEGISLATIVE PROPOSAL

Proposal for a Council Regulation on support to bodies set up by the international community after conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements (COM(2000) 95 - C5-0118/2000 - 2000/0042(CNS))

The proposal is amended as follows:

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**The same** legal basis should also be able to cover the Community’s participation in the establishment and operation of similar bodies which may be set up in future by the international community, should the Community decide to support them.

**A specific** legal basis should be proposed to cover the Community’s participation in the establishment and operation of similar bodies which may be set up in future by the international community, should the Community decide to support them.

**Justification:**

Pursuant to the Interinstitutional Agreement, any Community action requires the prior adoption of a basic act. This cannot therefore cover future actions ‘a priori’.

| (Amendment 2) |
| Article 1 |

1. The Community shall contribute financially to the establishment and operation of the bodies listed in the Annex, which have been set up by the international community following conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements.

1. The Community shall contribute financially to the establishment and operation of the bodies listed below, which have been set up by the international community following conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements:

(a) United Nations Interim administrative mission in Kosovo (UNMIK). The Fourth pillar.
(b) Office of the High Representative in Bosnia-Herzegovina (OHR).

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1 OJ C (not yet published).
2. Amendments to the Annex shall be decided by the Council acting by a qualified majority on a proposal from the Commission. Deleted.

Justification:

The bodies laid down in the annex are the essence of the proposal and should therefore appear in the legislative text.

(Amendment 3)
Article 2

1. The financing shall be in the form of a grant to the budget of the bodies referred to in Article 1.

2. The financing decisions shall be adopted in accordance with the procedure laid down in Article 4(2).

1. The financing shall be in the form of a specific grant to the budget of the bodies referred to in Article 1.

2. The financing decisions shall be adopted in accordance with the procedure laid down in Article 4(2), within the limits of the appropriations available beneath the ceiling of heading 4 of the Financial Perspective, possibly amended, pursuant to Articles 19 and 24 of the Interinstitutional Agreement of 6 May 1999.

Justification:

Funding for this first pillar expenditure, although hitherto under the CFSP, is linked to what is available within the financial framework. This expenditure has to be added to operations already funded under the Financial Perspective.

(Amendment 4)
Article 3(2)

2. The amount of the grant, the eligible expenditure, the period covered, the implementing procedures and procedures for verifying the management and ultimate destination of the Community grant shall be the subject of a financing agreement between the Commission, acting on behalf of the Community, and the recipient bodies.

2. The amount of the grant, the eligible expenditure, the period covered, the implementing procedures and procedures for verifying the management and ultimate destination of the Community grant shall be the subject of a financing agreement between the Commission, acting on behalf of the Community, and the recipient bodies. Every year, the Commission shall inform the Council and the European Parliament about these agreements.
Justification:

The European Parliament and the Council have to be duly informed about the financing agreements to be adopted.

(Amendment 5)
Article 4)

1. The Commission shall be assisted by a management committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. Where this paragraph is referred to, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply.

3. The period as provided for in Article 4(3) of Decision 1999/468/EC shall be one month.

(Amendment 6)
Article 5

Financing decisions and any contracts or

Justification:

The interinstitutional provisions concerning commitology apply here. One representative per Member State will give better balance to an operation which is being brought within the Community sphere.
implementing instruments resulting therefrom shall expressly provide that the Commission or bodies authorised by the Commission, the Court of Auditors and the Anti-Fraud Office (OLAF) may carry out inspections on the spot, if necessary.

The Commission shall inform the Council and the European Parliament about the result of such on the spot inspections and about the use of the Community contribution to the bodies concerned.

*Justification:*

The European Parliament and the Council have to be duly informed about the implementation of the financing agreements, in particular on the financing decisions taken by both bodies (High Representative in Bosnia-Herzegovina and UNMIK in Kosovo).

(Amendment 7)

Annex

**BODIES REFERRED TO IN ARTICLE 1 OF THIS REGULATION**

*Deleted*

- United Nations Interim Administration Mission in Kosovo (UNMIK). The fourth pillar.
- Office of the High Representative in Bosnia-Herzegovina (OHR).

*Justification:*

As the bodies listed in the annex are the essence of the proposal they should appear in the legislative text.
DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council Regulation on support to bodies set up by the international community after conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements (COM(2000) 95 - C5-0118/2000 - 2000/0042(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the Commission proposal to the Council (COM(2000) 95⁵),
– having been consulted by the Council pursuant to Article 308 of the EC Treaty (C5-0118/2000),
– having regard to the Interinstitutional Agreement of 6 May 1999²,
– having regard to Rule 67 of its Rules of Procedure,
– having regard to the report of the Committee on Budgets and the opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Budgetary Control (A5-0111/2000),

1. Approves the Commission proposal as amended;
2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
4. Calls for the conciliation procedure to be initiated should the Council intend to depart from the text approved by Parliament;
5. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
6. Instructs its President to forward its position to the Council and Commission.

¹ OJ C (not yet published).
EXPLANATORY STATEMENT

The proposal

1. Under the peace agreements which halted hostilities in Bosnia-Herzegovina and then in Kosovo, bodies to be responsible for implementing the civilian aspects of those peace agreements were set up by the international community. In the case of Bosnia-Herzegovina this task was entrusted to the High Representative, and in Kosovo to the fourth pillar of the interim UN mission in Kosovo (UNMIK).

2. The European Union is making a substantial contribution to the civilian aspects of reconstruction and, by way of a fair sharing of the burden, is helping fund these bodies from its own budget. These items were in the past funded from Chapter B8 by the CFSP and legitimised by second pillar joint actions.

3. The aim of this proposal is to transfer these joint actions, and similar ones in the future, to the first pillar and to have them funded from Section III of the budget, Chapter B7-54. As it is based on Article 308 of the Treaty, consultation of Parliament is obligatory.

4. The Council has asked for urgent procedure, claiming there is a legal vacuum.

The budgetary aspects

- procedural:

5. As the proposal lays down the creation of a new budgetary line (B7-547) and an additional 27 million in funding in 2001, the legislative procedure is inadequate. This transfer will require a budgetary procedure, and the Commission is therefore called upon to submit an SAB pursuant to Article 15 of the Financial Regulation at the same time. In order to offset the legal vacuum created by the current situation, the Committee on Budgets adopted its opinion as soon as possible.

- content of the proposal:

6. The legal vacuum cited by the Council will arise only when the latter decides not to renew the CFSP joint actions, although no effort was made at the appropriate time to submit this proposal under the correct procedures. The legal basis for the High Representative in Bosnia-Herzegovina remains valid until 31 December 2000\(^1\) while successive renewals by the Council have extended that for UNMIK until 30 April 2000\(^2\).

7. In the 2000 general budget the budget for Chapter B8 was substantially increased (+ € 20 million over the 1999 budget) to allow the funding of new actions arising from the Treaty of Amsterdam without cutbacks in other operations; the rapporteur believes that the CFSP budget is therefore able to bear the cost of the bodies involved. He does nevertheless welcome the transfer of these operations to the first pillar which will bring greater

\(^1\) Joint action 1999/844/CFSP (expiry: 30.12.2000)
Parliament involvement in the legislative consultation procedure;

8. In budgetary and legislative terms, leaving aside the need to comply with the procedures as mentioned above, the rapporteur would like to make it clear that Parliament, as an arm of the budgetary authority, cannot accept the proposal’s formula of an open-ended annex. Pursuant to Article 36 of the Interinstitutional Agreement of 6 May 1999, all Community actions require the prior adoption of a basic act. Any new operation will therefore need a specific legal basis, which conflicts with the entry of a p.m.

9. The proposal involves extra spending under heading 4 of the Financial Perspective which is already under great strain since the Kosovo crisis, amounting to 27 million (an increase of 80% over the 2000 budget). It also opens the door to other similar expenditure if the p.m. entry is retained. Parliament cannot accept any fresh cutbacks in the traditional policies funded under heading 4 without a multiannual review of the ceilings.

10. Article 4 of the proposal states that the Commission shall be assisted by a management committee. The rapporteur considers that one representative only per Member State is justified. As regards the budgetary aspects dealt with by the committee, they should be confined to the internal breakdown, as the budget for the operation is laid down by the budgetary authority under the annual procedure. As regards staffing, the rapporteur notes that two A posts are requested, to be added to the Commission’s establishment plan for 5 years. The Commission should indicate why they cannot be found by redeployment (from lower priority areas).

Conclusions

11. The Committee on Budgets has taken over the following points adopted by the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy:

(a) Recognition by the Council (if necessary through an Interinstitutional Agreement), that the transfer of the expenditure related to the Special Envoys to the budget of the Council or any annex to it (Heading 5 of the financial perspective), will only be acceptable in case Council and European Parliament agree on the following aspects:

- the European Parliament will be consulted, before any decision is taken creating new Special Envoys, or adjusting the statute of the existing ones;

- the European Parliament maintains its power in deciding, every year, the amounts to allocate to the Special Envoys, as well as the right to be informed on their implementation and the right to control them. This will mean that the expenditure related to the Special Envoys will not be concerned by the existing "gentlemen’s agreement" between the Council and the European Parliament (by which the European Parliament does not interfere in the Council budget and vice versa).

- For this reason, any request for urgency on the proposal for a regulation under examination should be rejected.
5 April 2000

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS, HUMAN RIGHTS, COMMON SECURITY AND DEFENCE POLICY

for the Committee on Budgets

on the proposal for a Council regulation on support to bodies set up by the international community after conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements


Draftsman: Elmar Brok

PROCEDURE


It considered the draft opinion at its meeting of 3 and 4 April 2000.

At the latter it adopted the amendments below unanimously.

The following were present for the vote: Elmar Brok, chairman and draftsman; Baroness Nicholson of Winterbourne, 1st vice-chairman; William Francis Newton Dunn, 2nd vice-chairman; Bastiaan Belder, Alfred Gomolka, Bertel Haarder, Pedro Marset Campos, Hugues Martin, Philippe Morillon, Pasqualina Napoletano, Jacques F. Poos, Jannis Sakellariou, José Ignacio Salafranca Sánchez-Neyra, Jacques Santer, Gary Titley.
SHORT JUSTIFICATION

THE PROPOSAL FOR A REGULATION

1. This Proposal for a Regulation answers to a Council request to transfer to the first pillar the financing of two of the joint actions decided under the Community Foreign and Security Policy (CFSP):
   - the contribution to the United Nations Interim Administration Mission in Kosovo (UNMIK);
   - the Office of the High Representative in Bosnia-Herzegovina

which, until now, were financed by the CFSP Budget (Article B8-120 on conflict resolution and peace process and stabilisation).

2. The Commission proposal also enables to ensure the cover by the first pillar budget of the financing of bodies which could be set up in the future by the international community, should the Commission decide to support them. Such possibility however does not contemplate the European Parliament consultation (Article 1 n°2).

3. From the political and institutional point of view, this proposal:
   - opens the possibility for the transfer of the financing of joint actions adopted under the second pillar (CFSP) to the first pillar – without consulting the EP – this in spite of the Interinstitutional Agreement on CFSP;
   - creates more pressure on Heading 4 of the financial perspective (external actions) which is already under strong pressure due to the financing of reconstruction in the Western Balkans;
   - requests, if implemented in 2000, the adoption of a supplementary and amending Budget (SAB).

GENERAL REMARKS

4. This proposal for a regulation has to be seen in the framework of the existing intention of the Council to change the agreement between the European Parliament and the Council on the financing of CFSP.

5. In fact, the Committee on Foreign Affairs is aware of the fact that the Council and the Commission envisage to change the presentation of the budget on CFSP for 2001, by transferring the appropriations related to the Special Envoys (B8-130) to the Council administrative budget.

6. This Council and Commission intention, added to the proposal for a regulation we
examine now, will imply deleting from CFSP budget the expenditure related to the Special Envoys (B8-130) and part of the expenditure related to peace process (B8-120); this by transferring in one case the expenditure to the first pillar – Heading 4 of the financial perspective (Commission proposal in exam), and in the other case to the Council budget (first pillar - Heading 5 of the financial perspective).

7. Under these circumstances, it seems necessary to ensure a global and coherent approach on these two initiatives of the Commission and the Council, in order to ensure the respect of the role of the European Parliament as a political and a budgetary authority.

**AMENDMENTS**

I. **PREAMBLE : POLITICAL CONDITIONS**

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy calls on the Committee on Budgets, as the committee responsible, to agree on the following strategy:

a. Recognition by the Council (if necessary through an Interinstitutional Agreement), that the transfer of the expenditure related to the Special Envoys to the budget of the Council or any annex to it (Heading 5 of the financial perspective), will only be acceptable in case Council and European Parliament agree on the following aspects:

- the European Parliament will be consulted, before any decision is taken creating new Special Envoys, or adjusting the statute of the existing ones;

- the European Parliament maintains its power in deciding, every year, the amounts to allocate to the Special Envoys, as well as the right to be informed on their implementation and the right to control them. This will mean that the expenditure related to the Special Envoys will not be concerned by the existing “gentlemen’s agreement” between the Council and the European Parliament (by which the European Parliament does not interfere in the Council budget and vice versa).

b. For this reason, any request for urgency on the proposal for a regulation under examination should be rejected.

II. **LEGISLATIVE AMENDMENTS**

c. In case such conditions are fulfilled, the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy calls on the Committee on Budgets, as the committee responsible, is requested to adopt the following amendments:
Text proposed by the Commission¹

Amendments by Parliament

( Amendment 1)
Recital 6

The same legal basis should also be able to cover the Community’s participation in the establishment and operation of similar bodies which may be set up in future by the international community, should the Community decide to support them.

Justification:
There is no reason to open the possibility, from now on, for applying this new regime also to the financing of similar bodies which may be set up in the future. A case by case decision has to be taken in the framework of Article 308 of the Treaty.

( Amendment 2)
article 1 – second indent

Amendments to the Annex shall be decided by the Council acting by a qualified majority on a proposal from the Commission.

Justification:
There is no reason to open the possibility, from now on, for applying this new regime also to the financing of similar bodies which may be set up in the future. A case by case decision has to be taken in the framework of Article 308 of the Treaty.

( Amendment 3)
Article 3 – second indent

The amount of the grant, the eligible expenditure, the period covered, the implementing procedures and procedures for verifying the management and ultimate destination of the Community grant shall be the subject of a financing agreement between the Commission, acting on behalf of the Community, and the recipient bodies.

The amount of the grant, the eligible expenditure, the period covered, the implementing procedures and procedures for verifying the management and ultimate destination of the Community grant shall be the subject of a financing agreement between the Commission, acting on behalf of the Community, and the recipient bodies. Every year, the Commission shall inform the Council and the European

¹ OJ C ##.
Parliament about these agreements.

Justification:

The European Parliament and the Council have to be duly informed about the financing agreements to be adopted.

(Amendment 4)

Article 5

Financing decisions and any contracts or implementing instruments resulting therefrom shall expressly provide that the Commission or bodies authorised by the Commission, the Court of Auditors and the Anti-Fraud Office (OLAF) may carry out inspections on the spot, if necessary.

Justification:

The European Parliament and the Council have to be duly informed about the implementation of the financing agreements, in particular on the financing decisions taken by both bodies (High Representative in Bosnia-Herzegovina and UNMIK in Kosovo).
11 April 2000

OPINION OF THE COMMITTEE ON BUDGETARY CONTROL

for the Committee on Budgets

on the proposal for a Council regulation on support to bodies set up by the international community after conflicts either to take charge of the interim civilian administration of certain regions or to implement peace agreements


Draftsman: Bart Staes

PROCEDURE

The Committee on Budgetary Control appointed Bart Staes draftsman at its meeting of 22 March 2000.

It considered the draft opinion at its meeting of 10 April 2000.

At that meeting it unanimously adopted the amendments below.

The following were present for the vote: Diemut R.Theato, chairman; Herbert Bösch and Freddy Blak, vice-chairman; Bart Staes, draftsman; Jens-Peter Bonde, (for Michael John Holmes), Bárbara Dührkop Dührkop (for Anne Ferreira), James E.M. Elles, (for Thierry B. Jean-Pierre), Christos Folias (for Raffaele Costa), Bashir Khanbhai, Helmut Kuhne, Brigitte Langenhagen, Joaquim Miranda (for Marianne Eriksson), Mair Eluned Morgan, Jan Mulder, José Javier Pomés Ruiz, Heide Rühle (for Claude Turmes), Gabriele Stauner and Michiel van Hulten.
SHORT JUSTIFICATION

This proposal for a regulation is designed to establish a Community legal basis to cover the financing of the UN interim civil administration in Kosovo (UNMIK) and the Office of the High Representative in Bosnia and Herzegovina (OHR). Hitherto the European Union's contribution to financing these bodies has been made under the common foreign and security policy (CFSP) on the authority of the Council. Substantial amounts are involved. The 2000 budget for the Office of the High Representative amounts to around EUR 28 million, to which the Union contributes about 53%. In the case of UNMIK there will be a contribution of EUR 12 million.

The Committee on Budgetary Control welcomes the fact that these contributions will in future no longer be made under CFSP decisions. In the past Parliament has been concerned to see the Commission's responsibility for implementing the budget, as laid down in the EC Treaty, being eroded in this way. This concern was expressed, for instance, in the resolutions of 19 December 1997\(^1\) on the conditions governing the implementation of expenditure under the common foreign and security policy and of 13 December 1996\(^2\) on EU administration of Mostar, which were based on Committee on Budgetary Control reports.

In paragraph 9 of the resolution on Mostar, Parliament noted that the way in which the common foreign and security policy is funded had led to the demarcation of powers between the Council and the Commission becoming dangerously unclear and was also having an adverse effect on Parliament's right to call the Commission to account without restriction under the discharge procedure.

Although in the meantime an interinstitutional agreement (Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure\(^3\)) has established a modus vivendi of some kind, no solution has yet been found that will give the Commission an active and organisational role in the CFSP. In practice, over recent years the Commission's role has been reduced to that of paymaster and accountant.

As a kind of act of defiance, the Commission took on this role somewhat reluctantly and without commitment. This contributed to the serious shortcomings detailed in the Court of Auditors' special report on European Union aid to Bosnia and Herzegovina\(^4\), which has just been published. Paragraph 17 of the report, which severely criticises the OHR's financial management in 1998 and highlights a serious conflict of interests, states that:

'The financial director invoiced his services to the OHR as part of a contract signed with a company of which he was the manager. Once he had checked his own invoices, he then validated them. In addition, he decided on the procedures for checking his own management by negotiating contracts for external auditors and by defining not only the procedures for, but also the scope of the audit.'

The Committee on Budgetary Control will be coming back to this special report by the Court of Auditors in greater detail in due course.

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\(^3\) OJ C 172, 18.6.1999.
\(^4\) OJ C 85, 23.3.2000, p. 29.
However, even at this stage it is evident that Parliament will have greater opportunities for exercising control if the contributions to the OHR and UNMIK are in future made on the basis of a regulation.

- Outside the framework of the CFSP Parliament is able to place appropriations in the reserve in order to secure better management. In the interinstitutional agreement referred to above, Parliament agreed not to exercise its option of placing resources in the reserve; if the proposal were adopted, this voluntary restraint would no longer apply.

- Responsibility for implementing the appropriations would no longer be shared between the Council and Commission, as it is within the framework of the CFSP, but the Commission would be fully responsible, which would facilitate control under the discharge procedure.

**CONCLUSIONS**

The Committee on Budgetary Control therefore advocates the speedy adoption of the proposal for a regulation. It will closely examine the conditions for the use of Community subsidies that the Commission must lay down in financial agreements with the beneficiary agencies, in the light of the Court of Auditors' special report referred to earlier.