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REPORT

on the proposal for a Council regulation amending Council Regulation (EC) No 2666/2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EEC and 1999/311/EC, and Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction
(COM(2001) 551 – C5-0477/2001 – 2001/0223(CNS))

Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

Rapporteur: Joost Lagendijk

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 9 October 2001 the Council consulted Parliament, pursuant to Article 308 of the EC Treaty, on the proposal for a Council regulation amending Council Regulation (EC) No 2666/2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EEC and 1999/311/EC, and Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction (COM(2001) 551 – 2001/0223(CNS)).

At the sitting of 22 October 2001 the President of Parliament announced that she had referred this proposal to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible and the Committee on Budgets, the Committee on Budgetary Control and the Committee on Industry, External Trade, Research and Energy for their opinions (C5-0477/2001).

At the sitting of 25 October 2001 the President of Parliament announced that the Committee on Industry, External Trade, Research and Energy, which has been asked for its opinion, would be involved in drawing up the report, under the Enhanced Hughes Procedure.

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed Joost Lagendijk rapporteur at its meeting of 16 October 2001.

It considered the Commission proposal and the draft report at its meetings of 16 October, 5 and 6 November 2001.

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

The following were present for the vote: Elmar Brok, chairman; Baroness Nicholson of Winterbourne and Catherine Lalumière, vice-chairmen; Joost Lagendijk, rapporteur; Alexandros Baltas, Bastiaan Belder, André Brie, John Walls Cushnahan, Rosa M. Díez González, Robert J.E. Evans (for Gary Titley, pursuant to Rule 153(2)), Giovanni Claudio Fava (for Pasqualina Napoletano), Monica Frassoni (for Daniel Marc Cohn-Bendit), Per Gahrton, Alfred Gomolka, Bertel Haarder, Glenys Kinnock (for Sami Naïr), Christoph Werner Konrad (for Ingo Friedrich), Armin Laschet (for Michael Gahler), Cecilia Malmström (for Francesco Rutelli), Franco Marini, Pedro Marset Campos, Hugues Martin, Linda McAvan, Arie M. Oostlander, Reino Paasilinna (for Klaus Hänsch), Doris Pack (for Jürgen Schröder), Hans-Gert Poettering, Jacques F. Poos, José Ignacio Salafranca Sánchez-Neyra, Jacques Santer, Amalia Sartori, Elisabeth Schroedter, Ioannis Souladakis, Francesco Enrico Speroni, Ursula Stenzel, Hannes Swoboda, Johan Van Hecke, Demetrio Volcic (for Mário Soares), Jan Marinus Wiersma, Matti Wuori and Christos Zacharakis.

The opinion of the Committee on Budgets is attached; the Committee on Budgetary Control decided on 6 November 2001 not to deliver an opinion, and the Committee on Industry, External Trade, Research and Energy, despite the application of the Enhanced Hughes Procedure, decided on 6 November 2001 not to deliver an opinion.

The report was tabled on 7 November 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant

part-session.

LEGISLATIVE PROPOSAL

Proposal for a Council regulation amending Council Regulation (EC) No 2666/2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EEC and 1999/311/EC, and Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction (COM(2001) 551 – C5-0477/2001 – 2001/0223(CNS))

The proposal is amended as follows:

Text proposed by the Commission ¹	Amendments by Parliament
<p>Amendment 1 Recital 4</p>	
<p>(4) Council Regulation (EC) No 2666/2000 and Council Regulation (EC) No 2667/2000 should therefore be amended to extend the Agency's activities to the former Yugoslav Republic of Macedonia.</p>	<p>(4) Council Regulation (EC) No 2666/2000 and Council Regulation (EC) No 2667/2000 may therefore be amended to extend, on a provisional basis, the Agency's activities to the former Yugoslav Republic of Macedonia.</p>
<p><i>Justification</i></p>	
<p><i>It is necessary to clearly indicate that, while awaiting clarification of the EU approach to the management of its assistance to the Western Balkans, the new mandate is given to the Agency on a provisional basis.</i></p>	
<p>Amendment 2 Recital 4 a (new)</p>	
<p><i>The Commission will present before the 31st of January a detailed report on its strategy for the management of the Community assistance for the Western Balkans. This report will clarify the approach in case a stabilisation and association agreement has been concluded and will include, where appropriate, the proposals for reinforcing the staff of the European Community</i></p>	

¹ not yet published in the OJ.

Delegations in the region, as well as the necessary adjustments to redefine the scope and role of the European Agency for Reconstruction and eventually transform it in an Agency for Reconstruction and Development. It shall also present a clear identification of the tasks to be executed by the Agency and by the European Community Delegations in the countries where both structures develop their activity.

Justification

It is necessary to clarify, before the 31 January 2002, the impact of the de-concentration (Delegations) and de-centralization (Agency) policy for the management of the external assistance (COM(2001) 381, 3 July) in the Western Balkans. Such clarification will have to reflect a common approach for those countries beneficiary of a stabilisation and association agreement (already initialled or concluded) and contribute to a clear identification, where appropriate, of the Delegations' and Agency's tasks.

Considering that in the coming years the activity of the Agency will be increasingly focused on the development in the region once the major reconstruction works will be finished, it is necessary to reflect upon the opportunity to transform the Agency into an Agency for "reconstruction and development".

Amendment 3
Recital 5 bis (new)

(5bis) The appropriations allocated to the Agency are decided within the annual budgetary procedure and entered under the specific B...A section of the Budget on the basis of the result of quantitative and qualitative evaluation based on annual programming, performance targets and spending capacities.

Justification

The European Agency for Reconstruction is due to implement the CARDS programme in Former Yugoslavia, therefore the administrative expenditure related to operational expenditure should be identified in the nomenclature to maintain budgetary transparency. The Agency budget will be decided on the needs assessed by the Commission but also on the basis of implementation and evaluation provided annually.

Amendment 4

Recital 6

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

(6) The Treaty *provides*, for the adoption of this Regulation, powers under Article 308 *and for its implementation, powers under article 274*.

Justification

The Committee on Budgets stresses that the management of an action which is paid for by Community funds should therefore be implemented by the Commission under the powers conferred to it by the Treaty.

Amendment 5

Article 2, paragraph 1, point 1 (i)

1. Article 1 is replaced by the following:

1. Article 1 is replaced by the following:

"1. The Commission may delegate to an Agency:

"1. The Commission may delegate 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;

(i) implementation of Community assistance provided for in Article 1 of the Regulation (EC) No 2666/2000 to the Federal Republic of Yugoslavia and ***on a provisional basis in*** the former Yugoslav Republic of Macedonia;

Justification

It is necessary to assure that the extension of the competence of the European Agency for Reconstruction to the Community assistance to the former Yugoslav Republic of Macedonia is done on a provisional basis.

Amendment 6
Article 2, paragraph 2

2. In Article 2 paragraph 1 letter b) "Federal Republic of Yugoslavia" is replaced by "Federal Republic of Yugoslavia and of the former Yugoslav Republic of Macedonia".

2. In Article 2 paragraph 1 letter b) "Federal Republic of Yugoslavia" is replaced by "Federal Republic of Yugoslavia and ***on a provisional basis*** of the former Yugoslav Republic of Macedonia".

Justification

In line with previous amendments, this amendment aims to underline the provisional character of the mandate given to the Agency.

Amendment 7
Article 2, paragraph 4

4. In Article 7 paragraph 3 first subparagraph "Federal Republic of Yugoslavia" is ***replaced*** by "***Federal Republic of Yugoslavia and of the former Yugoslav Republic of Macedonia***".

4. In Article 7 paragraph 3 first subparagraph "Federal Republic of Yugoslavia" is ***followed*** by "***or other regions or countries to which the mandate of the European Agency for Reconstruction may be extended after consultation of the European Parliament***".

Justification

The approach based on the exceptional character of the mandate given to the Agency justifies this modification.

Amendment 8
Article 2, paragraph 5

5. In Article 7 paragraph 3 second subparagraph "Federal Republic of Yugoslavia" is ***replaced*** by "***Federal Republic of Yugoslavia and to the former Yugoslav Republic of Macedonia***".

5. In Article 7 paragraph 3 second subparagraph "Federal Republic of Yugoslavia" is ***followed*** by "***or other regions or countries to which the mandate of the European Agency for Reconstruction may be extended after consultation of the European Parliament***".

Justification

The approach based on the exceptional character of the mandate given to the Agency justifies this modification.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council regulation amending Council Regulation (EC) No 2666/2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EEC and 1999/311/EC, and Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction (COM(2001) 551 – C5-0477/2001 – 2001/0223(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2001) 551¹),
 - having been consulted by the Council pursuant to Article 308 of the EC Treaty (C5-0477/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the opinion of the Committee on Budgets (A5-0386/2001),
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 substantially amend the Commission proposal;
 6. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in the OJ.

EXPLANATORY STATEMENT

Background

1. The Commission proposes changing the current regulation of the European Agency for Reconstruction to extend its territorial competence beyond the Federal Yugoslav Republic (Serbia, Kosovo and Montenegro), and to cover also the former Yugoslav Republic of Macedonia. The Commission also proposes giving this Agency the responsibility for the management of the Rapid Reaction Mechanism in the Federal Republic of Yugoslavia and in the former Yugoslav Republic of Macedonia. Such proposals require a complementary adjustment to the actual CARDS Regulation.
2. This proposal varies from the political approach adopted by the European Parliament and the Council during the legislative procedure for the Agency (Lagendijk Report of December 2000), which limited its competence to the Federal Republic of Yugoslavia.
3. The political decision to set up an Agency for Reconstruction was based on the need to find a structure to manage EU assistance, initially for a region (Kosovo) and later for a country (FRY) strongly devastated by war; and where international and bilateral assistance from Member States is very active in parallel with the EU one. That is why Member States are so present on the board of the Agency and have such an important role to play in the implementation of EU assistance to Kosovo, Montenegro and Serbia.
4. Until now, the implementation of EU assistance in the Western Balkans has been carried out either by the central services in Brussels (i.e. FYROM) or in the framework of a *de-concentration* strategy in favour of its external services (the Delegations), whose staff was usually reinforced for this purpose (i.e. Sarajevo and Zagreb); in the case of FRY, it has been implemented under a de-centralisation strategy in favour of the European Agency for Reconstruction, since the end of 2000.
5. The Commission's recent report on the Development of the External Service (COM(2001) 381 final) indicates in general terms where the Commission stands on its de-concentration policy. No detailed information is given, however, regarding the devolution process to the Delegations in the Western Balkans, where the European Agency for Reconstruction is also responsible for implementing part of the assistance (with a high level of administrative, management and financial autonomy in the framework of a *de-centralisation* procedure).
6. The extension proposed by the Commission is due to the fact that it did not manage, as it should have done in 1999 or 2000, to prevent or solve the significant delays regarding the implementation of EU assistance. By mid-October 2001, around Euro 172 million were committed for FYROM since 1996 (PHARE and CARDS programmes), but only Euro 121 million were contracted and Euro 86 million paid.
7. With this proposal, the Commission wishes to transfer to the Agency the obligation (which it has been unable to fulfil until now), to implement the EU assistance for 2001 onwards, as well as to catch up on the backlog.
8. Such a transfer is proposed on the basis of a case by case approach; no clear signs are given by the Commission that such a transfer is part of a general and comprehensive

strategy for the management and implementation of EU aid to the Western Balkans.

Questions to clarify

9. Before proposing the approach to adopt, the rapporteur had to clarify the following major questions:
 - Why did the Commission not follow for Macedonia the same model used for Croatia and Bosnia-Herzegovina, where the Community assistance has significantly improved since the recent de-concentration of competence to the corresponding Delegations and the reinforcement of its staff?
 - Why does the Commission propose to extend, on a case by case approach, the Agency's competence to Macedonia only?
 - In case the Commission considers that the reconstruction and rehabilitation assistance related to the conflict of this year will be better and faster managed under the rules of the Agency, why did the Commission propose to transfer to the Agency the management of all EU assistance related to Macedonia? Why did the Commission not restrict such a transfer to the part related to this year's conflict only?
 - Did the Commission take duly into account the fact that Macedonia is the first country of the region benefiting from a Stabilisation and Association Agreement, currently the major instrument for relations between the EU and Macedonia (including the CARDS programme)?
 - Before making this proposal, did the Commission make any contact with Macedonian authorities in this respect, in order to evaluate the terms under which it could be perceived as another step backwards by the European Union in its commitment to develop the Stabilisation and Association Agreement?
 - Was the Commission sure that such a proposal would not reduce the confidence of Macedonian authorities in the EU's good-will and mediation capacity in the Region?
10. The contacts made with Commissioner Patten and the exchange of views held in the Committee clarified most of these questions and justify the rapporteur's proposal.

Proposal for a new Approach

11. The implementation of the European Union assistance to Macedonia has to be carried out on the basis that this year's conflict is solved and peace has been reached. Any initiative related to Macedonia has therefore to be taken in the framework of a confidence-building strategy and must avoid any misinterpretation of the EU's initiatives.
12. Macedonia must be assured that the EU will do its best to help her solve problems in a peaceful way, in the framework of the Stabilisation and Association Agreement, whose ratification procedure continues.
13. The urgency in implementing the overdue EU assistance to Macedonia should not jeopardise or reduce the normal development of relations between the EU and Macedonia, in the framework of the Stabilisation and Association Agreement (part of it

already under provisional implementation).

14. The proposed extension of the competence of the European Agency for Reconstruction to Macedonia has to be seen, therefore, as an exceptional and provisional decision due to the emergency in reconstructing the areas most affected by this year's conflict, while waiting for a Commission report on a comprehensive strategy for the management and implementation of EU assistance to the Western Balkans.
15. The following alternative approach seems, therefore, more appropriate with a view to the improvements needed; it is also better adjusted to the current status of relations between the European Union and Macedonia (the first country of the Western Balkans associated to the EU under a Stabilisation and Association Agreement):
 - *giving a specific mandate to the Agency for Reconstruction to implement the Community assistance to Macedonia, on a provisional basis (Amendments 1, 5, 6, 7 and 8);*
 - *requesting the Commission to present, before the 31 January 2002, an updated detailed report on its strategy for the management and implementation of the Community assistance to the Western Balkans (Amendment 2). This report shall:*
 - * clarify the Commission's approach for the countries beneficiary of a Stabilisation and Association Agreement;
 - * indicate the countries where de-concentration to the external services will be the basic tool for managing and implementing EU assistance (indicating, whenever appropriate, the necessary staff reinforcements);
 - * identify the countries where the Agency will be operating in parallel with the Community Delegations, clarifying in particular the tasks to be developed by each one of these two structures, in order to avoid overlapping or mismanagement;
 - * indicate under what terms the Agency for the Reconstruction could be redefined, with a view to assuring the management and implementation of all EU financial assistance to the Region.
 - clarifying the budgetary aspects of the Agency activity (Amendments 3 and 4).

5 November 2001

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

on the proposal for a Council regulation amending Council Regulation (EC) No 2666/2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EEC and 1999/311/EC, and Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction
(COM(2001) 551 – C5-0477/2001 – 2001/0223(CNS))

Draftsman: Göran Färm

PROCEDURE

The Committee on Budgets appointed Göran Färm draftsman at its meeting of 16 October 2001.

It considered the draft opinion at its meeting of 5 November 2001.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Terence Wynn, chairman; Reimer Böge, vice-chairman; Göran Färm, draftsman; Ioannis Averoff, Kathalijne Maria Buitenweg, Joan Colom i Naval, Carlos Costa Neves, Gérard M.J. Deprez (for Jean-Louis Bourlanges), Markus Ferber, Catherine Guy-Quint, Anne Elisabet Jensen, Juan Andrés Naranjo Escobar, Giovanni Pittella, Per Stenmarck, Francesco Turchi, Kyösti Tapio Virrankoski and Ralf Walter.

SHORT JUSTIFICATION

In the context of the assistance provided by the European Union to the reconstruction programmes and democratic support to the Western Balkans, the rapporteur welcomes the Commission proposal to extend the powers of the European Agency for Reconstruction to FYROM. In order to preserve the positive output of the decentralised implementation of the CARDS programme, he proposes to amend the proposal in a way which recalls the executive responsibilities of the Commission over the Agency and over the programme and which also facilitate the control from the budgetary authority over both of them.

The amendments tabled hereafter reflect the traditional positions of the Committee on Budgets.

AMENDMENTS

The Committee on Budgets calls on the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 5 bis (new)

(5bis) The appropriations allocated to the Agency are decided within the annual budgetary procedure and entered under the specific B...A section of the Budget on the basis of the result of quantitative and qualitative evaluation based on annual programming, performance targets and spending capacities.

Justification

The European Agency for Reconstruction is due to implement the CARDS programme in Former Yugoslavia, therefore the administrative expenditure related to operational expenditure should be identified in the nomenclature to maintain budgetary transparency. The Agency budget will be decided on the needs assessed by the Commission but also on the basis of implementation and evaluation provided annually.

¹ Not yet published in OJ.

Amendment 2
Recital 6

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

(6) The Treaty *provides*, for the adoption of this Regulation, powers under Article 308 *and for its implementation, powers under article 274*.

Justification

The Committee on Budgets stresses that the management of an action which is paid for by Community funds should therefore be implemented by the Commission under the powers conferred to it by the Treaty.