

# EUROPEAN PARLIAMENT

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*Session document*

FINAL  
**A5-0325/2002**

2 October 2002

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## **REPORT**

on the draft Commission Regulation laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities  
(SEC(2002) 835 – C5-0399/2002 – 2002/0901(CNS))

Committee on Budgetary Control

Rapporteur: Michiel van Hulten

### ***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 25 July 2002 the Commission consulted Parliament in accordance with the declaration<sup>1</sup> adopted in the context of the conciliation procedure prior to the adoption of the Financial Regulation in relation to Article 183 thereof on the draft Commission Regulation laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (SEC(2002) 835 – 2002/0901(CNS)).

At the sitting of 5 September 2002 the President of Parliament announced that he had referred this proposal to the Committee on Budgetary Control as the committee responsible and the Committee on Budgets for its opinion (C5-0399/2002).

The Committee on Budgetary Control appointed Michiel van Hulten rapporteur at its meeting of 2 September 2002.

It considered the Commission proposal and the draft report at its meeting of 30 September 2002.

At the latter meeting it adopted the draft legislative resolution by 11 votes to 3.

The following were present for the vote: Diemut R. Theato, chairman; Herbert Bösch, 1<sup>st</sup> vice-chairman; Paulo Casaca, 2<sup>nd</sup> vice-chairman; Freddy Blak, 3<sup>rd</sup> vice-chairman; Michiel van Hulten, rapporteur; Generoso Andria, María Antonia Avilés Perea, Juan José Bayona de Perogordo, Mogens N.J. Camre, Christopher Heaton-Harris, Helmut Kuhne, Eluned Morgan, Jan Mulder (for Antonio Di Pietro), Ole Sørensen, Bart Staes, Gabriele Stauner, and Rijk van Dam (for Jeffrey William Titford).

The Committee on Budgets decided on 28 August 2002 not to deliver an opinion.

The report was tabled on 2 October 2002.

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

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<sup>1</sup> Council document 10003/02 add. 1.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the draft Commission Regulation laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (SEC(2002) 835 – C5-0399/2002 – 2002/0901(CNS))**

**(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal (SEC(2002) 835<sup>1</sup>),
  - having been consulted by the Commission in accordance with the declaration<sup>2</sup> adopted in the context of the conciliation procedure prior to the adoption of the Financial Regulation in relation to Article 183 thereof (C5-0399/2002),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A5-0325/2002),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its draft regulation accordingly;
  3. Asks to be consulted again if the Commission should intend to depart from the text approved by Parliament;
  4. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> OJ L 248, 16.9.2002.

<sup>2</sup> Council document 10003/02 add. 1.

## Amendment 1

## Article 16

*Rules concerning transfers  
(Article 23 of the Financial Regulation)*

1. The percentages referred to in points (b) and (c) of the first subparagraph of Article 23(1) of the Financial Regulation shall be calculated at the time the request for transfer is made.
2. For the purposes of the limit referred to in points (b) and (c) of the first subparagraph of Article 23(1) of the Financial Regulation, the amount to be taken into consideration shall be the sum of the transfers to be made on the line from which the transfer is being made after adjustment for earlier transfers made.

*Rules concerning transfers  
(Article 23 of the Financial Regulation)*

1. The percentages referred to **in Article 22(1) and** in points (b) and (c) of the first subparagraph of Article 23(1) of the Financial Regulation shall be calculated at the time the request for transfer is made.
2. For the purposes of the limit referred to **in Article 22(1) and** in points (b) and (c) of the first subparagraph of Article 23(1) of the Financial Regulation, the amount to be taken into consideration shall be the sum of the transfers to be made on the line from which the transfer is being made after adjustment for earlier transfers made.

*Justification*

*Article 16 lays down the transfer rules with reference to Article 23 of the Financial Regulation, but omits to specify them for Article 22. It is proposed that a reference to Article 22 of the Financial Regulation be added to Article 16.*

Or. fr

Amendment 2  
Article 26

*Administrative appropriations  
(Article 41 of the Financial Regulation)*

Within the respective chapters, administrative appropriations shall be divided into separate headings by title according to the following classification:

- (a) expenditure on staff authorised in the establishment plan: there shall be an amount of appropriations and a number of posts corresponding to this expenditure;

*Administrative appropriations  
(Article 41 of the Financial Regulation)*

***Where the statement of expenditure for a section of the budget is set out on the basis of a nomenclature classified according to purpose***, within the respective chapters administrative appropriations shall be divided into separate headings by title according to the following classification:

- (a) expenditure on staff authorised in the establishment plan: there shall be an amount of appropriations and a number of posts corresponding to this expenditure; (rest unchanged)

*Justification*

*Article 26 has been laid down for a nomenclature classified by purpose, i.e. drawn up on the basis of activity-based budgeting.*

*Article 41(1) of the FR continues to authorise a nomenclature classified by type for the other institutions whose budgets do not include intervention appropriations.*

Or. fr

Amendment 3  
Article 32  
Paragraph 1 (new)

*Definition of a conflict of interests  
(Article 52(2) of the Financial Regulation)*

- 1. There is a conflict of interests where the impartial and objective exercise of the functions of a player in the implementation of the budget or an internal auditor is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.***

- |   |   |
|---|---|
| <p>1. Acts that may be tainted by a conflict of interests may include one of the following forms:</p> <ul style="list-style-type: none"> <li>(a) granting oneself or others unjustified direct or indirect benefits;</li> <li>(b) refusing to grant a beneficiary the rights or benefits to which he is entitled;</li> <li>(c) committing undue or wrongful acts or failing to carry out acts that are mandatory.</li> </ul> <p>2. The competent authority referred to in Article 52 of the Financial Regulation shall be the hierarchical superior of the member of staff concerned. He shall confirm in writing whether or not there is a conflict of interests. If there is, he shall himself take any appropriate decision.</p> | <p>2. Acts that may be tainted by a conflict of interests may include one of the following forms:</p> <ul style="list-style-type: none"> <li>(a) granting oneself or others unjustified direct or indirect benefits;</li> <li>(b) refusing to grant a beneficiary the rights or benefits to which he is entitled;</li> <li>(c) committing undue or wrongful acts or failing to carry out acts that are mandatory.</li> </ul> <p>3. The competent authority referred to in Article 52 of the Financial Regulation shall be the hierarchical superior of the member of staff concerned. He shall confirm in writing whether or not there is a conflict of interests. If there is, he shall himself take any appropriate decision.</p> |
|---|---|

*Justification*

*The definition of conflict of interest given in Article 52(2) of the Financial Regulation should be reproduced here to ensure consistency between the two documents.*

Or. en

Amendment 4  
Article 43  
Paragraph 2 (new)

*Assistance for authorising officers by  
delegation and subdelegation  
(Article 59 of the Financial Regulation)*

***2. The institution shall inform the budgetary authority whenever an authorising officer by delegation of grade A1 takes up his/her duties for the first time, takes up new duties or terminates his/her duties.***



*Justification*

*The budgetary authority should be informed whenever a Director-General is appointed, moved, suspended or has his/her duties terminated, to avoid the kind of miscommunication that has taken place in the last few months.*

Or. en

Amendment 5  
Article 46  
Add new paragraph

*Keeping of supporting documents by  
authorising officers  
(Article 60(4) of the Financial Regulation)*

***1. Each institution shall establish minimum standards for the keeping of supporting documents and shall place the facilities necessary for their safekeeping at the disposal of the authorising officer.***

*Justification*

*Self-explanatory*

Or. en

Amendment 6  
Article 49

*Ex post verification and annual report  
(Article 60(7) of the Financial Regulation)*

The result of the *ex post* verifications shall, with other matters, be set out in the annual activity report submitted by the authorising officer by delegation to his institution.

*Ex post verification and annual report  
(Article 60(7) of the Financial Regulation)*

The result of the *ex post* verifications shall, with other matters, be set out in the annual activity report submitted by the authorising officer by delegation to his institution.

***In connection with the summary of annual reports for the previous year referred to in Article 60(7) of the Financial Regulation, the term Commission and the obligation to submit a summary report to the budgetary authority shall be interpreted as applying mutatis mutandis to the other institutions.***

### *Justification*

*Article 60(7) of the Financial Regulation (last sentence) provides that "The Commission shall no later than 15 June each year send to the budgetary authority a summary of the annual reports for the previous year." In the light of Parliament's discharge responsibilities, the obligation to submit an annual report should also apply to the other institutions.*

### Amendment 7 Article 50

#### *Transmission of financial and management information to the accounting officer (Article 60 of the Financial Regulation)*

The authorising officer by delegation shall send the accounting officer, in accordance with the rules adopted by the latter, the financial and management information required for the performance of the accounting officer's duties.

#### *Transmission of financial and management information to the accounting officer (Article 60 of the Financial Regulation)*

- 1. The authorising officer by delegation shall send the accounting officer, in accordance with the rules adopted by the latter, the financial and management information required for the performance of the accounting officer's duties.***
- 2. With a view to payment by bank credit transfer, authorising officers may enter into a commitment towards a third party on behalf of their institution has provided the documentation required for its entry in the file.***
- 3. Authorising officers shall check that the bank account details communicated by the payee are still valid when each payment order is drawn up.***

### *Justification*

*The two paragraphs (Article 61) on the authorising officer's duties would be more appropriately accommodated in the section on the authorising officer and, for example, in Article 50.*

Or. fr

### Amendment 8

## Article 51

### *Report on negotiated procedures (Article 60 of the Financial Regulation)*

Authorising officers by delegation shall record, for each financial year, contracts concluded by negotiated procedures within the meaning of Articles 124, 125, 240, 242, 244 and 245. If the proportion of negotiated procedures in relation to the number of contracts awarded by the same authorising officer by delegation increases appreciably in relation to earlier years or if this proportion is distinctly higher than the average for the institution, the authorising officer responsible shall report to the institution setting out any measures taken to reverse this trend. The institution shall send a report to the discharge authority.

### *Report on negotiated procedures (Article 60 of the Financial Regulation)*

Authorising officers by delegation shall record, for each financial year, contracts concluded by negotiated procedures within the meaning of Articles 124, 125, 240, 242, 244 and 245. If the proportion of negotiated procedures in relation to the number of contracts awarded by the same authorising officer by delegation increases appreciably in relation to earlier years or if this proportion is distinctly higher than the average for the institution, the authorising officer responsible shall report to the institution setting out any measures taken to reverse this trend. The institution shall send a report to the discharge authority ***which shall be annexed to the summary of annual reports for the previous year referred to in Article 60(7) of the Financial Regulation.***

## *Justification*

*Rather than providing for separate reports to be sent individually, Parliament should receive a coherent set of reports in order to gain as full a picture as possible of the situation within the reporting institution.*

## Amendment 9 Article 52

### *Appointment of the accounting officer (Article 61 of the Financial Regulation)*

The accounting officer shall be appointed ***from officials*** subject to the Staff Regulations of Officials of the European Communities.

The accounting officer must be chosen by the institution on the grounds of his particular competence as evidenced by diplomas or by equivalent professional experience.

### *Appointment of the accounting officer (Article 61 of the Financial Regulation)*

The accounting officer shall be appointed ***as an official*** subject to the Staff Regulations of Officials of the European Communities.

The accounting officer must be chosen by the institution on the grounds of his particular competence as evidenced by diplomas or by equivalent professional experience.

***A call for applications shall be published***

*in the Official Journal of the European Communities with a view to drawing up a list of suitably qualified candidates which is submitted for consultation to the Court of Auditors.*

*The institution shall inform the budgetary authority of the appointment.*

Amendment 10  
Article 53, paragraph 5 (new)

*Termination of duties of the accounting officer  
(Article 61 of the Financial Regulation)*

5. *Whenever the accounting officer terminates his duties, the Institution shall submit a report to the discharge authority setting out the reasons for the termination and confirming the acceptance of the interim statement or provisional accounts by the new accounting officer and specifying, where appropriate, his reservations.*

*Justification*

*Self-explanatory.*

Amendment 11  
Article 56  
Paragraph 1

*Management of bank accounts  
(Article 61 of the Financial Regulation)*

1. *For the requirements of treasury management, the accounting officer may open accounts in the name of the institution with financial institutions or national central banks **or cause such accounts to be opened.** In duly warranted*

*Management of bank accounts  
(Article 61 of the Financial Regulation)*

1. *Each institution shall designate in its internal rules the person with the authority to open and close accounts in the name of the institution with financial institutions or national central banks. In duly warranted circumstances, **that person** may open*

circumstances, **he** may open accounts in currencies other than the euro.

accounts in currencies other than the euro.

***Bank accounts shall be opened or closed on the approval of the accounting officer.***

*Justification*

*It would appear preferable for the opening or closing of a bank account in the name of an institution to be subject to approval by two different individuals. This is also in line with the wording of Article 24 of Parliament's Internal Rules.*

Or. pa

Amendment 12  
Article 61  
Paragraph 2

*Third-party files*  
*(Article 61 of the Financial Regulation)*

*Third-party files*  
*(Article 61 of the Financial Regulation)*

- 2. With a view to payment by bank credit transfer, authorising officers may enter into a commitment towards a third party on behalf of their institution only if that third party has provided the documentation required for its entry in the file.***

***Authorising officers shall check that the bank account details communicated by the payee are still valid when each payment order is drawn up.***

In connection with pre-accession aid, individual commitments may be concluded with the public authorities in the countries applying for accession to the European Union without a prior entry in the third-party file. In this event the authorising officer shall do his utmost to ensure that the entry is made as quickly as possible. The agreements shall provide that communication to the Commission of the payee's bank account details is a condition to be fulfilled before the first payment can be made.

In connection with pre-accession aid, individual commitments may be concluded with the public authorities in the countries applying for accession to the European Union without a prior entry in the third-party file. In this event the authorising officer shall do his utmost to ensure that the entry is made as quickly as possible. The agreements shall provide that communication to the Commission of the payee's bank account

details is a condition to be fulfilled before the first payment can be made.

*Justification*

*See amendment to Article 50.*

Or. fr

Amendment 13  
Article 65

*Choice of imprest administrators  
(Article 63 of the Financial Regulation)*

Imprest administrators shall be chosen from category A or B officials subject to the Staff Regulations or, should the need arise, from staff subject to the Conditions of Employment of Other Servants of a level equivalent to those categories. They shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or by appropriate professional experience.

*Choice of imprest administrators  
(Article 63 of the Financial Regulation)*

Imprest administrators shall be chosen from category A or B officials ***or other suitably qualified officials*** subject to the Staff Regulations or, should the need arise, from staff subject to the Conditions of Employment of Other Servants of a level equivalent to those categories. They shall be chosen on the grounds of their knowledge, skills and particular qualifications as evidenced by diplomas or by appropriate professional experience.

*Justification*

*For practical reasons. Parliament's Administration sometimes appoints C category officials as imprest administrators. Those imprests operate smoothly, and the administrators carry out their duties properly. So as not to cause needless inconvenience, it is proposed that the possibility of choosing imprest administrators from category C officials be added.*

Or. pa

Amendment 14  
Article 72  
Paragraph 1

*Financial irregularities panel  
(Articles 60(6) and 66(4) of the Financial  
Regulation)*

1. The appointing authority or, where appropriate, the authority authorised to conclude contracts of employment ***may*** refer

*Financial irregularities panel  
(Articles 60(6) and 66(4) of the Financial  
Regulation)*

1. The appointing authority or, where appropriate, the authority authorised to conclude contracts of employment ***shall***

to the panel referred to in Article 66(4) of the Financial Regulation for an opinion cases of financial irregularities within the meaning of Article 71.

refer to the panel referred to in Article 66(4) of the Financial Regulation for an opinion cases of financial irregularities within the meaning of Article 71.

*Justification*

*It is important the panel should have an opportunity to assess all cases of financial irregularities that are alleged to have taken place.*

Or. en

Amendment 15

Article 72

Paragraph 2

*Financial irregularities panel  
(Articles 60(6) and 66(4) of the Financial  
Regulation)*

2. Each institution shall, depending on its own internal organisation, specify the composition of the panel referred to in Article 66(4) of the Financial Regulation and its operating arrangements.

*Financial irregularities panel  
(Articles 60(6) and 66(4) of the Financial  
Regulation)*

2. Each institution shall, depending on its own internal organisation, specify the composition of the panel referred to in Article 66(4) of the Financial Regulation and its operating arrangements ***on the understanding, however, that in each institution the panel shall include an external expert with relevant qualifications.***

*Justification*

*The panel's deliberations would benefit from the impartial advice of an outside expert.*

Or. en

Amendment 16

Article 83

*Default interest  
(Article 71(4) of the Financial Regulation)*

2. The interest rate for debts not repaid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as

*Default interest  
(Article 71(4) of the Financial Regulation)*

2. The interest rate for debts not repaid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as

published in the C series of the *Official Journal of the European Communities* on the first working day of the month in which the debt is due, increased by:

- (a) seven percentage points where the source of the debt is the award of public supply and service contracts referred to in Title V;
- (b) three and a half percentage points in all other cases;

published in the C series of the *Official Journal of the European Communities* on the first working day of the month in which the debt is due, increased by:

- (a) seven percentage points where the source of the debt is the award of public supply and service contracts referred to in Title V;
- (b) three and a half percentage points in all other cases;

***In the case of commercial transactions within the meaning of Directive 2000/35/EC, however, the terms of that Directive shall apply.***

Amendment 17  
Article 84  
Paragraph 4 (new)

*Waiving of recovery of an established debt  
(Article 73 of the Financial Regulation)*

***4. A report on waivers of recoveries of established debts above a threshold of EUR 100 000 shall be annexed to the summary of annual reports to be sent by each institution to the budgetary authority pursuant to Article 60(7) of the Financial Regulation.***

*Justification*

*Waiving the recovery of a debt will be the responsibility of the authorising officer on the basis, however, of rather subjective criteria. Hence the need for a reporting requirement.*

Or. en

Amendment 18  
Article 103  
Add new subparagraph 1a



*Payment times and default interest  
(Article 83 of the Financial Regulation)*

***In the case of commercial transactions within the meaning of Directive 2000/35/EC the period referred to in paragraph 1 shall be thirty days unless otherwise specified in the contract or agreement.***

#### *Justification*

*A distinction should be made between straightforward commercial transactions such as the purchase of goods, which are covered by Directive 2000/35/EC, and payments resulting from a more complex contract or agreement.*

Or. en

#### Amendment 19 Article 106

##### *Appointment of the internal auditor (Article 85 of the Financial Regulation)*

1. Each institution shall appoint its internal auditor in accordance with arrangements adapted to its specific features and requirements.

2. Each institution shall determine, in accordance with its specific features and its requirements, the scope of the mission of the internal auditor and shall lay down in detail the objectives and procedures for the exercise of the internal audit function with due respect for international internal audit standards.

***3. The institution may appoint as internal auditor, by virtue of their particular***

##### *Appointment of the internal auditor (Article 85 of the Financial Regulation)*

***1. The internal auditor shall be appointed following publication of a vacancy notice in the Official Journal of the European Community and shall be subject, on appointment, to the Staff Regulations of Officials of the European Communities.***

Each institution shall appoint its internal auditor in accordance with arrangements adapted to its specific features and requirements. ***The institution shall inform the budgetary authority of the appointment.***

2. Each institution shall determine, in accordance with its specific features and its requirements, the scope of the mission of the internal auditor and shall lay down in detail the objectives and procedures for the exercise of the internal audit function with due respect for international internal audit standards. ***The Court of Auditors may be asked to give an opinion.***

***3. The internal auditor must be chosen by the institution on the grounds of his***

***competence, an official or other servant covered by the Staff Regulations chosen from nationals of the Member States.***

4. When two or more institutions appoint the same internal auditor they shall make the necessary arrangements for him to be declared liable for his actions as laid down in Article 112.

***particular competence as evidenced by diplomas or by equivalent professional experience and by written references from previous employers.***

4. When two or more institutions appoint the same internal auditor they shall make the necessary arrangements for him to be declared liable for his actions as laid down in Article 112.

***5. Whenever the internal auditor terminates his duties, the Institution shall submit a report to the discharge authority setting out the reasons for the termination.***

#### *Justification*

*It is important to make it clear that the internal auditor may be appointed from within or outside the institution, and that the professional background of the appointee must be thoroughly verified. The budgetary authority must also be fully informed of any decision to appoint or remove an internal auditor.*

Or. en

#### Amendment 20

##### Title V

##### Chapter 1

Insert new Article 113 A "General principles" before Article 114

***The purpose of procurement procedures is to meet the needs of the European institutions on the best possible terms with due regard for the principle of equal access to public procurement and the principles of transparency and non-discrimination deriving therefrom.***

#### *Justification*

*Such wording would make it easier for authorising officers and the Legal Service to have recourse to a 'teleological' interpretation and not stick stubbornly to formal considerations.*

Or. fr

Amendment 21  
Article 114 (7)  
New subparagraph

*Definitions and scope*  
*(Article 88 of the Financial Regulation)*

***Each institution shall put in place mechanisms to ensure that adequate coordination takes place between departments and that the rules contained in this title are applied in a consistent manner.***

*Justification*

*Self-explanatory*

Or. en

Amendment 22  
Article 115 (1)  
New fifth subparagraph

*Framework contracts*  
*(Article 88 of the Financial Regulation)*

***In the case of multiple framework contracts for translation services, subject to announcement of the intention to operate such a system in the contract notice, tender specification and framework contract and, in addition, a detailed description of the system to be operated in tender specifications and framework contract, the contracting authority may, in its management of the contracts, operate a system of on-going assessment of the quality of service actually offered during the contract period, with the ranking of the contractors being adjusted to reflect the actual quality.***

### *Justification*

*The conclusion of multiple framework contracts for translation services is fully justified in the light of the impossibility of determining any but the most general aspects of the service required at the moment of award of the contracts (specifically neither volume nor deadline can be specified) and the urgency with which the service is required and that in the case of translation services multiple framework contracts do not constitute an exception but are accepted as the norm. Moreover, in the case of calls for tender for translation services, there is no obligation on the awarding authority to set a maximum number of potential contractors.*

Or. en

### Amendment 23 Article 117

*Advertising of contracts outside the scope  
of the public procurement directives  
(Article 90 of the Financial Regulation)*

2. A list of contractors to whom building contracts are awarded shall be published annually.

*Advertising of contracts outside the scope  
of the public procurement directives  
(Article 90 of the Financial Regulation)*

2. A list of contractors to whom building contracts are awarded shall be published annually ***and annexed to the summary of annual reports to be sent by each institution to the budgetary authority pursuant to Article 60(7) of the Financial Regulation.***

### *Justification*

*The aim should be, as far as possible, to create a coherent set of reports.*

### Amendment 24 Article 132 New paragraph 3

*Evidence  
(Article 96 of the Financial Regulation)*

- 3. The documents identified in paragraphs 1 and 2 will relate to legal and/or natural persons, including, if appropriate, in***

*instances where the institution considers it necessary, heads of undertakings or any person empowered to represent, take decisions for or supervise the candidate or bidder.*

*Justification*

*In the case of companies or other entities having legal personality, the checks may also cover senior staff such as directors, to avoid a situation whereby a decision to exclude a company from participation in a procurement procedure is bypassed by the setting up of a new company.*

Or. pa

Amendment 25  
Article 144  
Paragraph 3  
Second subparagraph

*Committee for the evaluation of tenders and requests to participate  
(Article 98(4) of the Financial Regulation)*

However, the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted, within a time limit set by it, where it is a question of documentation for the purpose of determining whether candidates or tenderers satisfy the selection criteria.

*Committee for the evaluation of tenders and requests to participate  
(Article 98(4) of the Financial Regulation)*

However, the evaluation committee may ask candidates or tenderers to supply additional material or to clarify the supporting documents submitted, within a time limit set by it, where it is a question of documentation for the purpose of determining whether candidates or tenderers satisfy the selection **and/or exclusion** criteria.

*Justification*

*If the contracting authority can ask tenderers to supply additional material or to clarify the supporting documents they have provided, it must also be able to do so with regard to the conditions for exclusion. That would make it possible to reduce the number of procedures declared unsuccessful or rule out bids on purely formal grounds.*

Or. fr

Amendment 26  
Article 152

*Identification of contracting authorities for  
the calculation of thresholds  
(Article 104 of the Financial Regulation)*

For the purpose of calculating the thresholds laid down in Article 105 of the Financial Regulation, each authorising officer by delegation or subdelegation within each institution ***shall be deemed to be a contracting authority.***

*Identification of contracting authorities for  
the calculation of thresholds  
(Article 104 of the Financial Regulation)*

For the purpose of calculating the thresholds laid down in Article 105 of the Financial Regulation, ***it shall be the responsibility of each authorising officer by delegation or subdelegation within each institution to assess the contracts, with a view to the publication thereof, he plans to conclude during the financial year in question.***

*Justification*

*Cf Article 114(7).*

Or. fr

Amendment 27  
Article 206  
Paragraph 1

*Computerised systems  
(Article 132 of the Financial Regulation)*

1. The accounts shall be kept with the help of ***one or more computer programs.***

*Computerised systems  
(Article 132 of the Financial Regulation)*

1. The accounts shall be kept with the help of ***an integrated computer system.***

*Justification*

*An integrated system will increase the reliability of the accounts.*

Or. en

Amendment 28  
Article 206  
Paragraph 2

*Computerised systems  
(Article 132 of the Financial Regulation)*

*Computerised systems  
(Article 132 of the Financial Regulation)*

2. Where accounts are kept using computerised systems and subsystems, such systems and subsystems shall be described in full.

This description shall define the content of all data fields and specify how the system treats individual operations. It shall state how the system guarantees the existence of a complete audit trail for each operation.

The descriptions of computerised accounting systems and subsystems shall indicate any links between these systems and the central accounting system (particularly as regards the transfer of data and the reconciliation of balances).

2. Where accounts are kept using computerised systems and subsystems, such systems and subsystems shall be described in full.

This description shall define the content of all data fields and specify how the system treats individual operations. It shall state how the system guarantees the existence of a complete audit trail for each operation.

The descriptions of computerised accounting systems and subsystems shall indicate any links between these systems and the central accounting system (particularly as regards the transfer of data and the reconciliation of balances).

***Access to the computerised systems and subsystems containing the accounts shall be restricted to persons included on a list of authorised users kept by the institution.***

***An audit trail shall be maintained of all changes made to the computerised systems and subsystems, detailing the nature and the author of the changes.***

#### *Justification*

*The number of persons entitled to enter and amend data relating to accounts needs to be tightly regulated.*

#### Amendment 29 Article 223

*Resale of property*  
(Article 138 of the Financial Regulation)

Officials and other servants of the institutions and bodies referred to in Article 185 of the Financial Regulation may not acquire items that are resold by these institutions and bodies, save where those items are resold by public tender procedure.

*Resale of property*  
(Article 138 of the Financial Regulation)

**Members**, officials and other servants of the institutions and bodies referred to in Article 185 of the Financial Regulation **and the staff of firms under contract to the institutions and working in house** may not acquire items that are resold by these institutions and bodies, save where those items are resold by public tender procedure.

*Justification*

*The aim is to extend the range of individuals covered by Article 223.*

Or. fr

Amendment 30  
Article 255

*Scope*  
(Article 171 of the Financial Regulation)

The offices referred to in Article 171 of the Financial Regulation are as follows:

- (a) the Office for Official Publications;
- (b) the European Anti-Fraud Office;
- (c) the **Recruitment** Office.

One or more institutions may set up additional offices provided that this can be justified by a cost-benefit study and guarantees the visibility of the Community action.

*Scope*  
(Article 171 of the Financial Regulation)

The offices referred to in Article 171 of the Financial Regulation are as follows:

- (a) the Office for Official Publications;
- (b) the European Anti-Fraud Office;
- (c) the **European Personnel Selection** Office.

One or more institutions may set up additional offices provided that this can be justified by a cost-benefit study and guarantees the visibility of the Community action.

*Justification*

*At Parliament's request the name of the new office was changed at the time of adoption of the relevant decision to "European Personnel Selection Office."*

Or. en



Amendment 31  
Article 263  
Paragraph 3 (new)

*Liquidation of the guarantee fund*

- 3. The guarantee account shall be credited, until it is liquidated, with annual interest corresponding to the annual average of the monthly rates applied by the European Central Bank to its main refinancing operations in euro.**

*Justification*

*It would appear unreasonable for guarantee accounts to be frozen for anything up to 18 months without any interest in return.*

*Furthermore, the present Financial Regulation implementing rules (Article 32) make provision for payment of such interest.*

Or. fr

Amendment 32  
Article 263 a (new)

*Liquidation of the guarantee fund*

**The accounts for the 2002 financial year shall be drawn up and presented in accordance with the provisions of the Financial Regulation of 21 December 1977, as last amended by Council Regulation No 762/2001 of 9 April 2001, except for the obligation to submit these to the Financial Controller, as stipulated in Articles 79 and 81 thereof.**

*Justification*

*Transitional provision*

Or. en

