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*****I** **REPORT**

on the proposal for a European Parliament and Council decision establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests
(COM(2003) 278 – C5-0312/2003 – 2003/0152(COD))

Committee on Budgetary Control

Rapporteur: Herbert Bösch

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.

CONTENTS

	Page
PROCEDURAL PAGE	4
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	16
FINANCIAL STATEMENT	18
OPINION OF THE COMMITTEE ON BUDGETS	19

PROCEDURAL PAGE

By letter of 7 July 2003 the Commission submitted to Parliament, pursuant to Articles 251(2) and 280(4) of the EC Treaty, the proposal for a European Parliament and Council decision establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests (COM(2003) 278 – 2003/0152(COD)).

At the sitting of 1 September 2003 the President of Parliament announced that he had referred the proposal to the Committee on Budgetary Control as the committee responsible and the Committee on Budgets and the Committee on Economic and Monetary Affairs for their opinions (C5-0312/2003).

The Committee on Budgetary Control appointed Herbert Bösch rapporteur at its meeting of 29 September 2003.

The committee considered the Commission proposal and draft report at its meetings of 25 November 2003, 2 December 2003, 9 February 2004 and 19 February 2004.

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

The following were present for the vote: Diemut R. Theato (chairwoman), Herbert Bösch (second vice-chairman and rapporteur), Freddy Blak (third vice-chairman), María Antonia Avilés Perea, Juan José Bayona de Perogordo, Christopher Heaton-Harris, Helmut Kuhne, Emmanouil Mastorakis (for Eluned Morgan), John Joseph McCartin (for Brigitte Langenhagen), Ole Sørensen, Gabriele Stauner, Jeffrey William Titford and Rijk van Dam.

The opinion of the Committee on Budgets is attached. The Committee on Economic and Monetary Affairs decided on 7 October 2003 not to deliver an opinion.

The report was tabled on 23 February 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a European Parliament and Council decision establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests
(COM(2003) 278 – C5-0312/2003 – 2003/0152(COD))**

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 278)¹,
 - having regard to the European Court of Auditors' Opinion No 8/2003²,
 - having regard to Articles 251(2) and 280(4) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0312/2003),
 - having regard to Article 112 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities³,
 - having regard to the declaration of 18 December 2003 by the European Parliament and the Council on the programmes adopted under codecision⁴,
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Budgets (A5-0087/2004),
1. Approves the Commission proposal as amended;
 2. Considers that the financial statement in the Commission proposal is compatible with the ceiling of headings 3 and 5 of the 2000-2006 financial perspective;
 3. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 4. Calls also, in keeping with the European Court of Auditors' opinion, for the objectives of the action programme, should it be renewed after 2006, to be more clearly defined and more effectively measurable in order to facilitate evaluation;
 5. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

² OJ C 318, 30.12.2003, p. 5.

³ OJ L 248, 16.9.2002, p. 1.

⁴ P5_TA(2003)0588.

Amendment 1
Recital 3

(3) **Specific** activities in this field should therefore be promoted and bodies engaged in this field should be supported by **means of** operating grants. Experience has shown the value of providing support at Community level as compared with national promotional activities.

(3) Activities in this field should therefore be promoted and bodies engaged in this field should be supported by **awarding** operating grants. Experience has shown the value of providing support at Community level as compared with national promotional activities.

Amendment 2
Recital 5

(5) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities¹ **requires a basic instrument to be provided for existing support measures.**

(5) **Article 112 of** Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities² **lays down strict conditions for financial assistance for measures specified in a basic instrument which have already begun.**

Amendment 3
Recital 6

(6) It is therefore necessary to **establish** that basic instrument **and to rationalise and supplement all existing support measures** by adopting this Decision establishing a structured, specific and multidisciplinary Community action programme for a substantial period.

(6) It is therefore necessary to **adopt** that basic instrument **so that**, by adopting this Decision establishing a structured, specific and multidisciplinary Community action programme for a substantial period, **all existing support measures are rationalised and supplemented.**

Amendment 4
Recital 7

(7) The programme should **cover** all Member States and neighbouring countries in view of the importance of providing

(7) The programme should **be opened up to** all Member States and neighbouring countries in view of the importance of

¹ OJ L 248, 16.9.2002, p. 1.

² OJ L 248, 16.9.2002, p. 1.

effective and equivalent protection for the Community's financial interests beyond the Member States alone.

providing effective and equivalent protection for the Community's financial interests beyond the Member States alone.

Amendment 5
Recital 7 a (new)

The European Parliament, the Council and the Commission, when adopting the Financial Regulation, undertook to achieve the objective of ensuring that this basic act comes into force as from the financial year 2004.

Justification

In the negotiations on the new Financial Regulation, agreement was reached to preserve Parliament's rights to identify beneficiaries of grants through earmarking in the budget. This right has been formalised in the statement on Article 108 of the Financial Regulation.

Amendment 6
Recital 8

Does not apply to English version

Amendment 7
Recital 10

(10) The Commission should **report** to the European Parliament and the Council on the attainment of the programme's objectives.

(10) The Commission should ***submit to the European Parliament and the Council an interim report by the European Anti-Fraud Office (OLAF) on the implementation of the programme and a final report*** on the attainment of the programme's objectives.

Amendment 8
Article 1, paragraph 2

2. The purpose of the programme shall be to help protect the Community's financial interests by promoting activities and supporting bodies in accordance with the general criteria set out in the Annex and specified in detail in each annual grants

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programme. It shall take transnational and multidisciplinary aspects into account. It shall focus on aligning the substance of activities so as to **ensure** effective and equivalent levels of protection on the basis of mutually agreed best practice while also respecting the distinct traditions of each Member State.

programme. It shall take transnational and multidisciplinary aspects into account. It shall focus on aligning the substance of activities so as to **guarantee** effective and equivalent levels of protection on the basis of mutually agreed best practice while also respecting the distinct traditions of each Member State.

Amendment 9
Article 2, paragraph 1

1. To qualify for a Community grant for an activity aimed at protecting the Community's financial interests, **applicants** must comply with the provisions set out in the Annex. The activity must conform to the principles underlying Community activity in the field of the protection of the Community's financial interests and take account of the specific criteria laid down in the related calls for proposals, in accordance with the priorities set out in the annual grants programme detailing the general criteria set out in the Annex.

1. To qualify for a Community grant for an activity aimed at protecting the Community's financial interests, **grant beneficiaries** must comply with the provisions set out in the Annex. The activity must conform to the principles underlying Community activity in the field of the protection of the Community's financial interests and take account of the specific criteria laid down in the related calls for proposals, in accordance with the priorities set out in the annual grants programme detailing the general criteria set out in the Annex.

Amendment 10
Article 2, paragraph 2

2. To qualify for a Community operating grant under the ongoing work programme of a body which pursues an objective of general European interest in the field of the protection of the Community's financial interests, **a** body must satisfy the general criteria set out in the Annex.

2. To qualify for a Community operating grant under the ongoing work programme of a body which pursues an objective of general European interest in the field of the protection of the Community's financial interests, **the** body **concerned** must satisfy the general criteria set out in the Annex.

Amendment 11
Article 2, paragraph 2 a (new)

2a. Applications for operating grants must contain all necessary information, to enable the Commission to select beneficiaries, on:

- *the type of body,*
- *the measures to protect the Community's financial interests;*
- *the likely cost of implementing the measures;*
- *all criteria set out in point 4 of the Annex.*

Amendment 12
Article 3

In addition to recipients and bodies located in the Member States, participation in the Community action programme shall be open to those located in:

- a) countries which *agreed at the Copenhagen summit in 2002 to join the European Union in 2004;*
- b) the EFTA/EEA countries, in accordance with the conditions laid down in the EEA Agreement;
- c) Romania and Bulgaria, in accordance with the conditions laid down in the Europe Agreements, in their additional protocols and in the decisions of the respective Association Councils;
- d) Turkey;

e) the Balkan countries forming part of the stabilisation and association process for countries of south eastern Europe;

f) certain countries of the Commonwealth of Independent States

In addition to recipients and bodies located in the Member States, participation in the Community action programme shall be open to those located in:

- a) *acceding* countries which *signed the accession treaty on 16 April 2004;*
- b) the EFTA/EEA countries, in accordance with the conditions laid down in the EEA Agreement;
- c) Romania and Bulgaria, in accordance with the conditions laid down in the Europe Agreements, in their additional protocols and in the decisions of the respective Association Councils;
- d) Turkey, *in accordance with the Council Decision of 17 December 2001 concerning the conclusion of a Framework Agreement between the European Community and the Republic of Turkey on the general principles for the participation of the Republic of Turkey in Community programmes*¹;

¹ OJ L 61, 2.3.2002, p. 27.

Amendment 13
Article 4, paragraph -1 (new)

-1. The programme covers one type of awarding procedure by means of a call for proposals for all beneficiaries.

Justification

The legal act should identify with more transparency the different awarding criteria in respect of the provisions of the Financial Regulation.

Amendment 14
Article 5, paragraph 1

1. Financial assistance granted for activities may not cover all eligible expenditure. The amount of a grant for an activity awarded under the programme may not exceed ***90% of the eligible expenditure of the body for the calendar year for which the grant is intended.***

1. Financial assistance granted for activities may not cover all eligible expenditure. The amount of a grant for an activity awarded under the programme may not exceed ***the following rates:***

(a) 50% of eligible expenditure for technical support;

(b) 80% of eligible expenditure for training measures, promoting exchanges of specialised staff and the holding of seminars and conferences, provided that the beneficiaries are those referred to in point 2, first indent, of the Annex hereto;

(c) 90% of eligible expenditure for the holding of seminars and conferences, etc., provided that the beneficiaries are those referred to in point 2, second and third indents, of the Annex hereto.

Justification

The amendment to Article 5(1)(b) ensures that the same assistance is given to exchanges of specialised staff as to other training measures.

Amendment 15
Article 6, paragraph 1

1. The programme shall start on 1 January 2004 and end on 31 December **2008**.

1. The programme shall start on 1 January 2004 and end on 31 December **2006**.

Amendment 16
Article 6, paragraph 2

2. The financial framework for the implementation of the programme for the period 2004 to **2008** shall be EUR **21.485** million.

2. The financial framework for the implementation of the programme for the period 2004 to **2006** shall be EUR **11.775** million.

Amendment 17
Article 7

By 31 December 2009 at the latest, the Commission shall report to the European Parliament and the Council on the achievement of the objectives of this programme. The report shall be based on the results obtained by the beneficiaries and assess, in particular, their effectiveness in achieving the objectives defined in Article 1 and the Annex.

The Commission shall submit to the European Parliament and the Council:

(a) by 30 June 2006 at the latest, a report by OLAF on the implementation of the programme and the appropriateness of continuing it;

(b) by 31 December 2007 at the latest, a report by OLAF on the achievement of the objectives of this programme. The report, based on the results obtained by the beneficiaries, shall assess, in particular, their effectiveness in achieving the objectives defined in Article 1 and the Annex.

Amendment 18
Annex, point 1, indent 4 a (new)

- promoting exchanges of specialised staff;

Amendment 19
Annex, point 2

The activities carried out by bodies which may receive a Community grant under the programme come under the heading of **specific** actions aimed at strengthening Community measures to protect financial interests and pursue **an objective** of general European interest in this field or an objective which is part of the European Union's policy in this area.

In accordance with Article 2 of the Decision, **this applies to:**

- all national or regional administrations of Member **States** or **countries** outside the Union, as defined in Article 3 of this Decision, which promote the **action of the Community** in the field of the protection of the Community's financial interests;

- all research and education institutes that have had legal personality for at least one year and are established and operating in **the Member States** or in **countries** outside the Union, as defined in Article 3 of this Decision, and that promote the strengthening of the Community's action in protecting its financial interests;

- all non-profit-making bodies that have had legal personality for at least one year and are legally established in a Member State or country outside the Union, as defined in Article 3 of this Decision, and that promote the strengthening of Community action to protect the Community's financial interests.

The activities carried out by bodies which may receive a Community grant under the programme come under the heading of actions aimed at strengthening Community measures to protect financial interests and pursue **objectives** of general European interest in this field or an objective which is part of the European Union's policy in this area.

In accordance with Article 2 of the Decision, **the following bodies shall have access to the programme:**

- all national or regional administrations of **a Member State** or **country** outside the Union, as defined in Article 3 of this Decision, which promote the **strengthening of the Community's action** in the field of the protection of the Community's financial interests;

- all research and education institutes that have had legal personality for at least one year and are established and operating in **a Member State** or in **a country** outside the Union, as defined in Article 3 of this Decision, and that promote the strengthening of the Community's action in protecting its financial interests;

- all non-profit-making bodies that have had legal personality for at least one year and are legally established in a Member State or country outside the Union, as defined in Article 3 of this Decision, and that promote the strengthening of Community action to protect the Community's financial interests.

Amendment 20
Annex, point 4

Applications for grants for *specific* activities or, where appropriate, operating grants are assessed in the light of:

- consistency of the proposed activity in relation to the objectives of the programme;
- complementarity of the proposed activity with other assisted activities;
- feasibility of the proposed activity, i.e. the real possibility that it can be carried out using the proposed means;
- feasibility of the proposed activity, i.e. the real possibility that it can be carried out using the proposed means;
- the cost-benefit ratio;
- the added *value* of the proposed activity;
- size of public targeted by the proposed activity;
- transnational and multidisciplinary aspects of the activity;
- geographic scope of the proposed measure.

Applications for grants for activities or, where appropriate, operating grants are assessed in the light of:

- consistency of the proposed activity in relation to the objectives of the programme;
- complementarity of the proposed activity with other assisted activities;
- feasibility of the proposed activity, i.e. the real possibility that it can be carried out using the proposed means;
- feasibility of the proposed activity, i.e. the real possibility that it can be carried out using the proposed means;
- the cost-benefit ratio;
- the added *utility* of the proposed activity;
- size of public targeted by the proposed activity;
- transnational and multidisciplinary aspects of the activity;
- geographic scope of the proposed measure.

Amendment 21
Annex, point 5, paragraph 1 a (new)

Also eligible is expenditure in connection with the participation of representatives of the Balkan countries forming part of the stabilisation and association process for countries of south eastern Europe¹ and certain countries of the Commonwealth of Independent States².

¹Former Yugoslav Republic of Macedonia, Albania, Serbia and Montenegro, Bosnia-Herzegovina and

Croatia.

²Belarus, Moldavia, Russian Federation and Ukraine.

Amendment 22
Annex, point 6.1.

6.1 The beneficiary of an operating grant must keep available for the Commission all the supporting documents, **including** the audited financial statement, regarding expenditure incurred during the grant year for a period of five years following the last payment. The beneficiary of a grant must ensure that, where applicable, supporting documents in the possession of partners or members are made available to the Commission.

6.1 The beneficiary of an operating grant must keep available for the Commission all the supporting documents, **in particular** the audited financial statement, regarding expenditure incurred during the grant year for a period of five years following the last payment. The beneficiary of a grant must ensure that, where applicable, supporting documents in the possession of partners or members are made available to the Commission.

Amendment 23
Annex, point 6.4

6.4 The Court of Auditors and the European Anti-Fraud Office (OLAF) must enjoy the same rights, especially of access, as the **Commission**.

6.4 The Court of Auditors and the European Anti-Fraud Office (OLAF) must enjoy the same rights, especially of access, as the **persons referred to in point 6.3**.

Amendment 24
Annex, point 6.5

6.5 Furthermore, in order to protect the European Community's financial interests against fraud and other irregularities, the Commission **may carry** out on-the-spot checks and inspections under this programme in accordance with Council Regulation (Euratom, EC) No 2185/96. Where necessary, investigations must be conducted by the European Anti-Fraud Office (OLAF) and governed by European Parliament and Council Regulation (EC)

6.5 Furthermore, in order to protect the European Community's financial interests against fraud and other irregularities, the Commission **carries** out on-the-spot checks and inspections under this programme in accordance with Council Regulation (Euratom, EC) No 2185/96 **of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other**

irregularities. Where necessary, investigations must be conducted by the European Anti-Fraud Office (OLAF) and governed by European Parliament and Council Regulation (EC) No 1073/1999.

Amendment 25
Annex, point 7

On the basis of a cost-effectiveness analysis, the Commission may *decide to entrust all or some of the tasks of managing the programme to an executive agency, in accordance with Article 55 of the Financial Regulation applicable to the general budget of the European Communities; it may also* employ experts and *incur* any other *expenditure on* technical and administrative assistance not involving public authority tasks outsourced under ad hoc service contracts. It may also finance studies and organise meetings of experts to facilitate the implementation of the programme, and take information, publication and dissemination measures directly linked to fulfilling the objectives of the programme.

On the basis of a cost-effectiveness analysis, the Commission may employ experts and *make use of* any other *form of* technical and administrative assistance not involving public authority tasks outsourced under ad hoc service contracts. It may also finance studies and organise meetings of experts to facilitate the implementation of the programme, and take information, publication and dissemination measures directly linked to fulfilling the objectives of the programme.

EXPLANATORY STATEMENT

Aim of the proposal for a decision

The current process of reforming the Commission, and in particular the adoption of the new Financial Regulation applicable to the general budget of the European Communities, requires basic instruments to be adopted for a number of grants that have been financed to date without being covered by a specific basic instrument. Of the grants that will in future need to be covered by a basic instrument, there are several that have been made by the Commission to protect the Community's financial interests. The purpose of this proposal is to establish that basic instrument by setting up a Community action programme for Commission grants in this field.

Legal basis

The legal basis for the proposal for a decision is Article 280(4) of the EC Treaty. The codecision procedure applies to the Commission proposal.

Main features of the proposal for a decision

The purpose of the proposal is to establish a Community action programme to promote activities in the field of the protection of the Community's financial interests (the HERCULE programme). It covers both grants for specific measures, e.g. studies, conferences or training, and operating grants to bodies working in this field, such as associations set up to promote the protection of the Community's financial interests.

To date, the above measures have been funded from budget headings C-III-A-3010 and B5-910.

The action programme would run from the start of January 2004 until the end of December 2008. The amounts earmarked for the programme are based on the grants made under the European Communities' budget for 2003, which total €3 375 000. To take account of enlargement, which is likely to have the effect of increasing the number of activities and bodies eligible for grants, it is proposed that the average annual amount be set at €4 297 000 a year, which gives total funding of €21 485 000 over five years.

More recent developments

To take account of the medium-term financial perspective, Parliament, the Council and the Commission reached agreement at the end of 2003 on running the action programme for three years (2004-2006). The total financial framework for that period is € 11 775 000.

In the annex, the rapporteur attaches importance to enabling exchanges of specialised staff to take place. He welcomes the fact that financial assistance is to be staggered and that reporting by OLAF is to be brought forward.

In addition, should the action programme be renewed after 2006, he is calling, in keeping with the European Court of Auditors' opinion, for the programme's objectives to be more clearly defined and more effectively measurable in order to facilitate evaluation.

FINANCIAL STATEMENT

* To be annexed to the draft report pursuant to Rule 159(3)(c) of the Rules of Procedure (only if the proposed financial framework departs from the Commission proposal)

Report: Rapporteur: Herbert Bösch

1. DESCRIPTION

- 1.1 Title of action: Proposal for a European Parliament and Council decision establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests
- 1.2. Policy area: Fight against fraud
Activity: Promoting the protection of the Communities' financial interests
- 1.3. Nomenclature
24.02.04 (formerly COM A03600 and A03010 in 2003): Support for the activities of the associations of European lawyers for the protection of the financial interests of the Community
24.02.05 (formerly B5-910 in part in 2003): General measures to combat fraud.

2. OVERALL FIGURES

- 2.1 Period of application:
2004-2006
- 2.2. Overall multiannual estimate of expenditure and total allocation (in € m)

	2004	2005	2006	Total
Commitment appropriations	3.925	3.925	3.925	11.775

- 2.3. Compatibility with financial programming and financial perspective
Proposal is compatible with existing financial programming.
- 2.4. Financial impact on revenue
Proposal has no financial implications (involves technical aspects regarding implementation of a measure).

3 November 2003

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Budgetary Control

on the proposal for a European Parliament and Council decision establishing a Community action programme to promote activities in the field of the protection of the Community's financial interests

(COM(2003) 278 – C5-0312/2003 – 2003/0152(COD))

Draftsman: Bárbara Dührkop Dührkop

PROCEDURE

The Committee on Budgets appointed Bárbara Dührkop Dührkop draftsman at its meeting of 11 September 2003.

It considered the draft opinion at its meetings of 3 November 2003.

At the meeting it adopted the following amendments unanimously.

The following were present for the vote: Terence Wynn (chairman), Reimer Böge (vice-chairwoman), Anne Elisabet Jensen (vice-chairwoman), Franz Turchi (vice-chairman), Bárbara Dührkop Dührkop (draftswoman), Ioannis Averoff, Joan Colom i Naval, James E.M. Elles, Salvador Garriga Polledo, Neena Gill, Catherine Guy-Quint, María Esther Herranz García, John Joseph McCartin, Juan Andrés Naranjo Escobar, Giovanni Pittella and Ralf Walter.

SHORT JUSTIFICATION

Content

Following the entry into force of the new Financial Regulation which requires a basic act for the actions covered by the subsidies of former chapter A-30 (plus subsidies provided under some B lines), the Commission has presented seven proposals establishing action programmes. The subsidies have been grouped according to the articles of the Treaty they refer to. All of them will become multiannual programmes with a financial amount (reference amount for codecisions).

Nevertheless, the rapporteur underlines that four proposals fall under the codecision procedure and three under the conciliation procedure.

Concerning the timetable, the following declaration was agreed at the conciliation of 16 July:

*"The European Parliament and the Council will attempt to finalise their respective positions in the relevant legislative procedures **before the end of November 2003**, and to keep each other and the Commission informed of the progress of these works.*

*The three institutions agree to convene a triilogue before the Council's second reading of the budget, with the objective to reach a common approach and, if possible, to **finally adopt the legal bases before the end of the year 2003.**"*

The rapporteur therefore regrets Commission's late adoption of this proposal, which was only at the end of May 2003, and draws attention to the possible difficulties of completing the procedure within the agreed timetable, not to mention possible difficulties during the conciliation procedure with Council.

In view of a possible delay, the Commission in its Communication which accompanies the package of proposals to replace the current A-lines states the following: *"In the event of failure to achieve that objective, the Commission will propose transitional derogations enabling grants to be awarded in 2004, pending adoption of the basic acts"*.

Consequently, the rapporteur considers that the Commission should be prepared to put the transitional provisions in place, if needed.

At its meeting of 25 September, the Conference of Presidents decided that article 162a) of the rules of procedure, enhanced Cupertino, should apply to all aspects resulting from the provisions of the Financial Regulation and that article 63a) would apply to the aspects relating to the financial framework.

The rapporteur will have to look at the coherence of the proposals in close cooperation and the agreement with the specialised committees as required by this article.

Moreover, the rapporteur cannot avoid mentioning that these proposals intend to give a legal response to an old contentious item in the EU budget and therefore is convinced that the responsibility of Parliament as a co-legislator, adopting a solid legal framework for the future, should prevail over the necessity of the limitation of a timetable.

Contents of the proposals in respect of the provisions of the Financial Regulation

The new Financial Regulation contains a specific title while ruling the scope, the awarding procedure, the payment and the implementation provisions of grants financed by the budget (title VI, articles 108 to 110 and articles 162 to 168 of the implementing rules).

Article 110, paragraph 1¹ of the Financial Regulation foresees that all types of grants are submitted to the rule of call for proposals "save in duly substantiated exceptional cases of urgency or where the characteristics of the beneficiary leave no other choice for a given action".

¹ Grants shall be subject to an annual programme, to be published at the start of the year, with the exception of crisis management aid and humanitarian aid operations.

This work programme shall be implemented through the publication of calls for proposals save in duly substantiated exceptional cases of urgency or where the characteristics of the beneficiary leave no other choice for a given action

Article 168, paragraph 1² of the implementing rules clarifies the exceptions and in particular the case of organisations identified in a special legal act.

The rapporteur recalls that these provisions directly result from the negotiations with the Commission and the Council on the Financial Regulation. In fact, the Commission proposals legitimate specific and limited exceptions to the general rules of the Financial Regulation. As a consequence, differentiated awarding conditions are set up between three groups of “bodies” who may be eligible for a subsidy according to different awarding procedures as described below:

Group 1: organisations pre-assigned in the legal act itself for the support of operating grants: **awarded without a call for proposals** on the condition that it respects the criteria laid down in the annex of the regulation and general principles of the Financial Regulation (case of the College of Bruges).

Group 2: the general rule is the **call for proposal**.

However two exceptions are admitted in the field of culture and citizenship only (Com (2003) 275 and Com (2003) 276). Operating grants, allocated to beneficiaries explicitly named in the budget remarks of budget lines entirely pre-assigned, can be allocated **without a call for proposal** in accordance with the criteria laid down in the annex (former budget lines A-3021, A-3026 and A-3042).

Group 3: organisations eligible for a EU subsidy on a specific activity **awarded with a call for proposals** in accordance with the overall criteria laid down in the annex (other cases).

Not all of the seven basic acts contain the three strands. The conditions for the call for tender are defined in the annex of each of the seven proposals for regulation.

The rapporteur recognises the efforts made by the Commission to respect Parliament's prerogatives through the budget; however she considers that the exceptions should remain limited and that the calls for proposals should remain the general rule.

The rapporteur is of the opinion that group 2 (ear-marking) is dubious from a legal point of view.

Degressivity and co-financing

In accordance with article 113, paragraph 1 of the new Financial Regulation, the grant may

² Grants may be awarded without a call for proposals only in the following cases:

- (a) for the purposes of humanitarian aid, within the meaning of Council Regulation No 1257/96 and aid for crisis situations within the meaning of paragraph 2;
- (b) in other exceptional and duly substantiated emergencies;
- (c) to bodies with a *de jure* or *de facto* monopoly, duly substantiated in the Commission's award decision;
- (d) to bodies identified by a basic act as recipients of a grant.

not finance the entire costs of the action, subject to Title IV of part two, nor the entire operating expenditure of the beneficiary body.

In accordance with article 113, paragraph 2 of the new Financial Regulation, degressivity should apply to all operating grants except those bodies pursuing an objective of general European interest. However, article 113 foresees the exception of legal acts which provide for different measures.

The proposals of the Commission do not present a homogeneous approach with respect to the different organisations in these two aspects.

The rapporteur is in favour of harmonising the provisions on a more equal manner.

Annual Report

The Commission will publish an annual report with the list of beneficiaries and the amounts received. The rapporteur agrees on this transparency provision.

Implementation

All the programmes contained in the legal acts (except relations between EU and third countries and organisations working for equality between men and women), will be managed through an executive agency. The others will be managed internally.

The rapporteur supports the Commission's intention to delegate executive tasks to the new executive agencies however she is of the opinion that any attempt at introducing comitology should be rejected.

Budgetary Aspects

Duration of the Programmes

The proposals foresee different durations.

The rapporteur proposes a similar duration for all the programmes until 2008 in order to harmonise the length of the programmes, on the basis of a mid term evaluation, to maintain more coherence between them and to facilitate the budgetary forecasts.

Financial framework

Particularly in the case of codecisions, the rapporteur stresses the advantage of a global decision in the negotiations with Council.

The Commission has calculated the amounts of the different envelopes on B'2003 with a deflator of 2% per year. The envelopes take on board the figure entered in the A and B parts however they also include additional amounts for technical assistance and comitology as the actions become programmes. This generates additional administrative costs which should not reduce the share of operational appropriations.

The rapporteur considers that the amounts entered in the Budget 2004 should be the basis to evaluate further needs during the period.

AMENDMENTS

The Committee on Budgets calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

AMENDMENT TO THE LEGISLATIVE RESOLUTION

[The European Parliament]

Considers that the financial statement of the Commission proposal is compatible with the ceiling of headings 3 and 5 of the financial perspectives 2000-2006.

Justification

According to the common declaration of 20 July 2000, the budgetary authority is entitled to evaluate the compatibility of new proposals in relation with the expenditure foreseen to maintain existing policies. If, in the course of the adoption of the decision, other amounts were to be proposed by the legislative authority, the budgetary authority would need to be consulted again. In this case, the Committee on Budgets would re-examine the impact on the ceiling under the current financial perspective according to article 63a) of the rules of procedure.

Text proposed by the Commission

Amendments by Parliament

Amendment 2
Recital 7a (new)

The European Parliament, the Council and the Commission, when adopting the Financial Regulation, undertook to achieve the objective of ensuring that this basic act comes into force as from the financial year 2004.

Justification

In the negotiations of the new Financial Regulation, a common agreement was reached to

preserve EP's rights to identify beneficiaries of grants through earmarking in the budget. This right has been formalised in the statement to article 108 of the Financial Regulation.

Amendment 3
Article 4, paragraph -1 (new)

The programme covers one type of awarding procedure by means of a call for proposals for all beneficiaries.

Justification

The legal act should identify with more transparency the different awarding criteria in respect of the provisions of the Financial Regulation.

Amendment 4
Article 5

1. Financial assistance granted for activities may not cover all eligible expenditure. ***The principles of degressivity in real terms and cofinancing apply to all beneficiaries as follows:***
2. The amount of an operating grant awarded under the programme may not exceed **80%** of the eligible expenditure of the body for the calendar year for which the grant is awarded.

Pursuant to Article 113(2) of Regulation (EC, Euratom) No 1605/2002, where such operating grants are renewed, they shall be gradually decreased ***in real terms***. If a grant is awarded to a body which received an operating grant the preceding year, ***degressivity applies at a rate of 2,5% from the third year onwards.***

Justification

The legal acts should provide the opportunity to harmonise those principles with the awarding procedures foreseen by the Financial Regulation.

Amendment 5
Article 6, paragraph 4 (new)

The appropriations scheduled after the year 2006 are subject to an agreement of the budgetary authority on the financial perspective beyond 2006.

Justification

The financial perspective under the Interinstitutional Agreement covers the period 2000-2006. Appropriations after the year 2006 are subject to an agreement of the budgetary authority on the next financial framework for the year 2007 and beyond.

Amendment 6
Article 7

By 31 December **2009** at the latest, the Commission shall report to the European Parliament and the Council on the achievement of the objectives of this programme. The report shall be based on the results obtained by the beneficiaries and assess, in particular, their effectiveness in achieving the objectives defined in Article 1 and the Annex.

By 31 December **2007** at the latest, the Commission shall report to the European Parliament and the Council on the achievement of the objectives of this programme. The report shall be based on the results obtained by the beneficiaries and assess, in particular, their effectiveness in achieving the objectives defined in Article 1 and the Annex.

Justification

Evaluation should be consistent with the duration of the programme.