

# EUROPEAN PARLIAMENT

2004



2009

---

*Session document*

**A6-0068/2008**

5.3.2008

**\***

## **REPORT**

on the draft Commission regulation amending Regulation (EC) No 1653/2004 on a standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes  
(SEC(2007)0492 – C6-0123/2007 – 2007/0901(CNS))

Committee on Budgets

Rapporteur: Ingeborg Gräßle

Draftswoman(\*): Edit Herczog, Committee on Budgetary Control

(\*) Procedure with associated committee – Rule 47 of the Rules of Procedure

### ***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
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	19
ANNEX I .....	22
ANNEX II.....	23
ANNEX III.....	25
OPINION OF THE COMMITTEE ON BUDGETARY CONTROL (*) .....	28
PROCEDURE.....	34

(\*) Procedure with associated committee - Rule 47 of the Rules of Procedure



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Commission regulation amending Regulation (EC) No 1653/2004 on a standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes  
(SEC(2007)0492 – C6-0123/2007 – 2007/0901(CNS))

(Consultation procedure)

*The European Parliament,*

- having regard to the draft Commission regulation (SEC(2007)0492 ),
  - having been consulted by the Commission by letter of 25 April 2007 (C6-0123/2007),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgets and the opinion of the Committee on Budgetary Control (A6-0068/2008),
1. Approves the draft Commission regulation as amended;
  2. Calls on the Commission to alter its draft regulation accordingly,
  3. Asks to be consulted again if the Commission intends to depart from the text approved by Parliament;
  4. Instructs its President to forward its position to the Council and Commission.

---

Text proposed by the Commission

---

Amendments by Parliament

Amendment 1  
RECITAL 3 A (new)

***(3a) The fact that the discharge to the director of the agency in respect of the administrative budget is distinguished from the discharge in respect of the implementation by the agency of operational appropriations relating to Community programmes may endanger the clarity of the discharge procedure in the event of a proliferation of executive***

**agencies.**

*Justification*

*The creation of any new executive agency adds complexity to the discharge procedure and to Parliament's possibilities for democratic oversight over the funds managed by these bodies.*

Amendment 2

RECITAL 3 B (new)

***(3b) In consideration of the difference in deadlines for the European Parliament's discharge decision in respect of the general budget, which is 15 May of year n+2, and its discharge decision in respect of the executive agencies, which is 29 April of year n+2, all actors involved should try to avoid difficulties in practice and strive for a harmonisation of the legal bases in the future.***

*Justification*

*It is unfortunate, in view of the specific discharge procedure for the executive agencies, that the deadlines cannot be harmonised through the current Commission proposal as Regulation 58/2003 has to be revised first. Harmonisation is urgently needed in the future.*

Amendment 3

RECITAL 9

(9) The conditions for the use, by the executive agencies, of Commission services and offices, interinstitutional European offices and the Translation Centre for bodies of the European Union established by Council Regulation (EC) No 2965/94 setting up a Translation Centre for bodies of the European Union (hereinafter: Translation Centre) should be clarified. A provision for the selection of experts, ***similar*** to the one introduced in the general Financial Regulation, should be inserted.

(9) The conditions for the use, by the executive agencies, of Commission services and offices, interinstitutional European offices and the Translation Centre for bodies of the European Union established by Council Regulation (EC) No 2965/94 setting up a Translation Centre for bodies of the European Union (hereinafter: Translation Centre) should be clarified. A provision for the selection of experts, ***corresponding*** to the one introduced in the general Financial Regulation, should be inserted.

### *Justification*

*Under Article 15 of Council Regulation (EC) 58/2003 of 19 December 2002 laying down the statute for executive agencies, the Commission shall ensure that the standard financial regulation for EAs deviates from the Financial Regulation applicable to the general budget of the European Communities only if the specific operating requirements of the executive agencies so require.*

### Amendment 4 RECITAL 9 A (new)

***(9a) It should be clarified that the management board or steering committee - which is appointed by the Commission, the Commission being therefore responsible for ensuring that the board members possess the necessary qualifications and are not subject to any conflict of interest - bears certain responsibilities for budget and control issues and should therefore be accountable to the discharge authority.***

### Amendment 5 ARTICLE 1, POINT 1 A (new) Article 9, paragraph 4 (Regulation (EC) No 1653/2004)

***(1a) In Article 9, the fourth paragraph is replaced by the following:***

***"The appropriations available at 31 December arising from the assigned revenue referred to in Article 15 shall be carried over automatically. The appropriations available corresponding to assigned revenue carried over must be used first. By 1 June of the following year at the latest, the agency shall inform the Commission on the implementation of the assigned revenue carried over. The Commission shall send a summary report on the usage of the assigned revenue of all executive agencies to the budgetary authority by 15 July of the following year at the latest."***

### *Justification*

*The text of the FR should be in line with the Joint Declaration on Assigned Revenues as agreed by the two arms of the budgetary authority at the Conciliation of 13 July 2007 which "attach a great importance to the monitoring of the assigned revenues, especially to those related to the Community Agencies and ask the Commission to report regularly on their implementation, in particular on the basis of a specific document before the first reading of the budget" -Annex II -point 3.*

### Amendment 6

#### ARTICLE 1, POINT 2 A (new)

Article 13 (Regulation (EC) No 1653/2004)

***(2a) In Article 13, the second paragraph is replaced by the following:***

**"However, for cash-flow purposes, the accounting officer of the executive agency may, in duly justified cases, carry out operations in national currencies. [...]"**

### *Justification*

*Amendment making sure that the nature of executive agencies should be to run EU programmes within the EU. Even if in some parts of Research programme 7 third countries are implied the currency should be the euro.*

### Amendment 7

#### ARTICLE 1, POINT 4

Article 19a, paragraph 2, point (c) (Regulation (EC) No 1653/2004)

(c) safeguarding of assets and information;

(c) safeguarding of assets and ***transparency of*** information;

### *Justification*

*Reduces the workload for the budgetary authority and other supervisory bodies.*



Amendment 8  
ARTICLE 1, POINT 5, POINT (A)  
Article 20, paragraph 2 (Regulation (EC) No 1653/2004)

The budget and amending budgets, as finally adopted, shall be transmitted for information to the budgetary authority, the Court of Auditors and the Commission and published on the website of the agency concerned. A summary of the budgets and amending budgets shall be published in the Official Journal of the European Union within three months of their adoption.

The budget and amending budgets, as finally adopted, shall be transmitted for information to the budgetary authority, the Court of Auditors and the Commission and published on the website of the agency concerned. A summary of the budgets and amending budgets shall be published in the Official Journal of the European Union within three months of their adoption. ***This summary shall contain the following items: revenue and expenditure, stating changes in relation to the previous year; the five main expenditure budget lines for the administrative and operational budgets; the five main revenue budget lines; and the establishment plan including officials and temporary staff, as well as an overview of contract staff and national experts, and stating changes in relation to the previous year.***

Amendment 9  
ARTICLE 1, POINT 5, POINT (B)  
Article 20, paragraph 2 a (Regulation (EC) No 1653/2004)

The agency shall make available, ***in an appropriate manner***, information on the beneficiaries of funds deriving from its budget. This information shall be made available with due observance of the requirements of confidentiality, in particular the protection of personal data as laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (\*) and of

The agency shall make available ***on its Internet site*** information on the beneficiaries of funds deriving from its budget. ***The published information shall be easily accessible to third parties, transparent and comprehensive.*** This information shall be made available with due observance of the requirements of confidentiality, in particular the protection of personal data as laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2001 on the protection of individuals with regard to the processing of

the requirements of security.

personal data by the Community institutions and bodies and on the free movement of such data (\*) and of the requirements of security. ***Where the information is not published in full, data on beneficiaries shall be made available in an appropriate manner to the European Parliament's Committee on Budgetary Control. Information on funds received shall be published in anonymous form, stating the reasons for confidentiality and the unit responsible for the decision on confidentiality, in accordance with the first two sentences of this paragraph.***

#### *Justification*

*Clarifies the duty of publication, so that the budgetary authority can gain a genuine overview of the development of the agency's budget. Ensures that 'reasons for confidentiality' are allowed, but that they do not lead to evasion of the fundamental duty of publication.*

#### Amendment 10

##### ARTICLE 1, POINT 6 A (new)

Article 21, point (a) (Regulation (EC) No 1653/2004)

***(6a) In Article 21, point (a) is replaced by the following:***

***“(a) an establishment plan setting the number of temporary posts authorised within the limits of the budget appropriations, by grade and by category, as well as a well-founded estimate of the number of contract staff planned and provisionally budgeted;”***

#### *Justification*

*The text of the standard Financial Regulation should be in line with the Joint Declaration on Executive Agencies as agreed by the two arms of the budgetary authority at the Conciliation of 13 July 2007 (Annex II) and with the Revised Working Arrangements on Executive Agencies ("Code of Conduct on the Setting-up of an Executive Agency") as annexed to the Second Reading Resolution on Budget 2008, as adopted by Parliament on 13 December 2007 (Annex III).*

Amendment 11  
ARTICLE 1, POINT 6 B (new)  
Article 21, point (b) (Regulation (EC) No 1653/2004)

***(6b) In Article 21, point (b) is replaced by the following:***

***“(b) detailed documentation on assigned revenue;”***

*Justification*

*The text of the FR should be in line with the Joint Declaration on Assigned Revenues as agreed by the two arms of the budgetary authority at the Conciliation of 13 July 2007 (Annex II) which "attach a great importance to the monitoring of the assigned revenues, especially to those related to the Community agencies".*

Amendment 12  
ARTICLE 1, POINT 6 C (new)  
Article 21, point (c) (Regulation (EC) No 1653/2004)

***(6c) In Article 21, point (c) is replaced by the following:***

***“(c) information on the achievement of all previously set objectives for the various activities as well as new objectives measured by indicators; evaluation results shall be consulted and referred to as evidence of the likely merits of a proposed budget amendment.”***

*Justification*

*Parliament is entitled to receive information as an arm of the budgetary authority.*

Amendment 13  
ARTICLE 1, POINT 6 D (new)  
Article 22, paragraph 3 (Regulation (EC) No 1653/2004)

***(6d) In Article 22, the third paragraph is replaced by the following:***

***“The budgetary authority shall adopt the establishment plan of all the agencies and any subsequent amendment thereto in accordance with Article 24. The***

***approved establishment plan shall be published in an annex to Section III - Commission - of the general budget of the European Union together with an estimate of the number of contract staff planned and provisionally budgeted for the financial year concerned.”***

*Justification*

*The text of the FR should be in line with the Joint Declaration on Executive Agencies as agreed by the two arms of the budgetary authority at the Conciliation of 13 July 2007 (Annex II) and with the Revised Working Arrangements on Executive Agencies ("Code of Conduct on the Setting-up of an Executive Agency") as annexed to the Second Reading Resolution on Budget 2008, as adopted by Parliament on 13 December 2007 (Annex III).*

Amendment 14

ARTICLE 1, POINT 6 E (new)

Article 23, point 1 (b) (Regulation (EC) No 1653/2004)

***(6e) In Article 23(1), point (b) is replaced by the following:***

***“(b) the revenue for the preceding financial year and the revenue for year N-2, including assigned revenue;”***

*Justification*

*The text of the FR should be in line with the Joint Declaration on Assigned Revenues as agreed by the two arms of the budgetary authority at the Conciliation of 13 July 2007 (Annex II) which "ask the Commission and the other institutions to provide appropriate, timely and detailed documentation on assigned revenues ... to accompany the Preliminary Draft Budget".*

Amendment 15

ARTICLE 1, POINT 6 F (new)

Article 24, paragraph 1, subparagraph 1 (Regulation (EC) No 1653/2004)

***(6f) In Article 24(1), the first subparagraph is replaced by the following:***

***“1. The establishment plan referred to in Article 21 shall show next to the number of posts authorised for the financial year, the number authorised for the***

**preceding year and the number of posts actually filled, as well as the number of contract staff and national experts. By analogy, the well-founded estimate of the number of contract staff planned and provisionally budgeted for the financial year referred to in Article 21 shall also include the number of contract staff estimated for the preceding year and the number of staff actually employed.**

**The establishment plan shall constitute an absolute limit for the agency; no appointment may be made in excess of the limit set.”**

#### *Justification*

*In line with Parliament's right to be informed as an arm of the budgetary authority. Specifying the actual number of staff employed complies with the budgetary principles of truthfulness and clarity, and enhances transparency as to actual staff costs. This amendment specifies the information which the establishment plan is to contain, so as to enable the budgetary authority to gain a genuine overview of the development of the agency's staff budget (Joint Declaration on Executive Agencies as agreed by the two arms of the budgetary authority at the Conciliation of 13 July 2007 and Revised Working Arrangements on Executive Agencies ("Code of Conduct on the Setting-up of an Executive Agency") as annexed to the Second Reading Resolution on Budget 2008, as adopted by Parliament on 13 December 2007).*

#### Amendment 16

#### ARTICLE 1, POINT 8

#### Article 27, paragraph 1 (Regulation (EC) No 1653/2004)

1. All financial actors within the meaning of Chapter 2 of this Title and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any measures **of budget implementation** which may bring their own interests into conflict with those of the agency or of the Communities. Should such a case arise, the person in question must refrain from such measures and refer the matter to his/her superior. The director must refer it to the management board.

1. All financial actors within the meaning of Chapter 2 of this Title and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any measures which may bring their own interests into conflict with those of the agency or of the Communities. ***The provisions of the Financial Regulation applicable to the general budget of the European Union, and of the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities,***

***shall apply mutatis mutandis.*** Should such a case arise, the person in question must refrain from such measures and refer the matter to his/her superior. The director must refer it to the management board.

*Justification*

*Seeks to achieve consistency with the terminology of the EU Financial Regulation and to implement paragraph 3 of Opinion 4/2007 of the Court of Auditors (OJ C 216, 14.9.2007, p. 1), which makes it clear that persons involved in auditing and control work should not take budget implementation measures.*

Amendment 17

ARTICLE 1, POINT 8 A (new)

Article 29, paragraph 2 (Regulation (EC) No 1653/2004)

***(8a) In Article 29, the second paragraph is replaced by the following:***

**“The authorising officer [...] shall put in place, in compliance with the [...] minimum standards adopted by the Commission for its own departments and having due regard to the specific risks associated with his/her management environment *and the nature of the action financed*, the organisational structure and the internal management and control procedures suited to the performance of his/her duties, including where appropriate ex post verifications.”**

*Justification*

*The authorising officer (i.e. the director of the agency) continues to be ultimately responsible; the fact that he has delegated the task does not mean that he has delegated the responsibility. The clarificatory amendments in the second part of paragraph 2 are made by analogy with the financial regulation for the decentralised agencies and ensure the uniform application of the financial regulation.*

Amendment 18  
ARTICLE 1, POINT 9 A (new)  
Article 29, paragraph 5 (Regulation (EC) No 1653/2004)

***(9a) In Article 29, the fifth paragraph is replaced by the following:***

***“In accordance with Article 9(7) of Regulation (EC) No 58/2003, the authorising officer shall submit to the Steering Committee by 15 March of each financial year an annual report of his activities. In that report the authorising officer shall confirm, in a declaration of assurance signed by him, that the information contained in the annual report presents a true and fair view of the situation within the executive agency, except as otherwise specified in any reservations.”***

*Justification*

*Formalises the existing reporting duty of the authorising officer, i.e. the director of the agency; by signing the declaration of assurance he retains the opportunity of expressing reservations, in line with the existing provisions of the EU FR concerning Directors-General.*

Amendment 19  
ARTICLE 1, POINT 10  
Article 30, introductory part (Regulation (EC) No 1653/2004)

The management board shall appoint an accounting officer, who shall be a seconded official ***or a member of the temporary staff directly recruited by the agency*** and who shall be responsible for the following:

The management board shall appoint an accounting officer, who shall be a seconded official and who shall be responsible for the following:

*Justification*

*Clarification.*

Amendment 20  
ARTICLE 1, POINT 10  
Article 30, paragraph 2 (Regulation (EC) No 1653/2004)

Before the approval of the accounts by the management board, the accounting officer shall sign them off, thereby certifying that he/she has a reasonable assurance that the accounts present a true and fair view of the financial situation of the agency.

Before the approval of the accounts by the management board, the accounting officer shall sign them off, thereby certifying ***in a declaration of assurance*** that he/she has a reasonable assurance that the accounts present a true and fair view of the financial situation of the agency.

*Justification*

*Clarification.*

Amendment 21  
ARTICLE 1, POINT 12 A (new)  
Article 35, paragraph 1, subparagraph 2 (Regulation (EC) No 1653/2004)

***(12a) In Article 35(1), the second subparagraph is replaced by the following:***

***“On the basis of the opinion of this panel, the director shall decide whether to initiate disciplinary proceedings or proceedings for the payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer and to the Commission's internal auditor. If the opinion implicates the director, the panel shall send it to the management board and the Commission's internal auditor. The director's indications on these cases and the explanation of his follow-up decisions shall be added to the agency's report on budgetary and financial management to the budgetary authority.”***

*Justification*

*The amendment aims to inform about the implementation of the panel's suggestions.*



Amendment 22  
ARTICLE 1, POINT 15  
Article 42 a (Regulation (EC) No 1653/2004)

The accounting officer shall keep a list of amounts due to be recovered, in which entitlements of the agency are grouped according to their date of issue. The list shall be added to the report on budgetary and financial management of the agency.

The agency shall establish a list of the entitlements of the agency stating the names of the debtors and the amount of the debt, where the debtor has been ordered to pay by a Court decision that has the force of *res judicata* and where no or no significant payment has been made for one year following its pronouncement. The list shall be published, taking account of the relevant legislation on data protection.

The accounting officer shall keep a list of amounts due to be recovered, in which entitlements of the agency are grouped according to their date of issue. The list shall be added to the report ***to the budgetary authority*** on budgetary and financial management of the agency. ***It shall specify also any waived or partially waived recovery orders.***

The agency shall establish a list of the entitlements of the agency ***relating to the agency's own budget***, stating the names of the debtors and the amount of the debt, where the debtor has been ordered to pay by a Court decision that has the force of *res judicata* and where no or no significant payment has been made for one year following its pronouncement. The list shall be published, taking account of the relevant legislation on data protection.

*Justification*

*In line with Court of Auditors' Opinion No 4/2007, the addition seeks to clarify that this provision does not relate to the operational appropriations of the Community programmes which an executive agency is involved in.*

Amendment 23  
ARTICLE 1, POINT 16 A (new)  
Article 48, paragraph 1 a (new) (Regulation (EC) No 1653/2004)

***(16a) In Article 48, the following paragraph is added:***

***“In the case of IT-based payment systems, the accounting officer shall validate the security and reliability of such systems.”***

Amendment 24  
ARTICLE 1, POINT 19  
Article 50 a (Regulation (EC) No 1653/2004)

Article 265a of Regulation (EC, Euratom) No 2342/2002 shall apply *mutatis mutandis* for the selection of experts, to be paid on the basis of a fixed amount, for assisting the agency, in particular in evaluating proposals and grant applications or tenders for procurement, and for providing technical assistance in the follow-up to, and final evaluation of projects. The agencies may also use the lists of experts drawn up by the Commission.'

Article 265a of Regulation (EC, Euratom) No 2342/2002 shall apply *mutatis mutandis* for the selection of experts, to be paid on the basis of a fixed amount, for assisting the agency, in particular in evaluating proposals and grant applications or tenders for procurement, and for providing technical assistance in the follow-up to, and final evaluation of projects. The agencies may also use the lists of experts drawn up by the Commission.' ***A list with the names of the experts who cooperated with the agency during the financial year in question and the remuneration received by these experts shall be attached to the executive agency's report on budgetary and financial management to the budgetary authority, taking due account of the protection of personal data.***

*Justification*

*The budgetary authority should be enabled to monitor the use of external experts by the executive agencies.*

Amendment 25  
ARTICLE 1, POINT 21 A (new)  
Article 66, paragraph 1 (Regulation (EC) No 1653/2004)

***(21a) In Article 66, the first paragraph is replaced by the following:***

***"The European Parliament, upon a recommendation from the Council, which shall decide by qualified majority, shall give a discharge to the director in respect of the implementation of the administrative budget for year N by no later than 29 April of year N+2. The director shall inform the management board of the observations of the European Parliament contained in the resolution accompanying the discharge decision."***

## EXPLANATORY STATEMENT

### I. Legal bases and definition of ‘executive agency’

The Commission delegates a number of tasks relating to the administration of Community programmes to Executive Agencies (hereinafter: EAs). Article 55(1) of the Regulation (EC, Euratom) No. 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>1</sup> permits the delegation to third parties of public authority tasks in principle under certain conditions, and defines an EA as follows: ‘The executive agencies shall be legal persons under Community law created by Community decision to which powers can be delegated to implement all or part of a Community programme or project on behalf of the Commission and under its responsibility’.

Council Regulation (EC) No. 58/2003<sup>2</sup> of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes provides further details on the conditions under which EAs may operate. Article 15 of this Regulation states that the Commission must adopt a ‘standard financial regulation’ for EAs. It expressly stipulates that this may deviate from the Financial Regulation applicable to the general budget of the European Communities (see above) only if the specific operating requirements of the executive agencies so require.

It is this standard financial regulation for EAs which is the subject of this report, since the Commission wishes to amend it on the grounds that:

- it needs to be adapted to the amended provisions of the EU Financial Regulation,
- other amendments have become necessary in the light of experience gathered by the existing executive agencies,
- the publication of the administrative budget of agencies should be simplified while preserving the prerogatives of the budgetary authority and the Court of Auditors,
- the procedure regarding transfers to be adopted by the directors of agencies has proved to be ‘unclear and time consuming’ and should therefore be ‘streamlined and accelerated’.

### II. Background to the creation of the Executive Agencies

The EAs were intended to be a substitute for the Commission’s highly controversial Technical Assistance Offices (TAOs/BATs) following the scandals in 1999.

---

<sup>1</sup> OJ L 248, 16.9. 2002. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

<sup>2</sup> OJ L 11, 16.1.2003, p. 1.

They are set up and wound up by a simple decision of the Commission (Article 3 of Regulation 58/2003). They are also governed by a code of conduct, which is appended to the European Parliament resolution on the second reading of the 2008 budget (Annex III)<sup>1</sup>.

It is also interesting to note that under Article 3(4) of Regulation 58/2003 the Commission, when adopting the legal basis of a Community programme, is to inform the European Parliament of whether it intends to set up an executive agency to implement the programme.

EAs are financed out of a programme's operational funding. They have their own budget lines, but the appropriations for these lines are drawn entirely from the budget for the programmes. In other words, the cost of an executive agency (salaries, ancillary costs, etc.) reduces by a corresponding amount the operational funding available to 'its' programme.<sup>2</sup> This also means that, although their operation is de facto administrative expenditure, agencies are not financed under Heading 5 of the Multi-annual Financial Framework (MFF), but are formally considered operational expenditure. Even the salaries of those staff members of the executive agency who are seconded officials from the Commission's parent DG are thus financed from the operational programme funds under the relevant heading of the MFF and not under Heading 5.

### **III. Existing Executive Agencies**

There are currently four EAs:

- Executive Agency for Intelligent Energy (hereinafter "CIP-EA");
- Education, Audiovisual and Culture Executive Agency (EACEA);
- Executive Agency for the Public Health Programme (PHEA);
- Executive Agency for the Trans-European Transport Networks (TENT EA).

A further EA, for the European Research Council, is due to be created from 2009 to implement parts of the 7<sup>th</sup> Research Framework Programme ('Ideas' Section), together with a 'Research EA' to implement the 'Research for SMEs', 'Marie Curie actions' and 'Security and Space' themes.

In Annex I your rapporteur has compiled a table showing which programmes are administered by the EA in question and what percentage of operational funds are used for the operation of the EA, and giving a breakdown of the staff of each EA into officials, contract staff, and temporary staff (on the basis of a document of May 2007 supplied to Parliament by the Commission).

### **IV. The amendments**

---

<sup>1</sup> P6\_TA(2007)0616, 13.12.2007.

<sup>2</sup> Working Document N° 2 on the European Union and its agencies - Executive agencies - first reflections and future prospects – Rapporteur: Jutta Haug. PE 388.322v01-00, p. 3.

While the Commission's proposed amendments to the standard financial regulation are accepted in principle, further amendments are needed in order to align the text of the standard financial regulation still more closely with the guidelines of the EU Financial Regulation, which take precedence: the two texts may diverge only if the specific operating requirements of the executive agencies so require.

Some of the amendments seek to bring the text of this standard financial regulation into line with the Joint Statements of the July conciliation with the Council under the headings 'Assigned Revenues' and 'Executive Agencies'. (see Annex II). Others aim to create a better insight for the budgetary authority into the actual numbers of staff employed by the EAs, whether they be contract or temporary staff or seconded national experts. In a general way, improvements are needed as regards the EAs' reporting requirement to the budgetary authority, and amendments to this effect have also been tabled.

## ANNEX I

### Existing and proposed Executive Agencies – Staffing, programmes administered and percentage of operational / administrative funds

Name	Programme administered	Staff	of whom temporary	Contract staff	Officials	Percentage of operational programme spent on EA
IEEA (Executive Agency for Intelligent Energy (hereinafter "CIP EA"))	"Intelligent Energy Europe", "CIP", "Marco Polo I & II"	49	19	30	3	10%
EACEA	"Lifelong learning", "Culture 2007", "Youth in Action", "Europe for Citizens", "EC/US-Cooperation", "MEDIA 2007", "Erasmus Mundus and external cooperation", "Eurydice", "TEMPUS"	314	80	234	4	10 %
PHEA (Public Health EA)	"Health and Consumer Protection"; "Better Training for safer food programme"	37	9	28	3	6 %
TENT (EA for Trans-European Networks - Transport)	Trans-European Transport Networks	44	23	21	3	figures not available
<i>ERA EA Research EA.</i>	scheduled for 2009					

**JOINT STATEMENTS ECOFIN (Budget) COUNCIL - Conciliation Meeting EP-Council 13 July 2007**

5. Executive agencies

"The European Parliament and the Council welcomes all efforts to improve the efficiency of the methods used by the European Commission to implement EU policies and programmes.

The creation of executive agencies can constitute a contribution to such efficiency, but only if this method fully respects the principle of sound financial management and total transparency. This means that such agencies must not, either now or in the future, lead to an increase in the share of administrative cost. Therefore, the principle of freezing of posts as defined in Council Regulation (EC) No. 58/2003 of 19 December 2002, as a result of such a reorganisation of tasks, must be adhered to rigorously. Any proposal for the creation of a new executive agency should be based on a comprehensive cost-benefit analysis. Lines of accountability and responsibility should be clearly set out in the proposal.

The budgetary authority must be in possession of all the requisite information enabling it to monitor closely the implementation of this principle both currently and in the future. The information in the specific financial statement for the executive agency should therefore cover:

- a. the resources in terms of appropriations and staff required to run the executive agency, showing a breakdown of staff expenditure (permanent and temporary officials and contractual agents) and other administrative expenditure;
- b. the planned secondments of officials from the Commission to the executive agency;
- c. administrative resources freed by transferring tasks from the Commission departments to the executive agency, and the re-allocation of the human resources; in particular the number of staff (including external staff) assigned to each relevant task within the Commission, the number of this staff to be transferred to a proposed new or enlarged agency, the number of Commission posts to be frozen as a consequence and the number of Commission staff to be proposed to be redeployed to other tasks;
- d. consecutive redeployment within the Commission's establishment plan;
- e. the advantages of delegating implementing tasks to an executive agency versus direct management by the Commission services: any comparison of a "Direct management by the Commission services"-scenario to an "executive agency"-scenario shall be based on the resources used to implement the existing programme(s) and its (their) current form in order to have a sound and factual basis for comparison; for new and expanding programmes the evolution of the related financial envelope to be managed by the agency will also be taken into consideration;
- f. a draft establishment plan per grade and per category as well as a well-founded

estimate of the number of contractual agents planned and provisionally budgeted;

- g. a clear breakdown of all actors involved in the implementation programme including the remaining share of the operational programme envelope for the implementation of which they are responsible (Commission, executive agencies, remaining Technical Assistance Offices, Member States, national agencies, etc.)

The European Parliament and the Council call on the Commission, before deciding to create a new agency or to extend the remit of an existing agency, to supply complete and detailed information on staffing levels and utilisation enabling the budgetary authority to assess whether the administrative expenditure of implementing a programme has indeed not been increased.

It is recalled that the final decision on staffing remains a matter for the budgetary authority."



## **ANNEX III**

### **Revised working arrangements on Executive Agencies<sup>1</sup>**

1. In accordance with article 3(4) of Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes and with article 54 (2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, the Commission shall state its intention to set-up an executive agency in the explanatory memorandum of its proposal for a legal act of the programme itself.

2. The Commission shall decide on the establishment of a new, or the modification of scope and competences of an existing, Executive Agency on the basis of its assessment of the criteria laid down in Article 3 of Council Regulation (EC) No 58/2003.

3. The creation of executive agencies can constitute a contribution to the efficiency of the methods used by the Commission to implement EU policies and programmes, but only if this method fully respects the principle of sound financial management and total transparency. This means that such executive agencies must not, either now or in the future, lead to an increase in the share of administrative cost. Therefore, the principle of freezing of posts as defined in Council Regulation (EC) No. 58/2003 of 19 December 2002, as a result of such a reorganisation of tasks, must be adhered to rigorously. The Commission shall submit complete and detailed information on staffing levels and their utilisation to enable the budgetary authority to assess whether the share of administrative cost for implementing a programme has indeed not been increased.

Any proposal for the creation of a new Executive Agency should be based on a comprehensive cost-benefit analysis. Lines of accountability and responsibility should be clearly set out in the proposal.

4. The budgetary authority shall be informed of the results of the cost-benefit analysis and related cost at least six weeks before the Commission takes the final decision to set up the Executive Agency. In the event of duly justified reasons being raised within this period by either branch of the budgetary authority to the setting up of the Executive Agency, the Commission will review its proposal.

5. When the Commission contemplates setting up a new, or modifying scope and competences of an existing, Executive Agency, it informs the budgetary authority in accordance with the budgetary procedure and respecting the principle of transparency. There should be a specific financial statement for the Executive Agency. It should include quantified elements where the Commission justifies the reasons why it considers appropriate to set up an Agency to assist it in the implementation of the programme concerned.

6. The budgetary authority must be in possession of all the requisite information enabling it to monitor closely the implementation of the principle of sound financial management and

---

<sup>1</sup> P6\_TA(2007)0616 of 13 December 2007.

total transparency both currently and in the future. The information in the specific financial statement for the executive agency should therefore cover:

a. the resources in terms of appropriations and staff required to run the Executive Agency, showing a breakdown of staff expenditure (seconded officials, temporary staff recruited directly by the Executive Agency and contractual staff) and other administrative expenditure;

b. the planned secondments of officials from the Commission to the Executive Agency;

c. administrative resources freed by transferring tasks from the Commission departments to the executive agency, and the re-allocation of the human resources; in particular the number of staff (including external staff) assigned to each relevant task within the Commission, the number of this staff to be transferred to a proposed new or enlarged Executive Agency, the number of Commission posts to be frozen as a consequence and the number of Commission staff to be proposed to be redeployed to other tasks;

d. consecutive redeployment within the Commission's establishment plan;

e. the impact of the creation of the Agency under the relevant headings of the multiannual financial framework;

f. the advantages of delegating implementing tasks to an Executive Agency versus direct management by the Commission services: any comparison of a "Direct management by the Commission services"-scenario to an "Executive Agency"-scenario shall be based on the resources used to implement the existing programme(s) in its (their) current form in order to have a sound and factual basis for comparison; for new and expanding programmes the evolution of the related financial envelope to be managed by the Executive Agency will also be taken into consideration;

g. a draft establishment plan per grade and per category as well as a well-founded estimate of the number of contractual staff planned and provisionally budgeted;

h. a clear breakdown of all actors involved in the implementation of the programme including the remaining share of the operational programme envelope for the implementation of which they are responsible (Commission, Executive Agencies, remaining Technical Assistance Offices, Member States, national agencies, etc.);

i. a clear breakdown of the total overall cost of implementing the Community programme indicating the share per actor involved (Commission, Executive Agencies, national agencies) and a comparison of the estimates of all administrative, staff and infrastructure expenditure linked to the implementation of the programme in question and charged to the EU budget, regardless of which heading of the financial framework, with the remaining share of the operational programme envelope.

7. The global administrative cost of the programme including internal and management expenditure for the Executive Agency (chapter 01) should be examined case by case and according to the tasks provided for in the programme concerned.

8. The Commission proposes, as part of the annual budget procedure, the annual subsidy to

the Agency's operating budget. This subsidy is entered in the general budget of the European Union. The item in the budget may be accompanied by budget remarks, such as the references of the basic act and all appropriate explanations concerning the nature and purpose of the appropriations in accordance with Article 29 of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 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.

In accordance with Article 12 par. 1 of Council Regulation (EC) No 58/2003, the establishment plan of the Executive Agency during the financial year concerned shall be approved by the budgetary authority and published in an annex to Section III – Commission – of the general budget of the European Union together with an estimate of the number of contractual agents planned and provisionally budgeted for the financial year concerned.

9. The Commission indicates regularly its forecasts (APS, PDB) for new Executive Agencies.

10. The Commission should provide the budgetary authority with the Executive Agency's draft operating budget and annual activity report as well as with an assessment report after 3 years.

11. These working arrangements can in no way affect the Commission's executive powers, as laid down in particular in the Treaty and in the Regulation (EC) No 58/2003 of the Council. They cannot prejudice the Commission's competence to assess the opportunity to create an executive agency and to adopt the relevant decisions in accordance with the procedural requirements. The final decision on staffing remains a matter for the budgetary authority.

## OPINION OF THE COMMITTEE ON BUDGETARY CONTROL (\*)

for the Committee on Budgets

on the draft Commission regulation (EC) amending Regulation (EC) No 1653/2004 on a standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes

(SEC(2007)0492 – C6-0123/2007 – 2007/0901(CNS))

Draftswoman(\*): Edit Herczog

(\*) Procedure with associated committees – Rule 47 of the Rules of Procedure

## AMENDMENTS

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

---

Text proposed by the Commission<sup>1</sup>

---

Amendments by Parliament

Amendment 1  
RECITAL 3 A (new)

***(3a) The fact that the discharge to the director of the agency in respect of the administrative budget is distinguished from the discharge in respect of the implementation by the agency of operational appropriations relating to Community programmes may endanger the clarity of the discharge procedure in the***

---

<sup>1</sup> Not yet published in OJ.

***event of a proliferation of executive agencies.***

*Justification*

*The creation of any new executive agency adds complexity to the discharge procedure and to Parliament's possibilities for democratic oversight over the funds managed by these bodies.*

Amendment 2  
RECITAL 3 B (new)

***(3b) In consideration of the difference in deadlines for the European Parliament's discharge decision in respect of the general budget, which is 15 May of year n+2, and its discharge decision in respect of the executive agencies, which is 29 April of year n+2, all actors involved should try to avoid difficulties in practice and strive for a harmonisation of the legal bases in the future.***

*Justification*

*It is unfortunate, in view of the specific discharge procedure for the executive agencies, that the deadlines cannot be harmonised through the current Commission proposal as Regulation 58/2003 has to be revised first. Harmonisation is urgently needed in the future.*

Amendment 3  
RECITAL 9 A (new)

***(9a) It should be clarified that the management board or steering committee - which is appointed by the Commission, the Commission being therefore responsible for ensuring that the board members possess the necessary qualifications and are not subject to any conflict of interest - bears certain responsibilities for budget and control issues and should therefore be accountable to the discharge authority.***

Amendment 4  
ARTICLE 1, POINT 5, POINT (A)  
Article 20, paragraph 2 (Regulation (EC) No 1653/2004)

2. A summary of the budget and amending budgets, as finally adopted, shall be published in the Official Journal of the European Union within three months of their adoption.

2. A summary of the budget and amending budgets, as finally adopted, shall be published in the Official Journal of the European Union within three months of their adoption. ***This summary shall indicate revenue and expenditure and changes in relation to the previous year, the main expenditure budget lines for the administrative and operational budget, the main revenue budget lines, the establishment plan, including permanent and temporary staff, and an overview of the number of national experts and contract agents, and changes in relation to the previous year.***

Amendment 5  
ARTICLE 1, POINT 8  
Article 27, paragraph 1 (Regulation (EC) No 1653/2004)

All financial actors within the meaning of Chapter 2 of this Title and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any measures ***of budget implementation*** which may bring their own interests into conflict with those of the agency or of the Communities. Should such a case arise, the person in question must refrain from such measures and refer the matter to his/her superior. The director must refer it to the management board.

All financial actors within the meaning of Chapter 2 of this Title and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any measures which may bring their own interests into conflict with those of the agency or of the Communities. Should such a case arise, the person in question must refrain from such measures and refer the matter to his/her superior. The director must refer it to the management board.

*Justification*

*As the Court of Auditors points out in its opinion No. 4/2007, para. 3, it should be clarified that persons responsible for audit and control tasks are not involved in budget implementation.*

Amendment 6  
ARTICLE 1, POINT 15  
Article 42 a (Regulation (EC) No 1653/2004)

The accounting officer shall keep a list of amounts due to be recovered, in which entitlements of the agency are grouped according to their date of issue. The list shall be added to the report on budgetary and financial management of the agency. The agency shall establish a list of the entitlements of the agency stating the names of the debtors and the amount of the debt, where the debtor has been ordered to pay by a Court decision that has the force of res judicata and where no or no significant payment has been made for one year following its pronouncement. The list shall be published, taking account of the relevant legislation on data protection.

The accounting officer shall keep a list of amounts due to be recovered, in which entitlements of the agency are grouped according to their date of issue. The list shall be added to the report on budgetary and financial management of the agency. The agency shall establish a list of the entitlements of the agency ***relating to the agency's own budget***, stating the names of the debtors and the amount of the debt, where the debtor has been ordered to pay by a Court decision that has the force of res judicata and where no or no significant payment has been made for one year following its pronouncement. The list shall be published, taking account of the relevant legislation on data protection.

*Justification*

*In line with the Court of Auditor's opinion No. 4/2007, the addition seeks to clarify that this provision does not relate to the operational appropriations of the Community programmes which an executive agency is involved in.*

Amendment 7  
ARTICLE 1, POINT 19  
Article 50 a (Regulation (EC) No 1653/2004)

Article 265a of Regulation (EC, Euratom) No 2342/2002 shall apply *mutatis mutandis* for the selection of experts, to be paid on the basis of a fixed amount, for assisting the agency, in particular in evaluating proposals and grant applications or tenders for procurement, and for providing technical assistance in the follow-up to, and final evaluation of projects. The agencies may also use the lists of experts drawn up by the Commission.'

Article 265a of Regulation (EC, Euratom) No 2342/2002 shall apply *mutatis mutandis* for the selection of experts, to be paid on the basis of a fixed amount, for assisting the agency, in particular in evaluating proposals and grant applications or tenders for procurement, and for providing technical assistance in the follow-up to, and final evaluation of projects. The agencies may also use the lists of experts drawn up by the Commission. ***A list with the names of the experts who cooperated with the agency during the financial year in question and***

***the remuneration received by these experts shall be attached to the executive agency's report on budgetary and financial management to the budgetary authority, taking due account of the protection of personal data.***

*Justification*

*The budgetary authority should be enabled to monitor the use of external experts by the executive agencies.*

Amendment 8

ARTICLE 1, POINT 21 A (new)

Article 66, paragraph 1 (Regulation (EC) No 1653/2004)

***(21a) Article 66 shall be replaced by the following:***

***'The European Parliament, upon a recommendation from the Council, which shall decide by qualified majority, shall grant the director discharge in respect of the implementation of the administrative budget for year N no later than 29 April of the year N+2. The director shall inform the management board of the observations of the European Parliament contained in the resolution accompanying the discharge decision.***



## PROCEDURE

<b>Title</b>	Standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes
<b>References</b>	SEC(2007)0492 – C6-0123/2007 – 2007/0901(CNS)
<b>Committee responsible</b>	BUDG
<b>Opinion by</b> Date announced in plenary	CONT 27.9.2007
<b>Associated committee(s) – date announced in plenary</b>	27.9.2007
<b>Drafts(wo)man</b> Date appointed	Edit Herczog 4.6.2007
<b>Discussed in committee</b>	28.1.2008
<b>Date adopted</b>	26.2.2008
<b>Result of final vote</b>	+ :            25 – :            0 0 :            1
<b>Members present for the final vote</b>	Jean-Pierre Audy, Inés Ayala Sender, Herbert Bösch, Costas Botopoulos, Mogens Camre, Paulo Casaca, Jorgo Chatzimarkakis, Antonio De Blasio, Szabolcs Fazakas, Christofer Fjellner, Ingeborg Gräßle, Umberto Guidoni, Bogusław Liberadzki, Nils Lundgren, Marusya Ivanova Lyubcheva, Hans-Peter Martin, Bill Newton Dunn, Borut Pahor, José Javier Pomés Ruiz, Alexander Stubb, Paul van Buitenen
<b>Substitute(s) present for the final vote</b>	Jens-Peter Bonde, Dumitru Oprea, Pierre Pribetich, Carl Schlyter, Esko Seppänen
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Thomas Wise

## PROCEDURE

<b>Title</b>	Amendment of regulation on a standard financial regulation for the executive agencies entrusted with the management of Community programmes
<b>References</b>	SEC(2007)0492 – C6-0123/2007 – 2007/0901(CNS)
<b>Date of consulting Parliament</b>	25.4.2007
<b>Committee responsible</b> Date announced in plenary	BUDG 27.9.2007
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	CONT 27.9.2007
<b>Associated committee(s)</b> Date announced in plenary	CONT 27.9.2007
<b>Rapporteur(s)</b> Date appointed	Ingeborg Gräßle 20.9.2004
<b>Date adopted</b>	28.2.2008
<b>Result of final vote</b>	+: 16 -: 0:
<b>Members present for the final vote</b>	Laima Liucija Andrikienė, Reimer Böge, Daniel Dăianu, Valdis Dombrovskis, Salvador Garriga Polledo, Ingeborg Gräßle, Catherine Guy-Quint, Anne E. Jensen, Vladimír Maňka, Jan Mulder, Margaritis Schinas, Esko Seppänen, László Surján, Gary Titley, Helga Trüpel
<b>Substitute(s) present for the final vote</b>	Thijs Berman, Peter Šťastný