COUNCIL REGULATION (EC) No 1649/2003

of 18 June 2003

amending Regulation (EEC) No 1365/75 on the creation of a European Foundation for the Improvement of Living and Working Conditions and repealing Regulation (EEC) No 1417/76

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission ([1]),

Having regard to the opinion of the European Parliament ([2]),

Having regard to the opinion of the Court of Auditors ([3]),

Whereas:

(1) Certain provisions of Council Regulation (EEC) No 1365/75 of 26 May 1975 on the creation of a European Foundation for the Improvement of Living and Working Conditions ([4]) should be brought into line with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ([5]), (hereinafter referred to as the general Financial Regulation), and in particular Article 185 thereof. Pursuant to that Article, the European Foundation for the Improvement of Living and Working Conditions must adopt financial rules in conformity with Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ([6]). Consequently, Council Regulation (EEC) No 1417/76 of 1 June 1976 on the financial provisions applying to the European Foundation for the Improvement of Living and Working Conditions ([7]) must be repealed with effect from the entry into force of the financial rules adopted by the Administrative Board of the said Foundation.

(2) The general principles and limits governing right of access to documents provided for in Article 255 of the Treaty have been laid down by Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ([8]).

(3) When Regulation (EC) No 1049/2001 was adopted, the three institutions agreed in a joint declaration that the Agencies and similar bodies should implement rules conforming to those of that Regulation.

(4) Appropriate provisions should therefore be included in Regulation (EC) No 1365/75 to make Regulation (EC) No 1049/2001 applicable to the European Foundation for the Improvement of Living and Working Conditions, as should a provision on appeals against a refusal of access to documents.

(5) Regulation (EEC) No 1365/75 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1365/75 is hereby amended as follows:

1. Articles 13, 14, 15 and 16 shall be replaced by the following:

'*Article 13*

1. The Administrative Board shall adopt the annual report on the Foundation's activities and prospects, and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the European Economic and Social Committee and the Court of Auditors.

2. The Foundation shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures.

([1]) OJ C 331 E, 31.12.2002, p. 65.
([2]) Opinion delivered on 27 March 2003 (not yet published in the Official Journal).
([3]) OJ C 285, 21.11.2002, p. 4.
([4]) OJ L 139, 30.5.1975, p. 1. Regulation as last amended by the 1994 Act of Accession.
([5]) OJ L 248, 16.9.2002, p. 1 with Corrigendum in OJ L 25, 30.1.2003, p. 43.
([6]) OJ L 357, 31.12.2002, p. 72 with Corrigendum in OJ L 2, 7.1.2003, p. 39.
([7]) OJ L 164, 24.6.1976, p. 16. Regulation as last amended by Regulation (EC) No 1949/93 (OJ L 181, 23.7.1993, p. 26).
([8]) OJ L 145, 31.5.2001, p. 43.

Article 14

1. Estimates of all the revenue and expenditure of the Foundation shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the budget of the Foundation, which shall include an establishment plan.

2. The revenue and expenditure shown in the budget of the Foundation shall be in balance.

Article 15

1. Each year the Administrative Board, on the basis of a draft drawn up by the Director, shall produce an estimate of revenue and expenditure for the Foundation for the following financial year. This estimate, which shall include a draft establishment plan, shall be forwarded by the Administrative Board to the Commission by 31 March at the latest.

2. The estimate shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority) together with the preliminary draft general budget of the European Union.

3. On the basis of the estimate the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.

4. The budgetary authority shall authorise the appropriations for the subsidy to the Foundation.

The budgetary authority shall adopt the establishment plan for the Foundation.

5. The budget of the Foundation shall be adopted by the Administrative Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

6. The Administrative Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of its budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Administrative Board within a period of six weeks from the date of notification of the project.

Article 16

1. The financial rules applicable to the Foundation shall be adopted by the Administrative Board after the Commission has been consulted. They may not depart from Commission framework Financial Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (*) unless specifically required for the Foundation's operation and with the Commission's prior consent.

2. The Director shall implement the budget of the Foundation.

3. By 1 March at the latest following each financial year, the Foundation's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of the general Financial Regulation.

4. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward the Foundation's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for the financial year shall also be forwarded to the European Parliament and the Council.

5. On receipt of the Court of Auditors' observations on the Foundation's provisional accounts, pursuant to Article 129 of the general Financial Regulation, the Director shall draw up the Foundation's final accounts under his own responsibility and submit them to the Administrative Board for an opinion.

6. The Administrative Board shall deliver an opinion on the Foundation's final accounts.

7. The Director shall, by 1 July at the latest following each financial year, forward these final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Administrative Board's opinion.

8. The final accounts shall be published.

9. The Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He shall also send this reply to the Administrative Board.

10. The Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of the general Financial Regulation.

11. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 30 April of year N + 2, give a discharge to the Director of the Foundation in respect of the implementation of the budget for year N.

(*) OJ L 357, 31.12.2002, p. 72 with Corrigendum in OJ L 2, 7.1.2003.';

2. The following Article 1 shall be inserted:

'*Article 18a*

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (*) shall apply to documents held by the Foundation.

2. The Administrative Board shall adopt practical arrangements for implementing Regulation (EC) No 1049/2001 within six months of entry into force of Council Regulation (EC) No 1649/2003 of 18 June 2003 amending Regulation (EEC) No 1365/75 on the creation of a European Foundation for the improvement of living and working conditions and repealing Regulation (EEC) No 1417/76 (**).

3. Decisions taken by the Foundation under Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Communities, under the conditions laid down in Articles 195 and 230 of the Treaty respectively.

(*) OJ L 145, 31.5.2001, p. 43.
(**) OJ L 245, 29.9.2003, p. 25.'

Article 2

Regulation (EEC) No 1417/76 shall be repealed with effect from the date of the entry into force of the financial rules adopted by the Administrative Board pursuant to Article 16(1) of Regulation (EEC) No 1365/75.

Article 3

This Regulation shall enter into force on the first day of the month following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 18 June 2003.

For the Council
The President
G. DRYS