European Commission, administrative reform: management of Community programmes, statute of executive agencies

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PURPOSE : to lay down the statute of executive agencies to which the Commission, under its own control and responsibility, may entrust certain tasks relating to the management of Community programmes. COMMUNITY MEASURE : Council Regulation 58/2003/EC laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes. CONTENT : this Regulation lays down the statute of executive agencies to which the Commission, under its own control and responsibility, may entrust certain tasks relating to the management of Community programmes. As regards the setting-up and winding-up of executive agencies, the Regulation states that the Commission may decide after a prior cost-benefit analysis, to set up an executive agency with a view to entrusting it with certain tasks relating to the management of one or more Community programmes. It shall determine the lifetime of the executive agency. This analysis shall take into account a number of factors such as identification of the tasks justifying outsourcing, a cost-benefit analysis which includes the costs of coordination and checks, the impact on human resources, possible savings within the general budgetary framework of the European Union, efficiency and flexibility in the implementation of outsourced tasks, simplification of the procedures used, proximity of outsourced activities to final beneficiaries, visibility of the Community as promoter of the Community programme concerned and the need to maintain an adequate level of know-how inside the Commission. At the date determined when setting up the executive agency, the Commission may extend the duration of its lifetime for a period not exceeding that originally provided for. Such extension may be renewed. Where the Commission considers that it no longer requires the services of an executive agency which it has set up, or that its existence no longer complies with the principles of sound financial management, it shall decide to wind it up. In that event, it shall appoint two liquidators. The Commission shall determine the conditions for liquidation of the executive agency. The net result after liquidation shall be taken up in the general budget of the European Union. The decision to extend its lifetime, renew such extension or wind up the agency shall be taken on the basis of the cost-benefit analysis. Concerning the legal status, the Regulation stipulates that an executive agency is a Community body with a public service role. It shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings. To this end, it shall be represented by its Director and managed by a steering committee (the term of office of the members of the Steering Committee shall be two years in principle and shall take into account the length of time fixed for implementation of the Community programme, management of which has been entrusted to the executive agency). As far as their tasks are concerned, executive agencies may in particular be entrusted with the following tasks: - managing some or all of the phases in the lifetime of a project, in relation with specific individual projects, in thecontext of implementing a Community programme and carrying out the necessary checks to that end, by adopting the relevant decisions using the powers delegated to it by the Commission; - adopting the instruments of budget implementation for the revenue and expenditure and carrying out all activities required to implement a Community programme on the basis of the power delegated by the Commission, and in particular activities linked to the awarding of contracts and grants; - gathering, analysing and transmitting to the Commission all the information needed to guide the implementation of a Community programme. With regard to the operating budget, forecasts of all the executive agency's revenue and expenditure shall be prepared for each financial year, which shall be the same as the calendar year, and shall be shown in its operating budget It should also be noted that the contractual liability of the executive agency shall be governed by the law applicable to the contract in question. In the case of non-contractual liability, the executive agency shall make good any damage caused by the agency or its servants in the performance of

their duties, in accordance with the general principles common to the laws of the Member States. The Court of Justice shall have jurisdiction in disputes relating to compensation for any such damage. The personal liability of staff towards the executive agency shall be governed by the rules applicable to them. An external evaluation shall report on the first three years of operation of each executive agency shall be drawn up by the Commission and submitted to the steering committee of the executive agency, to the European Parliament, to the Council and to the Court of Auditors. It shall include the above-mentioned cost-benefit analysis. The evaluation shall subsequently be repeated every three years under the same conditions. ENTRY INTO FORCE : 26/01/2003.