Framework Financial Regulation for the Community bodies referred to in Article 185 Regulation (EC, Euratom) No 1605/2002

2007/0151(CNS) - 09/07/2008 - Final act

PURPOSE: to amend Commission Regulation (EC, Euratom) No 2343/2002 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 (General Financial Regulation).

LEGISLATIVE ACT: Commission Regulation (EC, Euratom) No 652/2008 amending Regulation (EC, Euratom) No 2343/2002 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.

CONTENT: following the amendment of Regulation (EC, Euratom) No 1605/2002 by Council Regulation (EC, Euratom) No 1995/2006, it is necessary to adapt Commission Regulation (EC, Euratom) No 2343 /2002 in order to align it with the general Financial Regulation. Some amendments have become necessary in the light of experience gathered by the existing Community bodies.

The bodies referred to in the title are, de facto, the Community agencies. They are bodies governed by European public law, with their own legal personality. The regulations setting up the respective agencies are acts of secondary legislation which confer on the agency concerned very specific technical, scientific or management tasks within the framework of the European Union’s 'first pillar'.

Article 185 of the EU Financial Regulation lays down that the Commission must adopt a framework financial regulation for these bodies, given that they are financed by means of Community funds allocated in the general budget of the European Union. Agencies' financial rules may not depart from the framework regulation except where their specific operating needs so require and with the Commission's prior consent.

This Commission Regulation aims to amend the Regulation 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.

The amendments introduced aim to:

- make clear that sound financial management requires effective and efficient internal control. The main features and objectives of internal control systems should be defined;
- increase transparency vis-à-vis the budgetary authority through new information requirements incumbent on the Community bodies in the budget procedure particularly as regards estimations of the number of contract staff, surpluses, assigned revenue and waivers to recovery of established amounts receivable;
- specific requirements should be laid down as regards supporting documents in order to ensure that personal data is kept for no longer than is necessary for the purposes for which the data were collected or for which they are further processed;
- provide that each Community body should establish a list of amounts receivable, 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 after its pronouncement. This list should be published, taking into account the legislation applicable to data protection;

- provide for a general obligation of the Community bodies to make available information on the beneficiaries of those funds in order to ensure the transparency of the use of funds deriving from their budgets;
- complete the list of assigned items of revenue;
- simplify the publication of the budget of Community bodies, while preserving the prerogatives of the budgetary authority and of the Court of Auditors;
- clarify the procedure regarding transfers to be adopted by the directors of Community bodies;
- ensure that payment requests to the Commission are substantiated and based on rigorous cash management in order to avoid surpluses at the end of the year;
- specify the effects of part-time work on the establishment plan to facilitate its use especially in small Community bodies;
- ensure that Community bodies participate in fraud prevention activities of the European Anti-fraud Office in order to strengthen the protection of the financial interest of the Communities;
- provide for particulars regarding conflict of interest situations in order to cover all persons involved in procurement and grant procedures;
- simplify, with regard to ex ante verification obligations, treatment of similar individual transactions relating to certain routine expenditure items;
- limit financial liability of authorising officers to cases of gross negligence and intentional misconduct;
- enable Community bodies to use a direct debit system in order to facilitate transactions in certain cases;
- refer explicity to the functional independence of the accounting officer in the performance of his duties;
- clarify the Accounting officers' responsibility for certifying the accounts and empower him to check the information received from the authorising officer by delegation and to enter reservations, if necessary;
- define a set of rules for fees and charges collected by the Community bodies in order to meet the needs of certain Community bodies financed from such revenue;
- enable Community bodies to draw on the expertise of the specialised Financial Irregularities Panel of the Commission established pursuant to Article 66(4) of the general Financial Regulation, which should become, by default, competent for Community bodies unless the latter decide to set up a panel or to participate in a joint panel established by several Community bodies;
- specify the conditions for the use, by Community bodies, 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 of 28 November 1994 setting up a Translation Centre for bodies of the European Union and joint procurement procedures with host Member States;
- allow Community bodies to insert specific contractual clauses in their contracts and grant agreements concluded with third parties enabling them to exercise certain rights, including the suspension and termination of contracts and tender procedures and the establishment of a limitation period;
- introduce, for reasons of transparency vis-à-vis the budgetary authority, an information procedure for projects with significant impact on the administrative budget of the Community body;
- provide for a specific procedure for the selection of experts, corresponding to that laid down in the general Financial Regulation;
- enhance communication and cooperation between the director of the Community body and the management board in the framework of the discharge procedure.

ENTRY INTO FORCE: 26/08/2008.