

## I

(Acts whose publication is obligatory)

**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**

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 <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Court of Auditors <sup>(3)</sup>,

Whereas:

- (1) An increasing number of programmes are being created in a wide range of fields targeting a variety of categories of beneficiaries, as part of the activities provided for in Article 3 of the Treaty. The Commission is, as a rule, responsible for adopting measures to implement such programmes (Community programmes).
- (2) Implementation of the Community programmes concerned is financed, at least in part, from appropriations entered in the general budget of the European Union.
- (3) Under Article 274 of the Treaty, the Commission is responsible for implementing the budget.
- (4) If the Commission is to be properly accountable to citizens, it must focus primarily on its institutional tasks. It should therefore be able to delegate some of the tasks relating to the management of Community programmes to third parties. Outsourcing certain management tasks could, moreover, be a way of achieving the goals of such Community programmes more effectively.
- (5) Outsourcing of management tasks should nevertheless stay within the limits set by the institutional system as laid out in the Treaty. This means that tasks assigned to the institutions by the Treaty which require discretionary powers in translating political choices into action may not be outsourced.
- (6) Outsourcing should, moreover, be subject to a cost-benefit analysis taking account of 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, 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.

- (7) One form of outsourcing consists in using Community bodies which have legal personality (executive agencies).
- (8) In order to ensure uniformity of executive agencies in institutional terms, their statute should be laid down, in particular as regards certain essential aspects of their structure, tasks, operation, budget system, staff, supervision and responsibility.
- (9) As the institution responsible for implementing the various Community programmes, the Commission is best qualified to assess whether and to what extent it is appropriate to entrust management tasks relating to one or more specific Community programmes to an executive agency. Recourse to an executive agency does not, however, relieve the Commission of its responsibilities under the Treaty, and in particular Article 274 thereof. It must therefore be able closely to circumscribe the action of each executive agency and maintain real control over its operation, and in particular its governing bodies.
- (10) This means that the Commission must have the power to decide to create and, where appropriate, wind up an executive agency in accordance with this Regulation. Since the decision to set up an executive agency is a measure of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(4)</sup>, such decisions should be adopted in accordance with Decision 1999/468/EC.

<sup>(1)</sup> OJ C 120 E, 24.4.2001, p. 89 and OJ C 103 E, 30.4.2002, p. 253.

<sup>(2)</sup> Opinion delivered on 5 July 2001 (not yet published in the Official Journal).

<sup>(3)</sup> OJ C 345, 6.12.2001, p. 1.

<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

- (11) The Commission must also be able to appoint both the members of the Steering Committee of each executive agency and its director, to ensure that in delegating tasks which are its own prerogative to an executive agency, the Commission does not thereby relinquish control of it.
- (12) The activities performed by an executive agency must also fully comply with the programming which the Commission defines for the Community programmes in the management of which the agency is involved. The agency's annual work programme must therefore be subject to the Commission's approval and comply with budgetary decisions.
- (13) To ensure that outsourcing is effective and that full benefit is drawn from the expertise of an executive agency, the Commission must be allowed to delegate to it all or some of the implementing tasks for one or more Community programmes, except for those requiring discretionary powers in translating political choices into action. Tasks which may be delegated include managing all or some of the phases in the lifetime of a given project, implementing the budget, gathering and processing information to be forwarded to the Commission and preparing recommendations for the Commission.
- (14) Since the budget of an executive agency is intended to finance only its running costs, its revenue should consist chiefly of a subsidy entered in the general budget of the European Union, to be determined by the budgetary authority, and drawn from the financial allocation to the Community programme in the management of which the agency is involved.
- (15) With a view to the application of Article 274 of the Treaty, the operational appropriations of the Community programmes which an executive agency is involved in managing must continue to be entered in the general budget of the European Union and must be implemented by direct charging to that budget. The financial operations relating to these appropriations must therefore be carried out in accordance 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 <sup>(1)</sup>.
- (16) An executive agency may be entrusted with implementing tasks relating to the management of programmes which are financed from sources other than the general budget of the European Union. However, this should not lead even indirectly to extra administrative costs, which should be covered by additional appropriations entered in the general budget concerned. In such cases, this Regulation should apply, subject to specific provisions in the basic acts relating to the Community programmes concerned.
- (17) The objective of transparency and reliability in the management of executive agencies requires that internal and external checks be made on their operation. To this end, executive agencies should be made accountable for

their actions and the Commission should exercise administrative supervision over the executive agency, without ruling out the possibility of an audit by the Court of Justice.

- (18) The public should have access to the documents held by the executive agencies, on terms and within limits similar to those in Article 255 of the Treaty.
- (19) Each executive agency must collaborate intensively and continuously with the Commission departments responsible for the Community programmes which it is involved in managing. To facilitate such collaboration as much as possible, each executive agency should be located at the place where the Commission and its departments are located in accordance with the Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol annexed to the Treaty on European Union and to the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community.
- (20) For the adoption of this Regulation, the Treaty does not provide for powers other than those conferred by Article 308,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Aim**

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.

#### *Article 2*

##### **Definitions**

For the purpose of this Regulation:

- (a) 'executive agency' means a legal entity established in accordance with this Regulation;
- (b) 'Community programme' means any activity, set of activities or other initiative which the relevant basic instrument or budgetary authorisation requires the Commission to implement for the benefit of one or more categories of specific beneficiaries, by committing expenditure.

#### *Article 3*

##### **Setting-up and winding-up of executive agencies**

1. 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.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

The cost-benefit 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.

2. 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 referred to in paragraph 1.

3. The Commission shall adopt the decisions referred to in paragraphs 1 and 2 in accordance with the procedure laid down in Article 24(2). They shall be amended in accordance with the same procedure. The Commission shall forward to the Committee referred to in Article 24(1) all the information necessary in this context, in particular the cost-benefit analysis referred to in paragraph 1 of this Article and the evaluation reports referred to in Article 25.

4. When adopting a Community programme, the Commission shall inform the budgetary authority of whether it intends to set up an executive agency to implement the programme.

5. All executive agencies set up under paragraph 1 of this Article must comply with this Regulation.

#### Article 4

##### Legal status

1. An executive agency is a Community body with a public service role.

2. An executive agency 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.

#### Article 5

##### Location

1. An executive agency shall be located at the place where the Commission and its departments are located, in accordance with the Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol.

2. It shall organise its departments according to the management needs of the Community programmes for which it is responsible and according to the criteria of sound financial management.

#### Article 6

##### Tasks

1. To attain the objective set out in Article 3(1), the Commission may entrust an executive agency with any tasks required to implement a Community programme, with the exception of tasks requiring discretionary powers in translating political choices into action.

2. Executive agencies may in particular be entrusted with the following tasks:

- (a) managing some or all of the phases in the lifetime of a project, in relation with specific individual projects, in the context 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;
- (b) 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;
- (c) gathering, analysing and transmitting to the Commission all the information needed to guide the implementation of a Community programme.

3. The terms, criteria, parameters and procedures with which an executive agency must comply when performing the tasks referred to in paragraph 2 and the details of the checks to be performed by the Commission departments responsible for Community programmes in the management of which an agency is involved shall be defined by the Commission in the instrument of delegation.

#### Article 7

##### Structure

1. An executive agency shall be managed by a Steering Committee and a director.

2. An executive agency's director shall have authority over its staff.

#### Article 8

##### Steering Committee

1. The Steering Committee shall consist of five members appointed by the Commission.

2. 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. The appointment may be renewed. On expiry of their term of office, or should they resign, the members shall remain in office until their appointment is renewed or they have been replaced.

3. The Steering Committee shall choose a chairperson and deputy-chairperson from among its members.

4. The Steering Committee shall meet when convened by the chairperson, at least four times a year. It may also be convened at the request of its members, by at least a simple majority, or at the request of the director.

5. Any member of the Steering Committee unable to attend a meeting may be represented by another member specially empowered for the meeting concerned. Each member may represent only one other member. Should the chairperson be unable to attend, the Steering Committee shall be chaired by the deputy-chairperson.

6. The Steering Committee's decisions shall be adopted by a simple majority of votes. In the event of a tie, the chair shall have the casting vote.

#### Article 9

##### Tasks of the Steering Committee

1. The Steering Committee shall adopt its own rules of procedure.

2. On the basis of a draft submitted by the director and after approval by the Commission, the Steering Committee shall, no later than the beginning of each year, adopt the executive agency's annual work programme comprising detailed objectives and performance indicators. The work programme must comply with the programming defined by the Commission in accordance with the instruments establishing the Community programmes in the management of which the executive agency is involved. The annual work programme may be amended during the year following the same procedure, in particular to take account of Commission decisions relating to the Community programmes concerned. The projects included in the annual work programme shall be accompanied by an estimate of the necessary expenditure.

3. The Steering Committee shall adopt the executive agency's administrative budget by the procedure laid down in Article 13.

4. The Steering Committee shall obtain the Commission's agreement before deciding to accept any gifts, legacies and grants from sources other than the Community.

5. The Steering Committee shall decide on the organisation of the departments of the executive agency.

6. The Steering Committee shall adopt any special rules needed to implement the right of access to the executive agency's documents in accordance with Article 23(1).

7. No later than 31 March of each year, the Steering Committee shall adopt and submit to the Commission an annual activity report together with financial and management information. The report shall be drawn up in accordance with Article 60(7) of Regulation (EC, Euratom) No 1605/2002. The report shall cover both implementation of the operating appropriations corresponding to the Community programme managed by the executive agency and the implementation of its administrative budget.

The Commission shall no later than 15 June each year send to the budgetary authority a summary of executive agencies' annual reports for the previous year, to be attached to that referred to in Article 60(7) of Regulation (EC, Euratom) No 1605/2002.

8. The Steering Committee shall adopt and apply measures to combat fraud and irregularities.

9. The Steering Committee shall perform the other tasks entrusted to it by this Regulation.

#### Article 10

##### Director

1. The director of the executive agency shall be appointed by the Commission, which shall to that end appoint an official within the meaning of the Staff Regulations of officials and the conditions of employment of other servants of the European Communities laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>(1)</sup>, hereafter referred to as 'Staff Regulations'.

2. The director shall be appointed for a term of four years in principle and shall take into account the length of time fixed for implementation of the Community programme, management of which had been entrusted to the executive agency. This appointment may be renewed. After receiving the opinion of the Steering Committee, the Commission may remove the director from office before expiry of the term of office.

#### Article 11

##### Tasks of the director

1. The director shall represent the executive agency and shall be responsible for its management.

2. The director shall prepare the work of the Steering Committee, in particular the draft annual work programme of the executive agency. The director shall participate, without voting, in the work of the Steering Committee.

3. The director shall ensure that the annual work programme of the executive agency is implemented. In particular, the director shall be responsible for performance of the tasks referred to in Article 6 and shall take the relevant decisions to that effect. The director shall act as the executive agency's authorising officer by delegation as regards implementation of the operational appropriations relating to the Community programmes in the management of which the executive agency is involved, where the Commission has delegated powers to the agency to perform budget implementation tasks.

<sup>(1)</sup> OJ L 56, 4.3.1968, p. 1. Regulation as last amended by Regulation (EC, ECSC, Euratom) No 490/2002 (OJ L 77, 20.3.2002, p. 1).

4. The director shall draw up the provisional statement of revenue and expenditure and, as authorising officer, shall implement the executive agency's administrative budget in accordance with the Financial Regulation referred to in Article 15.

5. The director shall be responsible for preparing and publishing the reports which the executive agency must present to the Commission. These are the annual reports on the activities of the executive agency referred to in Article 9(7) and all other reports, of a general or specific nature, which the Commission asks the executive agency to produce.

6. The director shall be empowered under the arrangements applicable to other servants of the European Communities to conclude employment contracts in respect of staff of the executive agency. The director shall be responsible for all other matters relating to personnel management within the executive agency.

7. In accordance with the financial Regulation applicable to the general budget of the European Communities, the director shall set up management and internal control systems adapted to the tasks entrusted to the executive agency to ensure the operations it performs are lawful, comply with the rules and are effective.

#### Article 12

##### Operating budget

1. 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. The forecasts, which shall include the establishment plan of the executive agency, shall be sent to the budgetary authority with the documents relating to the preliminary draft general budget of the European Union. The establishment plan, consisting only of temporary posts and specifying the number, grade and category of the staff employed by 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.

2. The revenue and expenditure of the executive agency's operating budget shall be in balance.

3. The executive agency's revenue shall include a subsidy entered in the general budget of the European Union, without prejudice to other revenue to be determined by the budgetary authority, drawn from the financial allocation to the Community programmes which the agency is involved in the management of.

#### Article 13

##### Preparation of the operating budget

1. Each year the director shall draw up a draft operating budget for the executive agency covering the agency's running costs for the following financial year and shall submit it to the Steering Committee.

2. No later than 1 March each year, the Steering Committee shall adopt the draft operating budget, including the establishment plan, for the following financial year and shall submit it to the Commission.

3. On the basis of this draft budget and in the light of the Commission's programming for the Community programmes in the management of which the executive agency is involved, the Commission shall propose, as part of the annual budget procedure, the annual subsidy to the executive agency's operating budget.

4. At the beginning of each financial year, the Steering Committee shall adopt the executive agency's operating budget, on the basis of the annual subsidy thus determined by the budgetary authority, at the same time as it adopts the annual work programme, adjusting the budget in accordance with the different contributions granted to the executive agency and any funds from other sources.

5. The operating budget of the agency may not be adopted definitively until the general budget of the European Union has been finally adopted.

6. When the Commission contemplates setting up an executive agency, it shall inform the budgetary authority in accordance with the budgetary procedure and respecting the principle of transparency:

- (a) of the resources in terms of appropriations and jobs required to run the executive agency;
- (b) of planned secondments of officials from the Commission to the executive agency;
- (c) of administrative resources freed by transferring tasks from the Commission departments to the executive agency, and the re-allocation of those freed administrative resources.

7. In accordance with the Financial Regulation referred to in Article 15, all amendments to the operating budget, including the establishment plan, shall be submitted in an amending budget adopted in accordance with the procedure provided for in this Article.

#### Article 14

##### Implementation of the operating budget and discharge

1. The director shall implement the executive agency's operating budget.

2. The executive agency's accounts shall be consolidated with those of the Commission in accordance with the procedure laid down in Articles 127 and 128 of Regulation (EC, Euratom) No 1605/2002 and in accordance with the following:

- (a) each year, the director shall submit detailed provisional accounts of all revenue and expenditure for the previous financial year to the Steering Committee, which shall forward them, by 1 March at the latest, to the Commission's accounting officer and to the Court of Auditors;

(b) the final accounts shall be sent to the Commission's accounting officer and the Court of Auditors by 1 July of the following year at the latest.

3. The European Parliament, acting on a recommendation from the Council, shall grant a discharge to the executive agency for the implementation of its budget no later than 29 April of year  $n+2$  after examination of the report by the Court of Auditors.

Such discharge shall be granted together with that relating to implementation of the general budget of the European Union.

#### Article 15

##### **Financial Regulation applicable to the operating budget**

The standard financial regulation applicable to the operating budget of an executive agency shall be adopted by the Commission. That standard regulation may deviate 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.

#### Article 16

##### **Financial Regulation applicable to the operational appropriations**

1. Where the Commission has delegated tasks to the executive agency relating to the budget implementation of operational appropriations for Community programmes in accordance with Article 6(2)(b), such appropriations shall be entered in the general budget of the European Union and shall be implemented by direct charging to that budget under the responsibility of the Commission.

2. The director shall act as the executive agency's authorising officer by delegation as regards implementation of these operational appropriations and shall comply to that end with the obligations laid down in the financial Regulation applicable to the general budget of the European Communities.

3. Discharge in respect of implementation of the operational appropriations shall be given within the framework of the discharge given in respect of the general budget of the European Union, in accordance with Article 276, of which it is an integral part.

#### Article 17

##### **Programmes financed from sources other than the general budget of the European Union**

Articles 13 and 16 shall apply without prejudice to specific provisions laid down in the basic instruments relating to programmes financed from sources other than the general budget of the European Union.

#### Article 18

##### **Staff**

1. The executive agency's staff shall consist of Community officials seconded as temporary staff members by the institutions to positions of responsibility in the executive agency, and

of other temporary staff members directly recruited by the executive agency, as well as of other servants recruited by the executive agency on renewable contracts. The nature of the contract, governed by either private law or public law, its duration and the extent of the servants' obligations vis-à-vis the agency, and the appropriate eligibility criteria shall be determined on the basis of the specific nature of the tasks to be performed, and shall comply with the Staff Regulations as well as with current national legislation.

2. Subject to permanent activities and regardless of the type of secondment of the official, the institution of origin:

(a) shall not, for the duration of the secondment, fill the posts vacated by that secondment;

(b) shall take into account in the standard abatement the expenses of the officials transferred to the executive agencies.

Nevertheless, the total number of posts concerned by paragraph 1 and the first subparagraph of paragraph 2 shall not exceed the number of posts necessary for performance of the tasks conferred upon the executive agency by the Commission.

3. The Steering Committee, in agreement with the Commission, shall adopt the necessary implementing rules for personnel management within the executive agency, if necessary.

#### Article 19

##### **Privileges and immunities**

The Protocol of 8 April 1965 on the privileges and immunities of the European Communities shall apply to both the executive agency and its staff, insofar as it is subject to the Staff Regulations.

#### Article 20

##### **Supervision**

1. Implementation of the Community programmes entrusted to executive agencies shall be supervised by the Commission. Such supervision shall follow the procedures it shall adopt in accordance with Article 6(3).

2. The function of internal auditor shall be performed in the executive agencies by the internal auditor of the Commission.

3. The Commission and the executive agency shall implement the recommendations of the internal auditors, each according to their respective powers.

4. The European Anti-Fraud Office (OLAF) set up by Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 <sup>(1)</sup> shall enjoy the same powers in respect of executive agencies and their staff as it enjoys in respect of Commission departments. As soon as the executive agency is set up, it shall subscribe to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the

<sup>(1)</sup> OJ L 136, 31.5.1999, p. 20.

European Anti-Fraud Office (OLAF) <sup>(1)</sup>. The Steering Committee shall formalise this acceptance and adopt the provisions needed to facilitate internal inquiries conducted by OLAF.

5. The Court of Auditors shall examine the executive agency's accounts in accordance with Article 248 of the Treaty.

6. All acts of the executive agency, and in particular all decisions adopted and contracts concluded by it, must provide explicitly that the Commission's internal auditor, OLAF and the Court of Auditors may conduct on-the-spot inspections of the documents of all contractors and sub-contractors which have received Community funds, including at the premises of the final beneficiaries.

#### Article 21

##### Liability

1. The contractual liability of the executive agency shall be governed by the law applicable to the contract in question.

2. 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.

3. The personal liability of staff towards the executive agency shall be governed by the rules applicable to them.

#### Article 22

##### Legality of acts

1. Any act of an executive agency which injures a third party may be referred to the Commission by any person directly or individually concerned or by a Member State for a review of its legality.

Administrative proceedings shall be referred to the Commission within one month of the day on which the interested party or Member State concerned learnt of the act challenged.

After hearing the arguments adduced by the interested party or by the Member State concerned and those of the executive agency, the Commission shall take a decision on the administrative proceedings within two months of the date on which proceedings were instituted. Without prejudice to the Commission's obligation to reply in writing giving grounds for its decision, the failure by the Commission to reply within that deadline shall be taken as implicit rejection of the proceedings.

2. On its own initiative the Commission may review any act of an executive agency. It shall decide within two months of the day on which that review, after having heard the arguments adduced by the agency.

3. Where an act is referred to the Commission in accordance with paragraphs 1 or 2, the Commission may suspend implementation of the act at issue or prescribe interim measures. In its final decision the Commission may uphold the executive agency's act or decide that the agency must modify it either in whole or in part.

<sup>(1)</sup> OJ L 136, 31.5.1999, p. 15.

4. Executive agencies must take the necessary measures within a reasonable period to comply with the Commission's decision.

5. An action for annulment of the Commission's explicit or implicit decision to reject the administrative appeal may be brought before the Court of Justice, in accordance with Article 230 of the Treaty.

#### Article 23

##### Access to documents and confidentiality

1. Executive agencies shall be subject to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 on public access to European Parliament, Council and Commission documents <sup>(2)</sup> when it receives a request for access to a document in its possession.

The Steering Committee shall adopt any special rules needed to implement these provisions no later than six months after the setting-up of the executive agency.

2. The members of the Steering Committee, the director and members of staff and all persons involved in the activities of the executive agency shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

#### Article 24

##### Committee

1. The Commission shall be assisted by a committee, hereinafter referred to as the 'Committee for Executive Agencies'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

#### Article 25

##### Evaluation

1. An external evaluation 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 a cost-benefit analysis as referred to in Article 3(1).

2. The evaluation shall subsequently be repeated every three years under the same conditions.

3. Further to the evaluation reports, the executive agency and the Commission shall take all appropriate steps to resolve any problems identified.

<sup>(2)</sup> OJ L 145, 31.5.2001, p. 43.

4. If, further to an evaluation, the Commission finds that the very existence of an executive agency is no longer justified with a view to sound financial management, the Commission shall decide to wind up that agency.

*Article 26*

**Interim measures**

As far as executive agencies have already been set up:

- (a) the annual activity report referred to in Article 9(7) shall be drawn up for the first time for the 2003 financial year;

(b) the deadline referred to in Article 14(2)(b) for transmission of the final accounts shall apply for the first time to the 2005 financial year;

(c) for the financial years prior to 2005 the deadline for transmission of the final accounts shall be 15 September.

*Article 27*

**Entry into force**

This Regulation shall enter into force on the 10th day following that of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 19 December 2002.

*For the Council*

*The President*

L. ESPERSEN

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