



COMMISSION OF THE EUROPEAN COMMUNITIES

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**Proposal for a
COUNCIL REGULATION (EC)**
amending Regulation (EC) No 1628/96 relating to aid for Bosnia and Herzegovina, Croatia,
the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, in
particular through the setting-up of the European Agency for Reconstruction Reconstruction

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Introduction

Once their safety can be guaranteed, in line with the Security Council's resolution of 10 June 1999, over a million refugees will gradually return to Kosovo. The UNHCR reckons that over 300 000 refugees could return to their home areas by the autumn. They will be returning to scenes of devastation. Resettling these refugees and people displaced inside Kosovo will require a major reconstruction programme. This operation must be carried out to a very tight schedule. Reconstruction work could later be extended to other areas affected by the conflict, paving the way for the economic recovery of the region foreseen in the Stability Pact.

As regards the immediate priority, namely the reconstruction of Kosovo, the European Community's involvement will take a number of forms.

- Initially, it is providing humanitarian assistance to help refugees return home. These measures are carried out by ECHO in close coordination with the UNHCR.
- ECHO's humanitarian aid will increasingly give way to support for reconstruction in the region under the Obnova assistance programme for former Yugoslavia, which (as currently in Bosnia) covers such activities as clearing mines, repairing infrastructure, building homes, education (along the lines of the Tempus programme), protection of the cultural heritage and re-establishing and developing the institutional framework of public authority, including local authorities, etc. The European Community's support under this programme takes the form of grants.
- In due course this support will be accompanied by macroeconomic assistance, particularly in the form of loans, to create a viable economy in Kosovo with the prospect of wider regional integration as stability returns to the region. The macroeconomic conditions for the transition and revitalisation will require budget and balance of payments support.

As it did for the reconstruction of Bosnia-Herzegovina, the Commission will draw up master plans, initially for Kosovo and later for other areas affected by the conflict, with the EIB, the other donors and the international financial institutions (IFIs). These master plans will provide a framework for coordinating the instruments available to aid reconstruction and economic development. It is against this background that the Commission, with the World Bank, was given a mandate by the international community (as confirmed by the European Council) to organise donor conferences. The first, specifically concerning Kosovo, is intended to take stock of short- and long-term needs and conduct a survey of multilateral and bilateral operations. The aim is to integrate them into a master plan classifying operations by category, as was done for Bosnia-Herzegovina.

The Commission and the World Bank have already started assessing the overall needs to be covered by the various instruments and resources available for Kosovo (grants, loans, etc.).

In the short term and after current ECHO operations end, speedy and efficient use must be made of the Obnova programme, for which Kosovo is eligible, to help reconstruction. At the moment the budget allocation for Kosovo - EUR 30 million available for 1999 - clearly falls short of requirements, even though it is not yet possible to put an exact figure on these. Initial estimates suggest that this year's allocation should be increased to EUR 150 million. Assessments produced with the help of the IMG¹ based on experience with reconstruction programmes in Bosnia-Herzegovina suggest annual appropriations of EUR 500 to 700 million are needed for the next three years, not counting humanitarian aid and future macroeconomic assistance. For the purposes of implementing the Obnova programme in Kosovo, it will also be necessary to adjust staffing and procedures.

Reconstruction activities will of course include infrastructure work but will essentially involve a large number of small projects (in particular rebuilding housing in rural areas) requiring on-the-spot planning and management. This calls for decentralised management, with procedures and deadlines geared to local needs.

It will be less a matter of issuing invitations to tender for infrastructure than of locating, preferably within the region, the labour and materials needed to cover the most pressing needs. Reconstruction will also call for a wide range of specialist skills (mine-clearance experts, architects, water and power engineers, agronomists, advisers specialising in small businesses and micro-enterprise, etc.). Welfare assistance will also be needed (health care, schemes for children, etc.).

As in Bosnia-Herzegovina, the reconstruction programme will also have to include support for the public authorities, including local government. The Commission clearly does not have dozens of specialists in these matters on its payroll. Nor can it recruit permanent staff for the purpose.

As experience in Bosnia makes clear, the procedures of traditional aid programmes, e.g. Phare, Tacis and Meda, do not lend themselves to urgent operations of the kind planned in Kosovo. A structure more appropriate to the needs of a large-scale reconstruction programme must be found.

Implementation of the reconstruction programme for Bosnia, put in hand under Phare and the first, Tacis-inspired programme for former Yugoslavia (Obnova), suffered from a shortage of experts and unwieldy, centralised management procedures, which delayed implementation considerably. These delays were criticised by the European Parliament² and the Court of Auditors³, which rightly pointed to the rigid rules, unwieldy tendering procedures, centralised management and understaffing. The Commission has since taken a series of measures to make such operations more efficient, in particular by adopting an amendment to the Obnova Regulation (Regulation (EC) No 851/98) to make procedures more flexible.

¹ The IMG or International Management Group is an international technical assistance body set up by a number of countries, including some Member States, to identify, implement and supervise projects financed by them in Bosnia-Herzegovina.

² See resolution withholding the 1996 budget discharge.

³ Special Report No 5/98 on reconstruction in former Yugoslavia (1996-97).

An Agency for Reconstruction in Kosovo will enhance the efficiency, speed and visibility of European assistance and make it possible to improve coordination with other donors, including international financial institutions. Responsible locally for executing decisions taken by Community institutions, operating under financial rules adjusted in accordance with appropriate procedures, and enjoying considerable operational independence, the Agency should help avoid duplication of efforts by different donors and ensure stringent and transparent financial management. Though its main task will be to execute the Obnova programme for the reconstruction of Kosovo, it could also handle the contributions of other donors, some of whom have already come forward.

At its meeting in Cologne on 3 and 4 June 1999, the European Council expressed its decision to set up an Agency in the following terms: "Conscious of the exceptional effort that will have to be made to reconstruct the region following the end of the crisis and of the necessity to put in place rapidly the most appropriate measures, the European Council invites the Commission to elaborate proposals before the end of June aimed at creating an agency to be charged with the implementation of Community reconstruction programmes. The Council, the European Parliament and the Court of Auditors are called upon to do their utmost to allow the agency to become operational before the end of the summer."

To that end the Commission proposes that the current Obnova Regulation, which already applies to the countries of former Yugoslavia, be adapted to reconstruction needs in Kosovo. The main amendments concern setting up an agency to implement assistance for reconstruction, initially in Kosovo and later, when conditions allow, in other parts of the Federal Republic of Yugoslavia.

The Commission would delegate technical management to the Agency, retaining responsibility for annual guidelines, programmes and coordination of programmes with other forms of assistance: humanitarian aid, macrofinancial assistance, EIB loans, etc.

2. Revision of the Obnova Regulation

Council Regulation (EC) No 1628/98 on aid to the countries of former Yugoslavia (the Obnova Regulation) needs to be supplemented in two ways:

- adjustments to cope with the specific situation in Kosovo
- provisions governing the establishment and operation of the Agency for Reconstruction.

2.1. Adjustment to cope with the specific situation in Kosovo

The following additions to the Obnova Regulation are proposed:

- acknowledgement of Kosovo's special legal position as both an integral part of the Federal Republic of Yugoslavia and a region under international administration (Article 10(4));
- a new clause allowing enterprises, institutions, NGOs and Phare and Meda beneficiary countries (some of which are parties to the Stability Pact) to participate in reconstruction operations and contracts on an equal footing with Member States' public- or private-sector entities (Article 9);

- strengthening of the provisions to do with the resettlement of refugees (Article 4(3));
- changes to the rules governing consultation of committees regarding implementation of the Obnova programme (Article 10(1)).

In addition, the Obnova programme is due to expire at the end of this year and therefore needs to be extended for a further five years, though this would not preclude the Commission proposing adjustments next year in the light of political developments in the region. This would provide an opportunity for altering the length of the Agency's mandate, especially in the event that reconstruction operations were to be extended to Serbia, and at the same time proposals would be presented for unified regulatory and budget provisions as requested by Parliament when it voted the 1996 discharge.

2.2. *The Agency for Reconstruction (EAfR)*

The Commission will retain responsibility for reconstruction in Kosovo under the Obnova programme, approving annual guidelines, programmes and the overall breakdown of financing by category of operation each year after consulting the management committee. Once the decisions have been adopted it will delegate responsibility for their implementation to the Agency within the framework of a well-defined remit.

The Agency will also be able to implement the programmes of other donors should they wish it to do so.

The Agency will be organised and will operate as far as possible along the same lines as the other existing agencies, with representatives of the Member States involved in its decisions. Like any Community agency it will have its own financial regulation, suitably modified to cope with decentralised management for the first time.

In carrying out reconstruction programmes the Agency will operate within the framework of the coordination set up by Commission with the World Bank, with other IFIs and the EIB closely involved.

The Agency will be based in Pristina. For operational reasons it may prove necessary to establish a presence in Skopje or other places in the region.

The Commission will negotiate suitable headquarters agreements and protocols on privileges and immunities for the Agency, taking into account *inter alia* any arrangements made by Unmik in this context.

2.2.1. *Mandate*

The Agency's task will be carrying out the Obnova programme to help in the reconstruction of Kosovo and the return of refugees under Commission directives, in conjunction with ECHO's humanitarian aid operations.

Subsequently, it may be asked to carry out reconstruction programmes in other areas of the Federal Republic of Yugoslavia once conditions permit. When this purpose has been accomplished the Agency would be wound up.

Specifically, the Agency's duties will be:

- Identification and analysis of requirements, establishing priorities by category (supply of materials and equipment, housing, infrastructure, transport, telecommunications networks, education, culture and the media, health, re-establishment of local communities, retrieval of administrative records, re-establishment and development of institutional machinery, including local government, taxes, the environment, local economic regeneration etc.) and geographical area.
- Preparing the annual reconstruction programmes for Kosovo for adoption by the Commission.
- Project implementation: drafting terms of reference, preparing and assessing invitations to tender, supervising projects, checking that they have been properly executed, issuing payment orders under its financial regulation, and executing payments.
- Concluding financing agreements and signing contracts with the interim administration of Kosovo, local communities, public- and private-sector entities, NGOs etc.
- Working together with the EIB and IFIs within the coordination framework established by the Commission so that programme resources can be used for the joint financing of investment projects (particularly via interest-rate subsidies or other instruments as provided for by the Obnova Regulation).

2.2.2. *Operation*

(a) *Management bodies*

The Agency will have a governing board composed of a representative from each Member State and three representatives of the Commission, including a Member of the Commission and initially a representative of ECHO. As a rule it will be chaired by the Commission.

The role of the governing board will be preponderant, with responsibility for deciding on the programme of work and its implementation, the budget, staffing policy (including recruitment of experts), changes to the staffing plan, adoption and revision of the financial regulation (by agreement with the Commission) and the Agency's rules of procedure.

As the board has such a major role not only in the running of the Agency itself but in the implementation of programmes and projects, Member States will have to appoint representatives with considerable experience in this field of work. The board will meet at least once a month so Member States will also have to ensure that their representatives are genuinely available for that commitment.

The governing board will appoint the director of the Agency, acting on a proposal from the Commission. The director will be responsible for running the Agency, preparing and executing the Agency's budget and work programme, dealing with all staff-related issues and implementing the board's decisions. He will also constitute the Appointing Authority.

It will be the task of the director to draw up the Agency's work programme and submit it to the governing board.

The board, after securing the Commission's approval, will adopt the Agency's budget and work programme at the start of each budget year, tailoring it to the Agency's revenue from contributions and other sources of funds. The budget will include an indicative figure for the number of staff to be employed by the Agency during that year.

(b) Staff

In the light of experience in Bosnia the Agency could be expected to have 250 to 300 personnel, including a strictly limited number of officials seconded from the Commission or Member States in a managerial capacity. The plan is for around ten Commission or Member State officials to be seconded to the Agency under temporary contracts, with the remainder of its strength made up of personnel recruited by it for a period strictly limited to the requirements of the Agency.

In accordance with the regulation applying to other staff the Agency will recruit temporary or local staff in the light of operational requirements, following procedures laid down by the governing board.

With a view to carrying out operations involving an extremely wide range of skills, the Agency will recruit experts in a variety of specialist fields.

(c) Budget

The Agency's administrative budget will be wholly financed from the facility set up under the relevant budget remark - currently 8% for the Obnova programme. Estimates based on the IMG's experience and the cost of similar-sized management entities (200-300 strong) carrying out comparable tasks corroborate this figure. If the sum allowed for the Agency's operation turns out to be too small (USAID operates on the basis of costs between 8% and 15%), the Commission will inform the Budgetary Authority.

External contributions may be received to finance specific projects under agreements between the Agency and interested donors.

The budget draws a clear distinction between the administrative and operating budgets, the latter in turn clearly demarcating contributions from the Community Budget and funds from other sources.

The Community contribution to the administration and operations of the Agency comes from Part B of the Community Budget.

The budget also gives details of resources allocated by countries which themselves qualify for projects receiving financial assistance from the Agency.

(d) Financial rules

A preliminary draft of the financial regulation is attached, for information. It will be adopted by the Agency's governing board after the Commission has given its approval and the Court of Auditors has delivered its opinion, and it should enable programmes to be executed swiftly while ensuring the necessary transparency.

The financial regulation, in its preliminary draft version, basically contains the same standard clauses as those applying to the other agencies.

For the award of contracts, the Agency will be governed by the rules set out in the current Obnova Regulation.

The director of the Agency will be the authorising officer and will have sole competence to commit expenditure and issue payment orders.

Financial control at the Agency will be the responsibility of the Commission's Financial Controller, who will verify financial operations for legality, procedural regularity and sound management. The director will submit a financial report to the governing board each year on the execution of the previous year's budget; this will then be forwarded to Parliament, the Council, the Commission and the Court of Auditors. The Court of Auditors will examine the report on the basis of Article 248 of the Treaty.

(e) European Parliament

The director will present a quarterly report to Parliament.

As the governing board is integral to the Agency's decision-making procedures it is proposed that the power to give a discharge to the director should belong to Parliament.

3. The time factor: urgent need to adopt the regulation and set up transitional measures

The European Council set a very tight timeframe for the creation of the Agency, requiring it to be operational by 1 October.

It will be organised and will operate along the same lines as the other agencies. In this case the question of its location - an issue that has often delayed the start-up of agencies - should be easy to settle: The Agency will be based in Pristina and for operational reasons may establish a presence in Skopje or elsewhere in the region. Pending the creation of the Agency the Commission has decided to set up an internal task force to be responsible for the decentralised management of the reconstruction programme, with about 20 officials probably based in Pristina. The task force will also be on the spot to make the necessary legal and material arrangements that will speed up the establishment of the Agency. A small number of the task force staff will initially be assigned to the Agency to ensure programme continuity

The sooner the Agency is operational the sooner ECHO can begin to phase out its work in Kosovo and concentrate on other priorities in the region, thus removing the already slight risk of overlap between reconstruction work and humanitarian aid.

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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 Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

1. In line with the United Nations Security Council resolution of 10 June 1999, a large-scale programme of reconstruction including measures to help resettle refugees and revitalise Kosovo's economy is urgently needed as soon as security conditions allow.
2. The European Council held at Cologne on 3 and 4 June 1999 reiterated the European Union's commitment to taking a leading role in the reconstruction efforts in Kosovo.
3. The European Council has reaffirmed its readiness to draw the countries of that region closer to the prospect of full integration into the structures of the European Union within the framework of the Stability Pact for South-Eastern Europe, which will help to enhance peace, stability and prosperity in, and cooperation between, countries in the region.
4. The Stability Pact has underlined the European Union's role in bolstering democratic and economic institutions in the region through a number of programmes.
5. The objectives relating to this region must include reconstruction as a prelude to revitalisation and to economic, social and institutional development.
6. The European Council has confirmed the European Union's willingness to contribute substantially to the regional reconstruction effort.
7. Aid programmes of the major scale necessary for the reconstruction of Kosovo cannot be implemented unless the appropriate means and mechanisms are in place.
8. The European Council has called upon the Commission to develop, as a matter of priority, proposals regarding the organisation of the reconstruction assistance envisaged, in particular on appropriate means and mechanisms for putting such a programme in place.

¹ OJ C ...

² OJ C ...

9. Council Regulation (EC) No 1628/96³, as last amended by Regulation (EC) No 851/98⁴, sets out, *inter alia*, objectives, mechanisms and instruments for the reconstruction of the regions it covers, including Kosovo.
10. The reconstruction effort in Kosovo, which will be coupled with the humanitarian aid effort, will require the rapid implementation of numerous small-scale projects, measures to support returning refugees and the assistance of large numbers of experts covering a wide range of fields.
11. The reconstruction programmes should be managed in accordance with appropriate rules and procedures so as to avoid the delays in implementation which occurred during the first phase of the reconstruction programme in Bosnia and Herzegovina, owing largely to unwieldy procedures and a rigid regulatory framework.
12. A Community agency offers advantages in terms of effectiveness, speed and visibility of the Community's operation in these circumstances.
13. The European Council has invited the Commission to draw up proposals on setting up an agency to be responsible for the implementation of Community reconstruction programmes.
14. Regulation (EC) No 1628/96 should be amended to take account of the specific requirements for Kosovo's reconstruction, including provisions on setting up and running an agency to be responsible for implementing the Community's reconstruction programmes.
15. The above agency should be capable of assuming responsibility for implementing programmes approved by the Commission.
16. The reconstruction programmes should be managed locally. The Agency should therefore be established in Pristina and the way left open for it to have a presence for operational reasons in Skopje and other locations in the region.
17. The Agency's mandate should also allow it to manage the programmes of other donors contributing to the reconstruction of the region.
18. The Commission should ensure that reconstruction assistance is coordinated with the European Investment Bank, the international financial institutions and the United Nations Office of the High Commissioner for Refugees. In implementing the programme, the Agency must comply with decisions taken in the framework of coordination.
19. The Agency's mandate should cover the implementation of programmes for reconstruction and the return of refugees in Kosovo initially, then, once the security situation permits, in other regions of the Federal Republic of Yugoslavia.
20. The Agency should be set up for the purposes of reconstruction, and a proposal will be made to wind it up once that objective has been achieved.

³ OJ L 204, 14.8.1996, p. 1.

⁴ OJ L 122, 24.4.1998, p. 1.

21. The Agency's structure and status should allow it to respond rapidly and effectively to the requirements of reconstruction.
22. The Member States should be involved in the Agency's activities, their role in the governing board should be defined and procedures laid down under which they are to give opinions on project and programme decisions.
23. For the sake of effectiveness, the Agency requires a special financial regulation that is flexible and allows a rapid response while at the same time ensuring full managerial accountability and transparency in management.
24. In view of the urgency and the nature of the assistance to be given, the Committee established by Regulation (EC) No 1628/96 should act in accordance with the management procedure set out in Article 4 of Council Decision 1999/.../EC of 1999⁵ laying down the procedures for the exercise of implementing powers conferred on the Commission, rather than using the regulatory procedure originally laid down.
25. The authority put in charge of the provisional administration of Kosovo should be consulted on the implementation of the reconstruction programmes.
26. Provision should be made for the countries covered by the Phare and Meda programmes to be involved in implementing the programmes provided for in Regulation (EC) No 1628/96.
27. The Commission should submit a report by 31 December 2000 on the progress in the implementation of Regulation (EC) No 1628/96 and may if appropriate make proposals to amend it in the light of political developments in the region;
28. Regulation (EC) No 1628/96 should be extended until 31 December 2004,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1628/96 is hereby amended as follows:

- (1) In Article 4, the following paragraph 3 is added:
 - "3. The programmes of reconstruction and assistance to refugees returning to Kosovo shall include:
 - (a) measures to help resettle refugees, such as projects to provide psychological support or to aid children and families, special programmes targeting education and the strengthening of community life and cultural life, projects to encourage a return to work, projects designed to ensure the involvement of professionals and refugees in general in reconstruction activities, micro-credit and loan guarantees;

⁵ OJ L ...

- (b) measures for economic revitalisation at local level;
- (c) projects to set up and help run the administrative and legal framework of the authorities, including local authorities.”

(2) In Article 6, the following paragraph 3 is added:

“3. The Commission shall ensure that reconstruction assistance is coordinated with the European Investment Bank, the international financial institutions and the United Nations Office of the High Commissioner for Refugees.”

(3) In Article 8, the first subparagraph of paragraph 1 is replaced by the following:

“The operations referred to in this Regulation may cover expenditure relating to the importation of goods and services, the local expenditure necessary to complete the projects and programmes and co-financing (in forms including interest-rate subsidies) of investment projects financed by loans from the European Investment Bank or the international financial institutions, where the latter are involved. Taxes, duties and charges and the acquisition of real estate shall be excluded from Community financing.”

(4) Article 9 is amended as follows:

(a) The first two paragraphs are replaced by the following:

“Participation in invitations to tender and contracts shall be open on equal terms to all natural and legal persons in the Member States and States which receive benefits, or in countries benefiting under the Phare or Meda programmes.

(b) The third paragraph is replaced by the following:

The following shall be considered to be legal persons of a Member State, a recipient State or a State benefiting under the Phare or Meda programmes: legal persons who are established in accordance with the legislation of a Member State, a recipient State or a State benefiting under the Phare or Meda programmes, and who have their central administration or principal establishment in the territories in which the Treaty establishing the European Community applies, in the recipient States or in the States benefiting under the Phare or Meda programmes, or who have their registered office there, where their activity has an actual and continuous link with the economy of the said territories or States.”

(5) Article 10 is amended as follows:

(a) the following subparagraph is added to paragraph 1:

“By way of derogation from the first two subparagraphs, with regard to reconstruction assistance to Kosovo, annual programmes which set out the main objectives and related allocations, guidelines and priorities for Community support for reconstruction and the return of refugees shall be adopted in accordance with the procedure laid down in Article 12(2).”

(b) the following paragraph 4 is added:

“4. Assistance for the reconstruction of Kosovo may be implemented on the basis of financing agreements or contracts concluded with the bodies referred to in Article 3 following consultation with the authority provisionally responsible for administering Kosovo. Assistance may also be provided for that authority.”

(6) The following is inserted as the second sentence of the third paragraph of Article 11:

“The Annex shall not apply to contracts awarded by invitation to tender in connection with the operations of the European Agency for Reconstruction referred to in Article 14.”

(7) Article 12 is replaced by the following:

“Article 12

1. The Commission shall be assisted by a management committee composed of the representatives of the Member States and chaired by the representative of the Commission, hereinafter referred to as 'the Committee'.
2. The Committee shall act in accordance with the procedure laid down in Article 4 of Decision 1999/.../EC [Comitology]. The period provided for in paragraph 3 of that Article shall be at most one month.
3. The Committee may examine any other question relating to the implementation of this Regulation which is put to it by its Chairman, including at the request of the representative of a Member State, and in particular any question relating to programming of projects, their general implementation and co-financing.
4. The Committee shall adopt its rules of procedure by a qualified majority.”

(8) Article 14 becomes Article 26, and the second paragraph thereof is replaced by the following:

“It shall apply until 31 December 2004.”

(9) The following Articles are inserted:

“Article 14

The programmes for reconstruction and assistance to returning refugees will initially target Kosovo and when conditions are right may also target other parts of the Federal Republic of Yugoslavia. The Commission may delegate their implementation to an agency. Such programmes shall be the subject of a Commission decision.

A European Agency for Reconstruction, hereinafter referred to as the ‘Agency’, shall be set up to that end with the aim of implementing the programmes referred to in the first paragraph, namely for reconstruction and assistance to returning refugees.

Article 15

- (1) To achieve the objective referred to in Article 14, the Agency shall carry out the duties set out in paragraphs 2, 3 and 4, within the bounds of its powers and in accordance with the decisions taken by the Commission:
- (2) The Agency shall gather, analyse and communicate information to the Commission on:
 - (a) war damage, the requirements for reconstruction and the return of refugees and related initiatives by the government, local or regional authorities and international community;
 - (b) the urgent requirements of the communities concerned, taking account of the various population displacements and possibilities for their return;
 - (c) the priority sectors and geographical areas requiring urgent assistance from the international community.
- (3) The Agency shall prepare projects and programmes for the reconstruction of Kosovo and the return of its refugees and submit them to the Commission with a view to their adoption in accordance with Article 12(2) of this Regulation.
- (4) The Agency shall implement the programmes for reconstruction and assistance to returning refugees approved by the Commission. To that end it may be made responsible by the Commission for all operations required to implement the programmes, and in particular for:
 - (a) drawing up the terms of reference;
 - (b) preparing and evaluating invitations to tender;
 - (c) signing contracts;
 - (d) concluding financing agreements;
 - (e) awarding contracts, in accordance with the provisions of this Regulation;
 - (f) evaluating projects;
 - (g) monitoring project implementation;
 - (h) effecting payments.
- (5) In addition to the tasks set out in paragraphs 2, 3 and 4, the Agency shall ensure implementation of such programmes of reconstruction and assistance to returning refugees as the Member States and other donors shall entrust to it in the framework of the coordination set up by the Commission with the World Bank, international financial institutions and the European Investment Bank.

Article 16

The Agency shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings. The Agency shall be non-profit-making.

The Agency shall establish itself in Pristina, without prejudice to its having a presence in Skopje or in other locations in the region.

Article 17

1. The Agency shall have a governing board composed of one representative from each Member State and three representatives of the Commission.
2. The Member States' representatives shall be appointed by the Member States concerned. Member States shall make the appointment with due regard to the experience and qualifications relevant to the Agency's activities.

One of the three Commission representatives shall be a Member of the Commission.

3. The term of office of representatives shall be thirty months.
4. The governing board shall be chaired by the Commission, usually a Member of the Commission. The Chair shall not vote.
5. The governing board shall adopt its rules of procedure.
6. The Commission and Member State representatives on the governing board shall each have one vote.

Governing board decisions shall be adopted by a two-thirds majority of its members.

7. The governing board shall determine the rules as to the languages of the Agency.
8. The governing board shall be convened by its Chair every month. It shall also be convened at the request of the Agency's director or at least by a simple majority of its members.
9. On the basis of a draft submitted by the Agency's director, the governing board, in agreement with the Commission, shall examine by 30 November of each year at the latest the preliminary draft annual work programme for the following year. The work programme shall be adopted at the beginning of each operating year. The programme may be adapted as necessary during the year by the same procedure, to take account *inter alia* of programmes adopted by the Commission.

The projects included in the annual work programme shall be accompanied by an estimate of the necessary expenditure.

10. The governing board shall be closely involved in the implementation of the reconstruction programmes. On a proposal by the director, it shall decide upon the main issues relating to the Agency's activities, and in particular:
 - (a) the draft programmes to be submitted to the Commission;
 - (b) the conditions for implementing projects;
 - (c) methods of evaluating and properly implementing the projects;
 - (d) proposals for programmes by other donors for possible implementation by the Agency;
 - (e) whether representatives of the countries and organisations delegating implementation of their programmes to the Agency should be present as observers on the latter's governing board.
11. The governing board shall present a draft annual report to the Commission, by 31 March of each year at the latest, on the activities of the Agency for the previous year and on how they were financed.

The Commission shall adopt the annual report and submit it to the European Parliament and the Council.

Article 18

1. The director of the Agency shall be appointed by the governing board, on a proposal from the Commission, for a term of office of thirty months. The term of office may be terminated by the same procedure.

The director shall be responsible for:

- (a) the preparation and organisation of the work of the governing board and, in particular, for the preparation of the Agency's draft work programme,
- (b) the day-to-day administration of the Agency;
- (c) the preparation of the statement of revenue and expenditure and execution of the Agency's budget,
- (d) the preparation and publication of reports specified under this Regulation,
- (e) all staff matters,
- (f) implementing the annual work programme referred to in Article 17(9),

- (g) implementing the governing board's decisions and guidelines laid down for the Agency's activities.
- 2. The director shall be accountable to the governing board for his activities and shall attend its meetings.
- 3. The director shall be the legal representative of the Agency.
- 4. The director shall hold the power of Appointing Authority.
- 5. The director shall present a quarterly activity report to the European Parliament.

Article 19

- 1. All items of revenue and expenditure of the Agency shall be included in the estimates for each financial year, such financial year corresponding to the calendar year, and shall be shown in the budget of the Agency, which shall include an establishment plan.
- 2. The revenue and expenditure shown in the budget shall be in balance.
- 3. The revenue of the Agency shall comprise, without prejudice to other types of income, a subsidy from the general budget of the European Communities, payments made as remuneration for services performed, and funding from other sources.
- 4. The budget shall also include details of any funds made available by the recipient countries themselves for projects benefiting from financial assistance from the Agency.

Article 20

- 1. The director shall draw up each year a draft budget for the Agency covering running costs and the proposed operational programme for the following financial year, and shall submit it to the governing board.
- 2. On the basis of the draft referred to in paragraph 1, the governing board shall, by 15 February at the latest, adopt a draft budget for the Agency and shall submit it to the Commission.
- 3. The Commission shall assess the draft budget of the Agency, having regard to the priorities which it has established and to the overall financial guidelines for reconstruction assistance for Kosovo.

It shall establish on this basis, and within the proposed limits of the overall amount to be made available for aid to Kosovo, the annual contribution for the budget of the Agency to be included in the preliminary draft of the general budget of the European Communities.

4. The governing board, after receiving the opinion of the Commission, shall adopt the budget of the Agency together with the work programme at the beginning of each financial year, adjusting it to the various contributions granted to the Agency and to funds from other sources. The budget shall also specify the number, grade and categories of staff employed by the Agency during the financial year in question.

Article 21

1. The director shall implement the budget of the Agency.
2. The Commission's Financial Controller shall be responsible for financial checks.
3. By 31 March each year at the latest, the director shall submit to the Commission, the governing board and the Court of Auditors the detailed accounts of all revenue and expenditure from the previous financial year.

The Court of Auditors shall examine these accounts in accordance with Article 248a of the Treaty.

4. The European Parliament shall give a discharge to the director in respect of the implementation of the budget.

Article 22

The governing board, having received the agreement of the Commission and the opinion of the Court of Auditors, shall adopt the Agency's Financial Regulation, which shall in particular specify the procedure to be used for drawing up and implementing the Agency's budget, in accordance with Article 142 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities⁶.

Article 23

The Agency's staff shall be subject to the rules and regulations applicable to officials and other servants of the European Communities.

The governing board, in agreement with the Commission, shall adopt the necessary implementing rules.

The Agency's staff shall consist of a strictly limited number of officials assigned or seconded by the Commission or Member States to carry out management duties. The remaining staff shall consist of other employees recruited by the Agency for a period strictly limited to its requirements.

⁶ OJ L 356, 31.12.1977, p. 1.

Article 24

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
2. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by the Agency or its servants in the performance of their duties.

The Court of Justice of the European Communities shall have jurisdiction in disputes relating to compensation for any such damage.

3. The personal liability of its servants towards the Agency shall be governed by the relevant provisions applying to the staff of the Agency.

Article 25

1. The Commission shall submit to the Council before 31 December 2000 a progress report on the implementation of this Regulation; it may, if appropriate, make proposals, notably with a view to establishing a unified regulatory framework for assistance to Albania, Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia.
2. Once the Commission considers that the Agency has fulfilled its mandate as described in Article 14, it shall put to the Council a proposal for the winding-up of the Agency."

Article 2

This Regulation shall enter into force on the 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,

For the Council
The President

PRELIMINARY DRAFT
FINANCIAL REGULATION
OF THE EUROPEAN AGENCY FOR RECONSTRUCTION

TEXT ADOPTED BY THE GOVERNING BOARD
AT ITS MEETING IN (place)

(day) (month) 1999

THE GOVERNING BOARD

Having regard to Regulation (EC) No/. setting up the European Agency for Reconstruction¹, and in particular Article ... thereof,

Having regard to the agreement of the Commission,

Having regard to the opinion of the Court of Auditors,

Whereas the above Regulation lays down the basic rules governing the management of the Agency, hereinafter called "the Agency", the fixing of the annual grant to be charged against the budget of the Communities, the presentation and adoption of the budget and the controls to which the Agency is subject;

Whereas the effectiveness of the programmes implemented by the Agency demands a special Financial Regulation that is flexible, allows a rapid response and ensures maximum transparency in management;

Whereas the Agency must make payments in respect of numerous small projects in accordance with procedures and therefore needs effective controls on the regularity, legality and sound management of financial transactions and the accuracy of its financial statements;

Whereas the procedures for drawing up and implementing the Agency's budget and presenting and auditing accounts must be laid down; whereas the rules governing authorising officers and accounting officers should also be determined and a system set up for checking the exercise of their responsibilities;

Whereas the Cologne European Council called on the Council, the European Parliament and the Court of Auditors "to do their utmost to allow the agency to become operational before the end of the summer",

¹ OJ ...

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PRINCIPLES

Article 1

1. The budget of the Agency (hereinafter called "the budget") is the instrument which sets out forecasts of, and authorises in advance, the revenue and expenditure of the Agency for each year. Expenditure shall be authorised in separate commitment and payment appropriations in accordance with the principle of differentiated appropriations. It shall contain separate headings under revenue and expenditure for activities financed by third parties.

2. Commitment appropriations may be used to initiate activities during one financial year that will extend beyond the year in question. Payment appropriations may be used to pay for operations initiated earlier that have been authorised and cleared before the end of the financial years.

3. Administrative expenditure arising from:

- contracts, in accordance with local usage, or
- contractual provisions relating, in particular, to the supply of equipment,

for periods extending beyond the financial year shall be charged against the budget for the financial year in which it is effected.

Article 2

The budget appropriations must be used in accordance with the principles of sound financial management, and in particular those of economy and cost-effectiveness. Quantified objectives must be identified and progress towards achieving them monitored.

Article 3

1. All revenue and expenditure shall be entered in full in the form of commitments and payments in the budget and in the accounts without any adjustment against each other.

2. Total revenue shall cover total payments. However, revenue from the contributions of third parties to activities of the Agency shall not be used for any other purpose. Such contributions must be authorised by the governing board when the budget is established or during the financial year and the Commission notified thereof. An amount representing a share of the management costs proportional to the ratio of administrative costs to operational costs at Agency level shall be deducted from these contributions during the implementation of the relevant programmes.

3. The governing board may accept any donation made to the Agency, in particular foundations, grants, gifts and bequests, and shall adhere to the designated use. It shall inform the Commission thereof.

Article 4

1. No revenue shall be collected and no commitment or payment effected unless credited to or charged against an article in the budget.

No expenditure may be committed or authorised in excess of the authorised appropriations.

2. Amounts corresponding to revenue from financial contributions by third parties shall be entered in the statement of revenue of the Agency's budget and the same amounts shall be entered in the statement of expenditure.

The implementing rules to be established under Article 74 shall include the detailed provisions necessary for implementation.

Article 5

The financial year shall correspond to the calendar year.

The revenue of a financial year shall be entered in the accounts for the financial year in which it is collected.

The commitments of a given financial year shall be entered in the accounts for that year on the basis of expenditure for which the commitment proposal was received by the financial controller no later than 31 December.

The payments of a financial year shall be entered in the accounts for that year on the basis of expenditure the authorisation for which reached the financial controller not later than 31 December,.

Article 6

The following rules shall govern the use of appropriations:

1. (a) commitment and payment appropriations still uncommitted at the end of the financial year for which they were entered, shall, as a rule, lapse;

(b) appropriations relating to remuneration and allowances of staff may not be carried over;

(c) however, the following may be carried over:

Appropriations not committed at 31 December may be carried over to the next financial year only; the director shall submit to the governing board, before 31 January, duly substantiated requests for carryovers.

The carryover of such appropriations can be proposed only for exceptional reasons in order to cope with compelling needs which cannot be met by appropriations from the following financial year. In principle, such carryovers are intended to cover needs which would normally have come under the previous financial year but which, owing to delays for which the authorising officer was not responsible, could not be used in good time.

The governing board shall act on such requests for carry-over by 1 March at the latest.

Payment appropriations that correspond to the payments outstanding on 31 December pursuant to commitments properly entered into between 1 January and 31 December shall not be carried over for longer than the subsequent year.

Appropriations still available on 31 December arising from the donations referred to in Article 3(2) shall be carried forward automatically.

2. The following appropriations shall lapse at the end of the year:
 - (a) appropriations from the previous financial year:
 - appropriations carried over by decision under point 1(c) which have been neither committed nor paid,
 - appropriations carried over automatically under point 1(d) which have not been paid;
 - (b) appropriations of the financial year which have not been carried over.
3. A list of the appropriations to be carried forward automatically shall be sent to the governing board for information purposes before 1 March, .
4. For the purpose of implementing the budget, the use of appropriations carried forward shall be shown separately, for each budget item, in the accounts for the current financial year.

Article 7

From 15 November of each year, routine administrative expenditure chargeable to the next financial year which, by its nature, arises at the beginning of that financial year may be charged as an advance commitment against the appropriations provided for in respect of the next financial year up to a maximum of one quarter of the total corresponding appropriations for the current year. However, such commitments shall not apply to new expenditure of a kind not yet approved in principle in the budget of the current financial year.

Expenditure relating to rents or certain associated expenditure which is payable in advance in accordance with provisions laid down by law or contracts may give rise to payments from 20 December onwards, to be charged to the appropriations for the next financial year.

Article 8

1. If the budget is not finally adopted at the beginning of the financial year, expenditure already approved in principle in the last budget duly adopted may be effected under the conditions laid down in this Article.

An item of expenditure shall be considered as having been approved in principle in the last budget duly adopted if it could have been charged to a specific budget heading under the financial year concerned.

2. Payments may be made monthly in respect of any chapter up to one-twelfth of the total appropriations entered in the chapter in question for the preceding financial year, account being taken of transfers, provided this measure does not have the effect of placing at the disposal of the Agency, for any month, appropriations in excess of one-twelfth of the amount of the grant reserved for the Agency in the draft budget or, in the absence thereof, in the preliminary draft budget of the Communities. Commitments may be entered into in respect of any chapter for up to one-quarter of the total appropriations entered in the relevant chapter for the preceding financial year, account being taken of all transfers, plus one-twelfth for each completed month, provided the amount of the grant reserved for the Agency in the draft budget or, in the absence thereof, in the preliminary draft budget of the European Communities, is not exceeded.

3. At the request of the director, the governing board may, in the light of administrative needs, authorise simultaneously two or more provisional twelfths, provided that the amount authorised for each chapter does not exceed the maximum annual limit provided for in paragraph 2.

4. If, for a given chapter, the expenditure necessary to avoid a break in continuity of the Agency's activity in the area in question cannot be met with the authorisation of two or more provisional twelfths as provided for in paragraph 3, authorisation may, exceptionally, be given under the same procedure to exceed the total provided for in that paragraph, provided that the overall total of the appropriations opened in the budget of the preceding year is not exceeded.

Article 8a

In no circumstances may the Agency make commitments for activities of a duration beyond the date referred to in Article 27 of Regulation No ... setting up the Agency.

Article 9

The budget shall be drawn up in euros. The value of the euro and the arrangements for its conversion into national currencies shall be that laid down in the Financial Regulation applicable to the general budget of the European Communities.

TITLE II

PRESENTATION AND STRUCTURE OF THE BUDGET

Article 10

1. The director shall send the governing board an estimate of the Agency's revenue and expenditure for the following year. This estimate shall include a list of posts.

The governing board shall draw up the estimate along with the list of posts and shall forward it to the Commission by 31 March at the latest.

2. In the event of unavoidable, exceptional or unforeseen circumstances, the director may submit draft supplementary and/or amending budgets to the governing board. Such estimates shall be submitted in the same form and according to the same procedure as the statement whose estimates they are amending. They must be substantiated by reference to the latter and, as a general rule, are to be submitted to the Commission no later than the date laid down for submitting the estimate for the following financial year.

Article 11

1. In support of the estimate there shall be submitted:

- a list of posts including, for each category of staff, a detailed list of authorised posts and actual numbers of persons holding posts on the date of submission of the estimate of revenue and expenditure;
- where a change in the numbers of persons holding posts is proposed, a statement giving the reason for requesting new posts;
- a quarterly estimate of cash payments and receipts.

2. As a preface to the estimate, the director shall submit a general introductory note containing in particular:

- an outline of the policy justifying the requests for appropriations, particularly in terms of corresponding to the programme of work adopted by the governing board;
- an explanation of the changes in appropriations from one financial year to the next.

Article 12

The governing board shall adopt the budget, together with the establishment plan, before the beginning of the financial year, ensuring that the statement of revenue and the statement of payments are in balance, having regard to in particular to any grant from the budgetary authority.

The budget thus adopted shall be forwarded to the Commission forthwith.

Article 12a

In unforeseen circumstances the Agency may at any time adopt a supplementary or amending budget in accordance with the procedures set out in Articles 10 to 12.

Article 13

The budget and the list of posts shall be published in the Official Journal of the European Communities.

Article 14

The budget shall be subdivided into titles, chapters, articles and items according to the nature of the revenue or expenditure or the intended purpose thereof, following a decimal classification system.

It shall show:

1. as regards the statement of revenue:

- (a) the revenue for the financial year in question;
- (b) the revenue entered for the preceding financial year and the revenue established for the last financial year for which accounts have been closed;
- (c) appropriate remarks on each revenue heading;

2. as regards the statement of expenditure:

- (a) the commitment and payment appropriations made available for the financial year in question, divided into titles, chapters, articles and items;
- (b) the appropriations made available for the preceding financial year and the actual expenditure in the last financial year for which the accounts have been closed, using the same classification;
- (c) appropriate remarks on each subdivision.

Such remarks may include financial information relating to:

- the Agency's draft work programme,
- services provided for third parties;
- the participation of third parties in the Agency's activities;

- (d) in an annex, a list of posts setting the number of permanent and temporary posts for each grade in each category and indicating the number of posts authorised for the preceding year.

Article 15

The list of posts drawn up by the governing board shall constitute an absolute limit for the Agency; no appointment may be made in excess of the limit set.

Instances of half-time work authorised by the director in accordance with Article 51 of the Staff Regulations of officials of the European Communities may be compensated for by the recruitment of other staff within the limits laid down by the governing board.

TITLE III

IMPLEMENTATION OF THE BUDGET

SECTION I

GENERAL PROVISIONS

Article 16

The budget shall be implemented in accordance with the principle that the authorising officers, accounting officers and financial controllers are different individuals.

The appropriations shall be administered by the authorising officer who alone is empowered to enter into commitments regarding expenditure, establish entitlements to be collected and issue recovery orders and payment orders. The operations of collection or payment shall be carried out by the accounting officer. The duties of authorising officer, financial controller and accounting officer shall be mutually incompatible.

Article 17

The director of the Agency shall implement the budget on his own responsibility in accordance with this Regulation, within the limits of the appropriations allotted and in accordance with Article 2.

The director shall delegate his powers under conditions to be laid down by him and within the limits set by the act of delegation, which shall be communicated to the empowered person, the accounting officer, the financial controller, the governing board and the Court of Auditors.

Those so empowered may act only within the limits of the powers expressly conferred upon them.

Article 18

Where revenue and expenditure operations are managed by means of integrated computer systems, the provisions of Sections II and III of this Title and of Title VI shall apply with due allowance for the possibilities and requirements deriving from computerised management. To this end:

- the supporting documents may remain with the authorising officer or the accounting officer for purposes of checking,
- signatures and approvals may be added in appropriate computerised form.

The conditions for implementing this Article shall be determined by the implementing rules provided for in Article 74.

Article 19

The financial controller shall be responsible for checking the commitment and payment of all expenditure and the establishment and recovery of the Agency's revenue, in accordance with the principles laid down in Article 2.

Controls shall be carried out by that official by means of inspection of the files relating to expenditure and revenue and, if necessary, on the spot.

The financial controller may be assisted in his duties by one or more assistant controllers.

The financial controller must be consulted on the setting up of the accounting systems of the Agency. He shall have access to the data of such systems.

The financial controller shall carry out internal audits in accordance with the rules for implementation provided for in Article 74. Audits shall include an evaluation of the efficiency of management and control systems and verification of the proper performance of operations.

Article 20

The collection of revenue and the payment of expenditure shall be carried out by an accounting officer appointed by the governing board.

Subject to the second paragraph of Article 42, and to Article 43, the accounting officer alone is empowered to manage funds and assets. He shall be responsible for their safekeeping.

He shall be responsible for preparing the financial statements provided for in Articles 65 and 66.

He may be assisted in his duties by one or more assistant accounting officers, appointed under the same conditions as the accounting officer.

The special rules applicable to the accounting officer and to assistant accounting officers shall be laid down in the implementing rules provided for in Article 74.

Article 21

1. The appropriations shall be classified by chapter and article.
2. The appropriations entered under a chapter or article of expenditure may not be used for other expenditure.

3. However, the director may propose to the governing board that appropriations be transferred from one chapter to another. The governing board shall act within one month. If it has not so acted, the transfers shall be deemed to be approved.

The governing board may, at the time of adoption of the budget, authorise the director to transfer appropriations from one chapter to another. Such authorisation must specify the chapters concerned and any limits and conditions on the transfer.

The director may authorise transfers between articles on behalf of the Agency.

The governing board shall be informed of such transfers.

4. Every proposal for a transfer within a chapter or between chapters shall be subject to the approval of the financial controller who shall attest that the appropriations are available.

5. Appropriations may be transferred only to budget headings for which the statement of expenditure has authorised appropriations or carried a token entry.;

6. This Article shall apply to the appropriations for revenue allocated for a specific purpose within the meaning of Article 3(2) only as long as that revenue is not used for any other purpose.

Article 22

Notwithstanding Article 4(1):

(a) the following deductions may be made from all bills, invoices or statements, which shall then be passed for payment of the net amount:

- fines imposed on a party to a contract or an accepted tender;
- adjustments of amounts paid in error, which may be achieved by means of deduction beforehand when another validation of the same type is being effected under the chapter, article and financial year in respect of which the excess payment was made;
- the value of vehicles, apparatus, equipment and installations taken in part exchange in accordance with commercial usage upon purchase of new apparatus, vehicles, equipment and installations of the same kind.

Discounts, refunds and rebates on invoices and bills shall not be recorded as separate revenue;

(b) the following sums may be reused under the heading to which the initial expenditure was charged:

- revenue arising from the refund of amounts paid in error against appropriations entered in the budget,
- proceeds from the supply of goods and services to other institutions or bodies, including refunds by such institutions or bodies of mission allowances paid on their behalf,

- insurance payments received,
- revenue from payments connected with lettings,
- the revenue from the sale of publications and films;
- refunds of taxes - incorporated in the price of the products or services provided to the Agency - effected by Members States pursuant to the provisions of the Protocol on the Privileges and Immunities of the European Communities,
- the revenue from the supply of goods and services and from building works against payment;
- proceeds from the sale of vehicles, equipment and installations and scientific and technical apparatus, equipment and materials which are being replaced or scrapped.

Sums must be re-used before the end of the financial year following that in which the revenue was collected.

The chart of accounts shall include suspense accounts to record reuse operations in both revenue and expenditure;

- (c) adjustments may be made in respect of exchange differences occurring in budget operations, and in respect of debtor and creditor interest rates relating to cash operations. Only the final gain or loss shall be included in the balance for the year.

SECTION II

REVENUE AND MANAGEMENT OF AVAILABLE FUNDS

Article 23

1. Any measure or situation which may give rise to or modify a debt due to the Agency must be preceded by a debt forecast from the authorising officer. Such forecasts shall be sent to the financial controller for approval and to the accounting officer for provisional registration. They shall mention, in particular, the type of revenue and the budget item to which it is to be booked and also, as far as possible, the estimated amount and the name and description of the debtor.

The financial controller's approval shall certify that:

- (a) the revenue is booked to the correct item;
- (b) the forecast is in order and conforms to the relevant provisions, in particular of the budget and of the regulations applying to the Agency and also of all acts adopted in implementation of these regulations, and to the principles of sound financial management referred to in Article 2.

2. The financial controller may withhold his approval. The director may, by a duly substantiated decision, and on his sole responsibility, overrule this refusal. This decision shall be final and binding, and may not be delegated; it shall be communicated for information to the Director, the governing board, the financial controller and, within one month, the Court of Auditors.

3. The authorising officer shall draw up, in respect of every debt established, a recovery order which shall be sent to the financial controller for prior approval with the supporting documents. The recovery orders shall then be registered by the accounting officer after approval of the financial controller.

The accounting officer's approval shall be to establish that:

- (a) the revenue is booked to the correct item;
- (b) the recovery order is in order and conforms to the relevant provisions;
- (c) the supporting documents are in order;
- (d) the debtor is correctly described,
- (e) the due date is indicated,
- (f) the principles of sound financial management referred to in Article 2 have been applied;
- g) the amount and currency of the sum to be recovered are correct.

If the accounting officer's approval is withheld, paragraph 2 shall apply.

Article 24

1. The accounting officer shall assume responsibility for the recovery orders duly drawn up.

He shall exercise all due diligence to ensure that the resources due to the Agency are recovered at the due dates indicated in the recovery orders, and shall ensure that the rights of the Agency are safeguarded.

The accounting officer shall inform the authorising officer and the financial controller of any revenue not recovered within the time limits laid down.

2. If the authorising officer waives the right to recover an established debt, he/she shall first forward a proposal for cancellation to the accounting officer for registration and to the financial controller for information.

The director shall inform the governing board and the Court of Auditors of all such decisions within one month.

When the accounting officer finds that a document establishing a debt has not been drawn up, or that a sum due has not been recovered, he shall inform the director thereof.

Article 25

A receipt shall be issued in respect of all cash payments made to the accounting officer.

Article 26

The balance from each financial year shall be entered in the budget for the following financial year as revenue in the case of a surplus or as expenditure in the case of a deficit.

The relevant estimates of revenue or expenditure are entered in the budget during the budget procedure.

After the close of accounts for each financial year, any discrepancy with the estimates is entered in the budget for the following financial year in accordance with Article 10(2).

Article 27

Where the Agency's budget includes provision for a grant paid from the general budget of the European Communities, the governing board shall ask the Commission for payment of the grant on the basis of the estimate referred to in the third indent of Article 11(1), solely in accordance with actual requirements.

SECTION III

COMMITMENT, VALIDATION, AUTHORISATION AND PAYMENT OF EXPENDITURE

1. COMMITMENT OF EXPENDITURE

Article 28

1. For any measure which may give rise to administrative expenditure chargeable to the budget, the authorising officer must first draw up a proposal for commitment and may not enter into legal commitments vis-à-vis third parties until the financial controller has given his approval after effecting controls commensurate with the risks involved. A provisional commitment may be entered into for current expenditure.

2. The implementing conditions in respect of paragraph 1 shall be determined by the implementing rules provided for in Article 74. These conditions shall ensure that an exact account is kept of commitments and authorisations in terms of actual needs.

Article 29

Without prejudice to Article 18, proposals for commitments and supporting documents shall show the purpose of the expenditure, the estimated amount involved, if possible the currency of payment, the budget item to which it is to be booked and the identity of the creditor; they shall be approved by the financial controller and registered in accordance with the implementing rules provided for in Article 74.

Article 30

1. The purpose of the approval of proposals for commitments of expenditure given by the financial controller shall be to establish that:

- (a) the proposal for commitment has been presented in accordance with Article 28(1);
- (b) the expenditure has been correctly charged,
- (c) the appropriations are available,
- (d) the expenditure is in order and conforms to the relevant provisions, in particular of the budget and the rules applying to the Agency, and of all acts made in implementation of these rules;
- (e) the principles of sound financial management referred to in Article 2 have been applied.

2. Approval may not be conditional.

Article 31

Where the financial controller withholds his approval he shall furnish a written statement of his reasons therefor. The authorising officer shall be notified accordingly.

Except where the availability of the appropriations is in doubt, the governing board may, by means of a decision stating the full reasons therefor, and on its sole responsibility, overrule a refusal of approval by financial controller. This decision shall be final and binding, and may not be delegated; it shall be communicated for information to the financial controller and, within a month, the Court of Auditors.

2. VALIDATION OF EXPENDITURE

Article 32

The purpose of validation of expenditure by the authorising officer shall be:

- to verify the creditor's claim;
- to determine or verify the existence and the amount of the sum due,
- to verify the conditions under which payment falls due.

Article 33

Validation of any expenditure shall be subject to the submission of supporting documents attesting the creditor's claim and the service rendered or the existence of a document justifying payment.

The authorising officer empowered to validate expenditure shall personally check the supporting documents or shall, on his own responsibility, ascertain that this has been done.

3. AUTHORISATION OF EXPENDITURE

Article 34

Authorisation is the act whereby the authorising officer, by the issue of a payment order, instructs the accounting officer to pay an item of expenditure which he has validated.

Article 35

The payment order shall state:

- the financial year against which the payment shall be charged,
- the budget article and any other subdivision that may apply,
- the amount to be paid (in figures and words), expressed in euros or in national currency,
- the name and address of the payee,
- the purpose of the expenditure,
- the method of payment, wherever possible.

The payment order shall be dated and signed by the authorising officer.

Article 36

The payment order shall be accompanied by all the original supporting documents, which shall bear or be accompanied by a statement certifying the correctness of the amounts to be paid, the receipt of the supplies and the performance of the service and, if appropriate, the entry of the goods in the inventory referred to in Article 51.

It shall show the numbers and dates of the relevant approvals of commitment. Copies of supporting documents, certified as true copies by the authorising officer, may, in some cases, be accepted in place of the originals.

Article 37

1. For payments by instalment, the first payment order shall be accompanied by documents establishing the creditor's right to payment of the instalment in question. Subsequent payment orders shall refer to the supporting documents already furnished, and repeat the reference number of the first payment order.

2. The authorising officer may grant advances to personnel if a provision laid down by regulation specifically provides therefor.

The authorising officer may grant advances to cover disbursements to be effected by a member of staff on behalf of the Agency.

Apart from the imprests referred to in Article 42, no advance for administrative expenditure may be granted unless it has been approved beforehand by the financial controller.

Article 38

The financial controller shall approve payment orders after effecting controls commensurate with the risks involved in order to verify that:

- a) the payment order was properly issued,
- b) the payment order agrees with the commitment of expenditure and that the amount thereof is correct, taking account of the principles and requirements of sound financial management referred to in Article 2,
- (c) the expenditure is charged to the correct item;
- (d) the appropriations are available;
- (e) the supporting documents are in order;
- (f) the payee is correctly named and described.

Article 39

Should approval be withheld, Article 31 shall apply.

4. PAYMENT OF EXPENDITURE

Article 40

Payment is the final action whereby the Agency is discharged of its obligations towards its creditors.

Payment shall be made by the accounting officer within the limits of the funds available.

In the event of a substantive error or of the validity of the discharge being contested or of failure to observe the formalities prescribed by this Regulation, the accounting officer shall suspend payment.

Article 41

If payment is suspended, the accounting officer shall give the reasons therefor in a written statement which he shall send forthwith to the authorising officer and, for information, to the financial controller.

Except where the validity of the discharge is contested, the authorising officer may place the matter before the governing board in the manner laid down in the rules of procedure of the Agency. The governing board may require in writing, and on its own responsibility, that payment be effected.

Article 42

Payments shall be effected as a general rule through a bank account or post office giro account.

The procedure for opening, administering and using such accounts shall be determined by the implementing rules provided for in Article 74. These rules shall, in particular, indicate expenditure the payment of which must necessarily be effected either by cheque or by post office or bank transfer order, and shall receive the joint signature on cheques and on post office or bank transfer orders of two duly authorised officials, one signature necessarily being that of the accounting officer, an assistant accounting officer or an administrator of an imprest account.

5. IMPREST ACCOUNTS

Article 43

For the payment of certain categories of expenditure, imprest accounts may be set up in accordance with the implementing rules provided for in Article 74.

Only the accounting officer may replenish the imprest accounts, save in exceptional cases defined in the implementing rules of this Regulation.

These rules shall contain specific provisions concerning in particular:

- the appointment of administrators of imprest accounts,
- the nature and maximum amount of each item of expenditure to be paid;
- the maximum amount of the imprest which may be advanced;
- the time within which supporting documents must be produced;
- the responsibility of the administrators of imprest accounts.

SECTION IV
MANAGEMENT OF POSTS

Article 44

1. The following shall be established:
 - a) a file identifying the posts and containing a job description for each category A post;
 - b) an organisation chart showing the organisation of the departments, detailing the tasks of each administrative unit.
2. If the note "to be abolished" is placed against a post in the statement of revenue and expenditure, it may no longer be filled when the next vacancy arises in the same career.

TITLE IV

CONCLUSION OF CONTRACTS, INVENTORY, ACCOUNTS

SECTION I

CONTRACTS FOR THE SUPPLY OF GOODS AND SERVICES
CONTRACTS FOR LEASE AND HIRE

Article 45

1. Contracts for the purchase or hiring of buildings or goods, for the provision of services or for the performance of construction work shall be in writing. Apart from contracts relating to the purchase of a building already constructed or to the leasing of a building, all such contracts shall be concluded.
 - (a) by invitation to tender;
 - (b) by way of a bill of costs or invoice in the cases provided for in Article 50;
 - (c) by direct agreement in the cases referred to in Article 46 and within the limits laid down in this article.
2. Invitations to tender are published on the Internet, the S series of the Official Journal and in all other appropriate media. However, their publication may be limited where the scale or nature of the goods or services or the operational requirements are such that they are not appropriate for a general invitation to competitive tender.

3. The tendering procedures, award criteria and price adjustment procedures adopted after the conclusion of contracts shall be established and governed by the implementing rules provided for in Article 74, on the understanding that award criteria shall be established by analogy with the criteria laid down in the Financial Regulation applicable to the general budget of the European Communities.

Article 46

Contracts may be made by direct agreement:

- (a) where the purchase or hiring of supplies, furniture and equipment, or the provision of services or building works are so urgently needed that it is not possible to wait for one of the tendering procedures specified in Article 45 to be carried out,
- (b) where the tendering or award procedures do not give any result or where the prices quoted are not acceptable;
- (c) where for technical, practical or legal reasons the supply of goods or services can be carried out only by a particular contractor or supplier;
- (d) for contracts for the supply of additional supplies or services or for ancillary building works which, technically, cannot be separated from the main contract.

It shall be understood that the Agency is bound, as far as possible and by all appropriate means, to enable suppliers who are likely to be able to supply the goods and services in question to compete, excluding the cases referred to in (c) and (d).

Article 47

Participation in invitations to tender and contracts awarded by the Agency shall be open on equal terms to all natural and legal persons from the Member States, the recipient states of this Regulation and the states covered by the Phare and Meda programmes.

The following shall be considered to be legal persons of a Member State, the recipient states or states covered by the Phare and Meda programmes: legal persons who are established in accordance with the legislation of a Member State, a recipient state or a state covered by the Phare or Meda programmes and who have their central administration or principal establishment in the territories in which the Treaty establishing the European Community applies, in the recipient states or in the states covered by the Phare or Meda programmes, or who have their registered office there, where their activity has an actual and continuous link with the economy of the said territories or countries.

Participation in contracts awarded by the Agency that are covered by contributions from third parties shall be governed by the financing agreement concluded between the Agency and the donor concerned.

Article 48

[Deleted]

Article 49

By way of guarantee of the performance of contracts, suppliers or contractors may be required by a warranty clause to make a preliminary deposit.

The amount of the deposit shall be fixed:

- - according to the usual trade terms of supply contracts,
- - according to the special conditions governing building contracts.

For works of a value exceeding the ceiling laid down in the implementing rules provided for in Article 74, a preliminary deposit must be lodged. A sum may be retained as security until final acceptance of delivery.

The Agency shall publish on the internet each quarter a list of persons to whom contracts have been awarded.

Where a contract has not been performed or completion has been late, the Agency shall ensure that it is adequately compensated in respect of all damages, interests and costs by the deduction of the amount from the deposit, whether this has been lodged directly by the supplier or contractor, or by a third party.

Article 50

Contracts may be made against invoice or bill of costs where the expected value of the goods, services or works does not exceed the amounts laid down by the implementing rules of the Financial Regulation applicable to the general budget of the European Communities.

SECTION II

INVENTORY OF MOVABLE AND IMMOVABLE PROPERTY

Article 51

A permanent inventory showing the quantity and value of all movable and immovable property belonging to the Agency shall be kept in accordance with a model drawn up by the Commission. Only movable property exceeding a specific value laid down in the implementing rules provided for in Article 74 shall be entered in those inventories.

The Agency shall carry out its own inspection once a year to ascertain that entries in the inventory correspond to the facts.

Article 52

The sale of movable property shall be suitably advertised under the conditions laid down by the implementing rules provided for in Article 74.

Apart from sales by public auction, staff of the Agency may not acquire any movable property resold by the Agency.

Article 53

A statement or record shall be drawn up by the authorising officer and endorsed by the financial controller whenever any property in the inventory is sold, given away free of charge, scrapped, hired out, or found missing on account of loss, theft or any other reason.

The statement or record shall refer in particular to any obligation that may devolve on a member of the staff of the Agency or any other person to replace the item in question.

If immovable property or large installations are made available free of charge, they must be covered by contracts approved by the financial controller and such cases shall be mentioned in an annual communication addressed to the Commission when the estimate of revenue and expenditure is presented.

Article 54

All acquisitions of movable or immovable property as defined in Article 51 shall, before payment, be entered in the permanent inventory.

The entry shall be recorded in the corresponding invoice or attached document drawn up with a view to payment of the expenditure.

SECTION III

ACCOUNTS

Article 55

The accounts shall be kept in euros by the double entry method on the basis of the calendar year. They shall show all revenue and expenditure for the financial year; they shall be authenticated by supporting documents.

The revenue and expenditure account and the balance sheet shall be drawn up in euros.

Article 56

The chart of accounts shall make a clear distinction between budgetary accounts and cash accounts.

It shall comprise two parts:

- (a) accounts of budgetary expenditure and revenue which show the detailed implementation of the budget;
- (b) cash accounts which disclose the assets of the Agency.

These accounts shall show the expected effect of the Agency's legal obligations.

The accounts shall make it possible to draw up an annual balance of assets and a monthly statement of revenue and expenditure by chapter and article.

These statements shall be forwarded to the financial controller, the authorising officer and the Court of Auditors.

Article 57

Any advance, other than regular advances which are periodically re-examined, shall be entered in a suspense account and settled at the latest during the financial year which follows the payment of this advance.

However, the advances referred to in the second subparagraph of Article 37(2) shall be settled as a general rule within six weeks following completion of the project for which they were granted.;

Article 58

The detailed conditions for the establishment and operation of the chart of accounts for transactions relating both to assets and to the implementation of the budget shall be determined by the implementing rules provided for in Article 74.

Article 59

The accounts shall be closed at the end of the financial year to enable the balance sheet and the revenue and expenditure account referred to in Title VI to be drawn up. The revenue and expenditure account shall be submitted to the financial controller.

TITLE V

RESPONSIBILITIES OF AUTHORISING OFFICERS, THE ACCOUNTING OFFICERS AND IMPREST ADMINISTRATORS

Article 60

Authorising officers who, when establishing entitlements to be recovered, issuing recovery orders, entering into commitments of expenditure or signing payment orders, do so without complying with this Regulation and its implementing rules shall be rendered liable to disciplinary action and, where appropriate, to payment of compensation. The same shall apply if they omit to draw up a document establishing a debt or if they neglect to issue recovery orders or are, without justification, late in issuing them.

The same shall apply if they neglect to issue payment orders or are, without justification, late in issuing them, thereby rendering the Agency liable to civil action by third parties.

Article 61

1. Accounting officers and assistant accounting officers shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation in respect of payments made by them in disregard of the third paragraph of Article 40.

They shall render themselves liable to disciplinary action and to payment of compensation as regards any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration result from an intentional mistake or serious negligence on their part.

Under the same conditions, they shall be responsible for the correct execution of orders received by them in respect of the use and the administration of bank and post office giro accounts, and in particular:

- (a) where the recoveries or payments made by them do not agree with the amounts on the corresponding recovery or payment orders,
- (b) where they effect payment to a party other than the payee entitled or without the supporting documents required under the Regulations, agreements, contracts and financing agreements applicable to the payments in question.

2. Administrators of advance funds shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation in the following cases:

- (a) where they cannot show due warrant with proper documents for payments made by them;
- (b) where they effect payments to parties other than entitled payees.

They shall be liable to disciplinary action and to payment of compensation in respect of any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration results from an intentional mistake or serious negligence on their part.

3. The accounting officers, assistant accounting officers and imprest-holders shall insure themselves against the risks arising under this Article.

The Agency shall cover the related insurance costs.

Article 62

The liability to payment of compensation and to disciplinary action of authorising officers, accounting officers, assistant accounting officers and administrators of imprest accounts may be determined in accordance with the provisions of Articles 22 and 86 to 89 of the Staff Regulations applicable to officials of the European Communities.

Article 63

The Agency shall be allowed a period of two years from the date when the revenue and expenditure account is submitted to take a decision on the final discharge to be given to accounting officers for the transactions relating thereto.

TITLE VI

PRESENTING AND AUDITING THE ACCOUNTS

SECTION I

PRESENTING THE ACCOUNTS

Article 64

The director shall draw up each year a revenue and expenditure account for the Agency.

The revenue and expenditure account shall cover all revenue and expenditure transactions relating to the preceding financial year. It shall be submitted in the same form and following the same subdivisions as the budget.

It shall be preceded by an analysis of the financial management in respect of the year in question. In drawing up this analysis the Agency shall supply details on the implementation of the principles and objectives referred to in Article 2.

Article 65

The revenue and expenditure account shall include the following tables subdivided in accordance with the nomenclature of the Agency's budget:

(1) a table of revenue comprising:

- the revenue estimate for the year in question setting out separately revenue and the grant from the budget of the European Communities and revenue from other sources,

- amendments to the revenue estimates as a result of supplementary or amending estimates,
- entitlements established in the course of the financial year,
- entitlements still to be collected from the preceding financial year,
- revenue collected during the financial year and revenue carried over pursuant to Article 6(3),
- amounts still to be collected at the end of the financial year,
- the cancellation of established entitlements.

Where appropriate, a statement shall be attached to this table, showing the balances and gross payments arising from the transactions referred to in Article 23,

(2) a table showing the movement in appropriations for the financial year, indicating:

- - the initial appropriations,
- - any amendments to appropriations introduced by means of transfers;
- - any amendments made by means of supplementary or amending estimates,
- - the final appropriations for the financial year,
- - appropriations carried over under Article 6;

(3) a table showing the use of the appropriations allocated for the financial year, indicating:

- the commitments entered into and chargeable to the financial year;
- the payments made and chargeable to the financial year,
- the sums still to be paid at the close of the financial year,
- the appropriations carried over pursuant to Article 6,
- cancelled appropriations.

Where appropriate, a statement shall be attached to this table, showing the balances and gross payments arising from the transactions referred to in Article 22,

(4) a table showing the use of appropriations carried over from the preceding financial year, indicating:

- the amount of appropriations carried over,

- the payments made from appropriations which have been carried over,
- - the unused appropriations to be cancelled.

Article 66

1. The director shall also draw up a balance sheet of assets and liabilities of the Agency as at 31 December of the financial year just ending.

A statement showing the movements and balances of the accounts at the same date shall be attached thereto

The balance sheet shall include, on the assets side, the amount of revenue to be collected and, on the liabilities side, the amount of expenditure chargeable to the financial year, which have not yet been entered in the accounts.

2. These documents shall be submitted to the financial controller.

Article 67

The director shall, by 31 March at the latest, send the revenue and expenditure account, the financial analysis and the balance sheet of the Agency for the preceding financial year to the governing board and the Court of Auditors and, for information, to the European Parliament, the Council and the Commission.

SECTION II

AUDITING THE ACCOUNTS

Article 68

Without prejudice to the controls carried out by the financial controller, the Court of Auditors shall exercise its powers in respect of the Agency in accordance with the Financial Regulation applicable to the general budget of the European Communities

Article 69

The Agency shall forward to the Court of Auditors, on a quarterly basis and at the latest within the month which follows the end of the quarter, the documents supporting the accounts, in particular the documents and certificates in respect of the correct application of the provisions which govern the implementation of the budget and relating to the commitment and payment of expenditure and the establishment and collection of revenue.

The Court of Auditors may question the Agency on the subject of the said supporting documents.

Article 70

The Agency shall afford the Court of Auditors all the facilities and give it all the information which the Court may consider necessary for the performance of its task.

In particular, the Agency shall place at the disposal of the Court of Auditors all documents concerning the conclusion of contracts and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents pertaining thereto, all documents relating to revenue and expenditure, all inventories, all lists of posts in the departments, which the Court of Auditors may consider necessary for auditing the revenue and expenditure account on the basis of records or on the spot, and all documents and data created or stored on a magnetic medium.

To this end, the officials whose operations are checked by the Court of Auditors and the financial controller shall in particular:

- (a) show their records of cash in hand, any other cash, securities and materials of all kinds, and the supporting documents in respect of their stewardship with which they are entrusted, and also any books, registers and other documents relating thereto;
- (b) present the correspondence and any other document required for the full implementation of the audit.

The Court of Auditors shall be empowered to audit the documents in respect of revenue and expenditure which are held by the departments of the Agency and, in particular, by the department responsible for decisions in respect of such revenue and expenditure.

The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner, and that the financial management has been sound, shall extend to the utilisation, by bodies outside the Agency, of Community funds received by way of aid.

The grant of aid to beneficiaries outside the Agency shall be subject to the agreement in writing by the recipients of an audit being carried out by the Court of Auditors on the utilisation of the amounts granted.

Article 71

The report of the Court of Auditors shall be drawn up in accordance with Article 248 of the EC Treaty and Article 88 of the Financial Regulation applicable to the general budget of the European Communities.

Article 72

1. Parliament shall, before 30 April of the following year, give a discharge to the director in respect of the implementation of the budget. If that date cannot be met, the Parliament shall inform the director of the reasons for the postponement.

If Parliament postpones the decision giving discharge, the director shall make every effort to take measures, as soon as possible, to facilitate removal of the obstacles to that decision.

Parliament shall inform the Council, the Commission and the Court of Auditors of the decisions which it adopts pursuant to this paragraph.

2. The discharge decision shall cover the accounts of all revenue and expenditure of the Agency, the resulting balance and the assets and liabilities of the Agency shown in the balance sheet. It shall include an assessment of the responsibility of the director's budgetary management over the past financial year.

3. The director shall take all appropriate steps to act on the comments appearing in the decisions giving discharge.

4. By 15 December of the year in which the decision giving discharge is taken, the director shall report on the measures taken in the light of these comments and, in particular, on the instructions given to those departments which are responsible for the implementation of the budget. Such reports shall be transmitted to Parliament and the Court of Auditors and, for information, to the Council and the Commission.

The director must also give an account, in an annex to the revenue and expenditure account for the next financial year, of the measures taken in the light of the comments appearing in the decisions giving discharge.

5. Supporting documents pertaining to the accounts and the preparation of the revenue and expenditure account and the balance sheet shall be kept for a period of five years following the date of the decision giving discharge in respect of the implementation of the budget.

However, the documents relating to transactions not finally closed shall be kept for longer than the said period until the end of the year following the year in which such transactions are finally closed.

TITLE VII

FINAL PROVISIONS

Article 73

The governing board shall inform the Court of Auditors, as soon as possible, of all decisions and measures taken in implementation of Articles 3, 6, 8, 12 and 21.

The Court of Auditors and the financial controller of the Commission shall be informed of the appointment of authorising officers, the accounting officer, assistant accounting officers and imprest administrators, and of the acts of delegation or appointment pursuant to Articles 17, 20 and 41.

The governing board shall transmit to the Court of Auditors and the Commission any rules of procedure they adopt in respect of financial matters.;

Article 74

On a proposal by the director, and with the assent of the financial controller of the Commission, the governing board shall establish the rules required for implementing this Regulation.

Article 75

This Regulation shall enter into force on

Done at

By the governing board

The President

FINANCIAL STATEMENT**1. TITLE OF OPERATION**

(Obnova) Aid for the reconstruction of Kosovo and creation of a European Reconstruction Agency.

2. BUDGET HEADING(S) INVOLVED

Chapter B7-54, article B7-541: Aid to the republics of the former Yugoslavia (Obnova), Article B7-546: Aid for the reconstruction of Kosovo.

3. LEGAL BASIS

Article 308 of the Treaty establishing the European Community.

Council Regulation (EC) No 1628/96 of 25 July 1996, as amended by Council Regulation (EC) No 2240/97 of 10 November 1997 and Council Regulation (EC) No 851/98 of 20 April 1998.

4. DESCRIPTION OF OPERATION**4.1 General objective**

The aim of the programme is to support the reconstruction of Kosovo and create a European Agency responsible for implementing the programme.

In particular, the programme aims to back the peace process begun by the agreements ending the fighting by implementing operations focusing on the reform of institutions and the economic system, the return of refugees and bolstering democracy.

EU assistance is conditional on adherence to the political and economic conditions attached to the peace agreements.

4.2 Period covered and arrangements for renewal

From the date of publication to 31 December 2004.

5. CLASSIFICATION OF EXPENDITURE OR REVENUE**5.1 Compulsory / non-compulsory expenditure**

Non-compulsory expenditure.

5.2 Differentiated / non-differentiated appropriations

Differentiated expenditure.

5.3 Type of revenue involved:

None

6. TYPE OF EXPENDITURE OR REVENUE

- . 100% grant
- . grant part of joint financing with other official or private donors
- . cofinancing possible (article 5)

The operations financed will generally be covered entirely by grants, but some may attract a mixture of grants and loans. These operations will be in the form of interest-rate subsidies from European Investment Bank resources or investment-project loans from other international financial institutions.

Should the operation prove an economic success, is there provision for all or part of the Community contribution to be reimbursed ?: No

Will the proposed operation cause any change in the level of revenue ?: No

7. FINANCIAL IMPACT

7.1 Method of calculating total cost of operation (unit costs relative to overall cost)

7.1.1 Kosovo (B7-546)

(a) The European Council has expressed its determination to bring the countries of the region together with a view to integration in EU structures under the Stability Pact.

It also asked the Commission to develop "as a matter of priority, proposals regarding the organisation of the reconstruction assistance envisaged, in particular means and mechanisms to be put in place" and "proposals (...) aimed at creating an agency to be charged with the implementation of Community reconstruction programmes".

(b) The first phase of reconstruction efforts in **Kosovo** is based on an initial estimate of requirements of between EUR 500 million and 700 million over three years, 2000 to 2002. It is too soon to estimate the total costs of requirements and this is why there is a cost bracket in this statement for the years 2001 and 2002.

The first non-humanitarian aid operations to be carried out this year have been costed at EUR 150 million. This sum includes the funds needed to set up the agency requested by the Council (EUR 38 million). As soon as the Agency is set up, which will be in October, contracts to hire personnel for at least a year will have to be signed and material and equipment purchased to get the agency and local offices up and running.

(c) The Agency must be fast acting and flexible and have qualified and, above all, experienced personnel in the field of reconstruction. The Agency will enjoy great autonomy and be given an annual budget by the Commission on the basis of its work programmes. It will also have its own financial regulation, which means its management can be decentralised.

The Agency will have a personnel requirement of between 250 and 300 people, including 10 officials seconded from the Commission or the Member States in management positions. Like the other agents, the officials will be on a temporary contract. Where special skills are required, the Agency will recruit specialists.

(d) The programme of assistance for the republics formerly part of Yugoslavia falls under Heading 4 of the Commission budget.

Subject to the annual budget procedure, the Commission proposes that EUR 1900 million be entered in Chapter B7-54 for the reconstruction of Kosovo over the period 2000-2004. This figure might be adjusted in the light of the final evaluation of requirements.

(e) The financing of the Agency's administrative costs may not exceed 8% of the appropriations for heading B7-546, as specified in the budget remark. This year they will amount to EUR 38 million, EUR 40 million in 2003 and EUR 20 million in 2004. Estimates based on the IMG's running costs and the cost of a payroll for 300 people bear out this figure. If, after the Agency is set up, the amount is found to be insufficient, the Commission will propose an adjustment.

The Agency's budget will draw a clear distinction between administrative and operating expenditure, the latter in turn clearly demarcating contributions from the Community budget and funds from other sources.

The Community's contribution to the Agency's administrative and operational expenditure will come from Part B of the budget. The budget also gives details of the funds allocated by other donors or by the beneficiaries of projects financed by the Agency.

7.1.2 Other regions (B7-541)

The aid programme and levels of aid for Bosnia-Herzegovina, Croatia and the Federal Republic of Yugoslavia depend on a number of factors.

(a) Aid for **Bosnia-Herzegovina** must continue in order to bring to an end the peace process. Since 1996 it has received EUR 200 million a year. Between now and 2006 it is planned to gradually reduce the level from EUR 150 million to EUR 40 million. These figures have been arrived at by taking account of evaluations of requirements made by the Office of the High Representative and the international financial institutions. A steadily rising proportion of funds will be used for loans (via the EIB) for setting-up or restructuring businesses and for infrastructure.

(b) The only Community aid for **Croatia** is for the return of refugees, since Croatia does not satisfy the political conditions for wider cooperation. When Croatia does fulfil these conditions (possibly in 2001), it will receive aid under a programme for non-candidate countries within the Phare programme.

(c) The attitude of the government of the **Federal Republic of Yugoslavia** currently precludes any direct cooperation. Should this change for the better in coming months, substantial amounts of aid will be needed to rebuild the country.

(d) Support to the government for the institutional and economic reconstruction of **Montenegro** should not be hampered by the present attitude of the Federal government. This aid will be reincorporated into the overall aid package for the Federal Republic once the political conditions are met.

(e) Continuation of the operations may also be made subject to conditions, depending on the attitude of the countries concerned.

The programme of assistance for the republics formerly part of Yugoslavia falls under Heading 4 of the Commission budget.

In accordance with Agenda 2000, the overall allocation for external assistance programmes must not grow at a faster rate than the Member States' GNP. In the light of this restriction and the considerations set out above, it is proposed that EU grants be set at about EUR 185 million in the first year and cut back gradually to EUR 110 million in the last year, giving a figure of EUR 1000 million for the period covered by the Regulation.

Subject to the annual budget procedure, the Commission is proposing that an allocation of EUR 1000 million be made in Chapter B7-54 for the operation entitled "measures for the reconstruction of the republics formerly part of Yugoslavia" for the period 2000 to 2006.

This sum is an indicative one, and will be put forward at the negotiations on the new financial perspective for 2000 to 2006. It may be altered in the light of the outcome of those negotiations, the allocation made to different areas of cooperation, the priorities determined in the Commission communications on Agenda 2000 and the new financial perspectives for the period.

7.1.3 Commitment appropriations

The region's situation is not stable and may change during implementation of the programmes. The capacity to commit and draw on the funds made available should improve when the Agency is set up..

7.2 Itemised breakdown of cost

Aid for the reconstruction of Kosovo, new heading B7-546, which also includes EUR 70 million in Article B7-541 of the PDB 2000 and EUR 70 million to be earmarked in Article B7-541 of the 2001 budget.

Indicative multiannual allocation

(EUR million)

(Subject to the outcome of the annual budget procedure)

	1999	2000	2001	2002	2003	2004
Kosovo	Pm.120 00 (1)	500 00	500-700 00	500-700 00	40	20
TOTAL	120 00	500 00	500-700 00	500-700 00	40 (2)	20 (2)

(1) Added to which are EUR 30 million from Article B7-541 in 1999.

(2) Included in the allocation set aside for this operation.

The financing programming for the PDB 2000 was as follows (not taking account of developments in the region):

Aid to Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia - B7-541

(Chapter B7-54)

Indicative multiannual allocation

(EUR million)

B7-541 - BiH, Croatia, FRY (including Kosovo)

	1999	2000	2001	2002	2003	2004	2005	2006
TOTAL	205.00	185.00	150.00	160.00	140.00	130.00	125.00	110.00
Token entries - Other countries of the Balkans: Albania, Croatia (1), FYROM, CBC (B7)-542								
TOTAL	284.50	280.00	275.00	285.00	265.00	255.00	250.00	235.00

(1) Assuming Croatia joins Albania and FYROM

7.3 Operational expenditure of an administrative or technical nature falling within Part B of the budget (indicative amounts only ; subject to change in the light of the budget procedure)

B7-541

Bosnia and Herzegovina, Croatia and FRY

Commitment appropriations in EUR million (current prices)

	1999 p.m.	2000	2001	2002	2003	2004	2005	2006	Total
- Technical and administrative assistance	18.4. incl. 8 for the Task Force	17.020	13.800	14.720	12.880	11.960	11.500	10.120	92.000
- Ancillary activities (meetings of experts, information and publications)		1.500	1.280	1.360	1.200	1.120	1.080	0.960	8.500
Total	18.40	18.520	15.080	16.080	14.080	13.080	12.580	11.080	100.500

7.4 Schedule of commitment/payment appropriations

Commitment/payment appropriations (EUR million)

The table below covers payments from the 1999 to 2002 budgets; it excludes payments which might be made during that time but which actually relate to previous budget years. The amounts were calculated on the basis of the lowest budget estimate, namely EUR 500 million.

	1999	2000	2001	2002	2003	2004	Subsequent years	TOTAL
Commitment appropriations	120	500	500-700	500-700	40	20		1620-2020
Payment appropriations								
1999 budget	50							50
2000	50	200						250
2001	20	250	200-250					470-520
2002		50	200-250	60-160				310-460
2003			80-180	200-250	40			320-470
2004				200-250		20		220-270
TOTAL	120	500	500-700	500-700	40- (1)	20 (1)		1620-2020

(1) Included in the allocation set aside for this operation.

B7-541

Bosnia and Herzegovina, Croatia, FRY

	2000	2001	2002	2003	2004	2005	2006	Subsequent years	TOTAL
Commitment appropriations	185	150	160	140	130	125	110		1.000.0
Payment appropriations									
2000 budget	75.0	60.0	35.0	15.0					185.0
2001		65.0	45.0	25.0	15.0				150.0
2002			60.0	55.0	35.0	10.0			160.0
2003				55.0	40.0	30.0	15.0		140.0
2004					45.0	40.0	30.0	15.0	130.0
2005						40.0	35.0	50.0	125.0
2006							40.0	70.0	110.0
TOTAL	75.0	125.0	140.0	150.0	135.0	120.0	120.0	135.0	1000.0

8. FRAUD PREVENTION MEASURES

Specific measures planned:

8.1 For the Agency

Financial at control at the Agency will be the responsibility of the Commission's financial controller. Each year the director will submit a financial report on the execution of the previous year's budget to the governing board, Parliament, the Council, the Commission and the Court of Auditors. The Court of Auditors will examine the report on the basis of Article [248] of the Treaty. Responsibility for giving discharge to the director for execution of the budget lies with Parliament.

8.2 For Bosnia and Herzegovina

Implementation of operations was devolved to the Commission's representative office in Sarajevo in June 1998. "Guidelines for implementation of the assistance" were drawn up in that connection and are currently at the stage of interdepartmental consultation. It provides for the counterbalancing presence of a financial team, for monitoring performed by a special unit and for audits.

8.3 For the Federal Republic of Yugoslavia and Croatia

As matters currently stand, there are no prospects for devolving or decentralising the implementation of operations.

In the case of the FRY, decentralisation could be contemplated once local administrative conditions were right. If there are no difficulties, this could happen in 2005-6.

Croatia's situation is different, because the country will no longer be covered by this Regulation once it has satisfied the political conditions.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

For Kosovo:

9.1 Specific and quantified objectives, target population

The programme's specific objectives are described in this Regulation.

The target populations are essentially the refugees and the displaced persons.

Beneficiaries will vary, depending on the operation concerned.

The overall objective of the programme is the reconstruction of Kosovo and the setting-up of an Agency to implement the Obnova programme to help in the reconstruction of Kosovo and the return of refugees under Commission directives, in conjunction with ECHO's humanitarian aid operations.

Specifically, the Agency's duties will be:

- Identification and analysis of requirements, establishing priorities by category (supply of materials and equipment, housing, infrastructure, transport, telecommunications networks, education, culture and the media, health, re-establishment of local communities, re-establishment and development of institutional machinery taxation, local economic regeneration etc.) and geographical area.
- Preparing the annual reconstruction programmes for Kosovo for adoption by the Commission.
- Project implementation: drafting terms of reference, preparing and assessing invitations to tender, supervising projects, checking that they have been properly executed, issuing payment orders under its financial regulation, and executing payments.
- Concluding financing agreements and signing contracts with the interim administration of Kosovo, local communities, public- and private-sector entities, NGOs etc.
- Working together with the EIB and IFIs within the coordination framework established by the Commission so that programme resources can be used for the joint financing of investment projects (particularly via interest-rate subsidies or other instruments as provided for by the Obnova Regulation).

The target population in the beneficiary countries: the institutions of the state and, where applicable, the entities, public and private companies, the banking sector, professional organisations, associations and NGOs, the media and, especially in the early stages, refugees and displaced persons.

9.2 Grounds for the operation

Coordination of this programme with the Member States' own programmes will be carried out within the committee responsible. This is where the priorities set out by the Commission will be examined with the Member States, and where opinions will be delivered on action programmes and projects.

Regular coordination (covering both planning of operations and their implementation) will be established with the Member States; this includes coordination on the ground;

The Agency will have a governing board composed of a representative from each Member State and three representatives of the Commission, including a Member of the Commission and initially a representative of ECHO. As a rule it will be chaired by the Commission. The role of the governing board will be preponderant, with responsibility for deciding on the programme of work and its implementation, the budget, staffing policy (including recruitment of experts), changes to the staffing plan, adoption and revision of the financial regulation (by agreement with the Commission) and the Agency's rules of procedure.

As the board has such a major role not only in the running of the Agency itself but in the implementation of programmes and projects, Member States will have to appoint representatives with considerable experience in this field of work. The board will meet at least once a month so Member States will also have to ensure that their representatives are genuinely available for that commitment.

Aid will be coordinated with the main donors (mainly with the High Representative when appointed). Infrastructure aid will also be coordinated with the EIB.

9.2.1 Choice of ways and means

The Regulation has established a programme which centres on reconstruction grants and technical assistance. Work will start up in July and will mostly be carried out by private contractors, including local firms and NGOs which have acquired experience on the ground.

The main factor of uncertainty which could affect the results of the operation is of course the political situation in these countries, plus the will and ability of the authorities of the beneficiary countries to cooperate in implementing the operations.

9.3 Monitoring and evaluation of the operation

A study will be carried out in 2000 to establish in greater detail the expected results and what monitoring is needed to prepare future evaluations of the programme's effectiveness, impact and sustainability.

Regular monitoring reports will include an analytical evaluation of the long- and short-term results and impact relative to the aims, using as a basis the objective indicators chosen during the prior analysis.

Indicators may be chosen at the beginning of the programme, during implementation or at the end of the programme. Indicators for the beginning of the programme would include: adaptation to the partner's needs, the partner's level of commitment, intervention logic and performance of contractors.

Indicators for the implementation period would include: implementation of operations, production and suitability of work plan.

Indicators for the end of the programme would include: contractors' performance, partner's contribution to the programme, sustainability and fulfilment of objectives.

The Commission will evaluate programmes (with assessment covering usefulness, impact and sustainability) in 2001 and 2003 (Article 13(3) of the Regulation).

In addition, the Commission departments will provide the Member States (through their representatives on the committee) and Parliament (through its Budgets and External Relations Committees) with regular information on the implementation of the project.

For the other regions covered:

9.1 Specific and quantified objectives, target population

The programme's specific objectives are described in Annex 1 to the Regulation.

The target population in the beneficiary countries: the institutions of the state and, where applicable, the entities (Republika Srpska, Federation of Bosnia and Herzegovina), public and private companies, the banking sector, professional organisations, associations and NGOs, the media and (especially in the early stages) refugees and displaced persons.

Beneficiaries will vary, depending on the operation concerned.

The general objective of the programme is to boost democracy and the operation of the rule of law in the countries involved, as well as to ease their transition to a market economy. The programme also seeks to encourage refugees to return and to help the process of reconstruction and reconciliation, encourage regional economic cooperation and establish the economic and social conditions needed for the beneficiary countries' development.

In more specific terms, the programme's aims are:

- to consolidate democracy, institutions, the rule of law and human rights;
- to support the private sector, assist with economic development and boost the market economy;
- the return and reintegration of refugees and displaced persons into working life;
- regional cooperation and good-neighbourliness projects; cross-border projects.

To achieve these aims, assistance will be supplied for the following priority sectors:

1. The consolidation of democracy, institutions, the rule of law and human rights

- implementation of the peace agreements;
- reform of the civil service (all levels);
- support for institutions and executive and legislative bodies;
- support for judicial and police reform;
- bringing the judicial and regulatory frameworks' principles closer to those of the European Union;

2. The consolidation of civil society

- strengthening non-governmental organisations and cultural institutions;
- support for the media;
- building capacity of schools and support for the reform of the education system (all levels).

3. Economic development, reconstruction, the transition to a market economy and strengthening the private sector

- bolstering the market economy - developing the private sector, particularly small businesses;
- reforming the financial system, particularly banking and payments;
- job-creation measures;
- rebuilding and development of infrastructure; mine clearance.

4. The return and reintegration of refugees and displaced persons into working life

- integrated assistance measures, including revitalising economic activity at local level;
- special loan schemes, chiefly for job-creation and reintegration into the job market;
- vocational training ;
- building and rebuilding of housing.

All these operations will adhere to: promotion of equal opportunities for women in the beneficiary countries; concern for the environment; the principles, aims and requirements of partnership and cooperation; trade and economic agreements; concern for the social impact of reform measures.

9.2 Grounds for the operation

Coordination of this programme with the Member States' own programmes will be carried out within the committee responsible. This is where priorities set out by the Commission will be examined with the Member States, and where opinions will be delivered on action programmes and projects.

Regular coordination (covering both planning of operations and implementation of operations) has been established with the Member States; this includes coordination on the ground.

Aid is coordinated with the main donors (mainly with the High Representative in the case of Bosnia-Herzegovina). Infrastructure aid is also coordinated with the EIB.

Choice of ways and means

The Regulation has established a programme which centres on technical assistance. In the specific case of Kosovo, however, provision will have to be made to cover grants for reconstruction.

As in 1998, Bosnia-Herzegovina operations will wherever possible be implemented by NGOs which have acquired experience on the ground.

In the case of Bosnia-Herzegovina, the focus will be not just on the necessary technical assistance, but also on the establishment of lines of credit to promote the creation of businesses (and thus jobs).

Special emphasis will be placed on returning refugees through special lines of credit for the creation of businesses, and possibly also for the rebuilding of refugees' homes.

The major infrastructure-rebuilding work has so far been covered by grants. New operations in this field will increasingly be interest-rate subsidies for investments, implemented by the EIB.

The main factors are of course the political situation in the countries involved, plus the will and ability of the beneficiary countries' authorities to cooperate in implementing the operations undertaken.

9.3 Monitoring and evaluation of the operation

A study will be carried out in 2000 to establish in greater detail the expected results and what monitoring is needed to prepare future evaluations of the programme's effectiveness, impact and sustainability.

Regular monitoring reports will include an analytical evaluation of the long- and short-term results and impact relative to the aims, using as a basis the objective indicators chosen during the prior analysis.

Indicators may be chosen at the beginning of the programme, during implementation or at the end of the programme. Indicators for the beginning of the programme would include: adaptation to the partner's needs, the partner's level of commitment, intervention logic and performance of contractors.

Indicators for the implementation period would include: implementation of operations, production and suitability of work plan.

Indicators for the end of the programme would include: contractors' performance, partner's contribution to the programme, sustainability and fulfilment of objectives.

The Commission will evaluate programmes (with assessment covering usefulness, impact and sustainability) in 2001 and 2003 (Article 13(3) of the Regulation).

In addition, the Commission departments will provide the Member States (through their representatives on the committee) and Parliament (through its Budgets and External Relations Committees) with regular information on the implementation of the project.

10. ADMINISTRATIVE EXPENDITURE (SECTION III, PART A OF THE BUDGET)

The actual mobilisation of administrative resources for the programme will depend on the Commission's annual decision on the allocation of resources, taking account of the additional personnel and amounts allowed by the budgetary authority.

Any extra requirements will not affect the decision the Commission will take with regard to:

- the demand for posts;
- the allocation of resources.

For Kosovo:

10.1 Effect on staffing

Type of post	Staff to be assigned		Breakdown		Duration
	permanent posts	temporary posts	by using existing staff in the DG or service concerned	by recourse to additional staff	
Officials or A temporary officials B C	13, incl. 10 seconded to the Agency 1 1	3	13 1 1	3 AT	5
Total	15	3	5	3	5
Move to point 7; Other resources					
A		50		50	5
B		10		10	5
C		200		200	5
STAT/STAL		30		30	5
AL					
Total		290		290	5

For the other regions:

10.1 Effect on staffing

Type of post	Staff to be assigned		Breakdown		Duration
	permanent posts	temporary posts	by using existing staff in the DG or service concerned	by recourse to additional staff	
Officials or A	33		23	10	7
temporary officials B	10		8	2	
officials C	6		6		
Total	49		37	12	7
Move to point 7, Other resources (1) (ATA)		11	6	5	
A		4		4	
B		3		3	
C		34	28	6	
ALAT					
Total	49	52	71	30	7

(1) Funded from Part B of the Budget (see point 7.3)

10.2 Overall financial impact of human resources

For Kosovo:

(EUR)

	Amount	Method of calculation
Headquarters staff	1 620 000	108 000 X 15 (1)
Move to point 7 above Agency (2)	13 760 000	Officials: 260 000 x 10 = 2 600 000 Temporary officials: 120 000 x 60 = 7 200 000 STAT/STAL: 18 000 x 200 = 3 600 000 Local staff: 12 000 x 30 = 360 000
Total	15 380 000	Total: 13 760 000

(1) From Titles A-1, A-2, A-4, A-5

(2) Part B of the Budget

For the other regions:

(EUR)

	Amounts	Method of calculation
Headquarters staff	2 228 000	108 000 x 21 (1)
Delegation staff	5 600 000	200 000 x 28 (2)
Total	7 828 000	

(1) From Titles A-1, A-2, A-4, A-5

(2) From Title A-6

10.3 Increase in other administrative expenditure resulting from the operation

For Kosovo:

(EUR)

Budget heading and title	No	Amount	Method of calculation
Committee (1)		19 500	2 x 15 x 650
Total		19 500	

(1) This is an existing committee; no extra expenditure

The figures give the total cost of the operation if it is of a fixed duration or for 12 months if it is of unlimited duration.

For the other regions:

(EUR)

Budget heading and title	No	Amount	Method of calculation
Committee (1)		58 500	6 x 15 x 650
Total		58 500	

(1) This is an existing committee; no extra expenditure

The figures give the total cost of the operation if it is of a fixed duration or for 12 months if it is of unlimited duration.

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