

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 667 final

Brussels, 19 December 1978.

Amendments to the
Proposal for a
COUNCIL REGULATION (EEC)

relating to the creation of a European Agency for Cooperation
(EAC)

(presented by the Commission to the Council pursuant to the
second paragraph of Article 149 of the EEC Treaty)

COM(78) 667 final

Creation of a European Agency for Cooperation (EAC)

In an earlier communication forwarded to the Council and the Parliament (COM(78)93 final of 9 March 1978), the Commission proposed that the European Association for Cooperation, a non-profit-making association under Belgian law, be transformed into an agency under Community public law, the European Agency for Cooperation.

This Agency would be responsible, on behalf of the Commission, for recruiting and managing the experts placed at the disposal of the Commission Delegations and the Governments of the countries linked with the Community by comprehensive and preferential cooperation agreements.

A draft Council regulation based on Article 235 of the Treaty was annexed to the communication referred to above; this draft regulation was concerned with the establishment of the Agency and defined its objectives, laid down the composition of its Administrative Board, the latter's powers and those of the director, the Agency's resources, the conditions for establishing its budget, the presentation of its accounts to the European Parliament and the Council, the auditing of its operations by the Court of Auditors and the law applicable to contracts concluded by the Agency under the supervision of the Court of Justice.

The initial examination of this proposal, by both the bodies of the Council and those of the Parliament (Committee on Development and Committee on Budgets), has shown that, in order to dispel any uncertainty, the Commission must prepare a supplementary communication clarifying an important part of the explanatory memorandum and amending the draft regulation annexed thereto.

Such is the purpose of this communication.

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The clarification required in the explanatory memorandum concerns the conditions under which the Agency's budget is to be prepared and adopted and its accounts are to be audited.

Here it is clear that according to Articles 15 and 18 of the draft regulation proposed by the Commission these procedures are exactly the same as those to which the Commission's budget and accounts are subject. It is far from being the Commission's intention to set up a decentralized agency which will not be subject to the control of prerogatives of the Council, the Parliament and the Court of Auditors.

According to Article 15 the Agency's estimate of revenue and expenditure is forwarded to the budgetary authority with the preliminary draft budget of the Communities. It is therefore completely subject to the normal budgetary procedure although certain committees may be asked to give their opinion in view of the technical nature of the subject (EDF Committee for expenditure in connection with the Delegations in the ACP countries, analogous committees that are to be set up for the implementation of the cooperation agreements with the Mediterranean countries in so far as the expenditure of the Delegations established in those countries is concerned).

Article 18 stipulates that the Agency's accounts are to be submitted to the Court of Auditors for auditing in accordance with Article 206A of the EEC Treaty and that a discharge is to be given by the Parliament in respect of the financial administration of the Agency under the procedure laid down in Article 206B of the EEC Treaty.

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The amendment proposed by the Commission concerns Article 17 of the draft Council regulation, which deals with the status of the Agency's staff.

In line with the points made by the parliamentary committees to which the matter was referred it would seem that if it were necessary for the technical staff employed by the Agency to maintain - because of their mobility - links of a contractual nature with their employer, there would be nothing to prevent giving the status of Commission servant, which is more permanent, to the categories of staff whose duties have most in common with those performed by officials and other servants of the Commission.

Provision has already been made for this kind of treatment for the Delegates themselves, in respect of whom the Commission has already obtained twice, and requested a third time for 1979, posts of temporary staff. Provisions can and must now be made for like treatment for the staff of the Agency's headquarters, who, in Brussels, perform tasks comparable in every respect to those of their colleagues in the Commission's administrative departments.

This is why the Commission proposes, in a reworded Article 17 of the draft Council regulation that is annexed to this communication, to draw a distinction between:

- (i) Commission Delegates and the staff of the Agency's headquarters, whose status will be that of temporary staff of the Communities, although such staff may then be placed at the disposal of the Agency; and
- (ii) the other external staff of the Agency, whose status will be determined by analogy with that of the said temporary staff.

This amendment does not entail any financial consequences compared with the initial proposal. No new financial memorandum has been prepared since the previous one is still valid; the latter noted a saving for the budget since the taxes paid to Belgium on the salaries of headquarters-based staff would no longer be payable. This principle is not called into question.

Council Regulation
establishing a European Agency for Cooperation

Article 17 (new version)

1. The general terms of employment, the general system of remuneration, allowances and additional payments for Commission Delegates and the staff of the Agency's headquarters shall be determined by the relevant provision applicable to the temporary staff of the Communities.

2. The general terms of employment, the general system of remuneration and additional payments for other expatriate staff employed by the Agency shall be determined by the Commission by analogy with the provisions applicable to the temporary staff of the Communities.