

**REGULATION (EC) No 1642/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 22 July 2003**

amending Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF
THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37, 95 and 133 and Article 152(4)(b) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Court of Auditors ⁽²⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽³⁾,

Acting in accordance with the procedure referred to in Article 251 of the Treaty ⁽⁴⁾,

Whereas:

- (1) Certain provisions of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ⁽⁵⁾ should be brought into line with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁶⁾ (hereinafter referred to as 'the general Financial Regulation'), and in particular Article 185 thereof.
- (2) The general principles and limits governing the exercise of the right of access to documents provided for in Article 255 of the Treaty have been laid down by Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽⁷⁾.

- (3) When Regulation (EC) No 1049/2001 was adopted, the three institutions agreed in a joint declaration that the agencies and similar bodies should have rules which conform to those of that Regulation.
- (4) Appropriate provisions should therefore be included in Regulation (EC) No 178/2002 to make Regulation (EC) No 1049/2001 applicable to the European Food Safety Authority, as should a provision on appeals against a refusal of access to documents.
- (5) Regulation (EC) No 178/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 178/2002 is hereby amended as follows:

1. Article 25(9) shall be replaced by the following:

'9. The financial rules applicable to the Authority shall be adopted by the Management Board after the Commission has been consulted. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (*) unless such departure is specifically required for the Authority's operation and the Commission has given its prior consent.

(*) OJ L 357, 31.12.2002, p. 72; corrigendum in OJ L 2, 7.1.2003, p. 39.;

2. Article 26 shall be amended as follows:

- (a) paragraph 2(f) shall be replaced by the following:

'(f) the preparation of the Authority's draft statement of estimates of revenue and expenditure, and the execution of its budget;'

⁽¹⁾ OJ C 331 E, 31.12.2002, p. 79.

⁽²⁾ OJ C 285, 21.11.2002, p. 4.

⁽³⁾ OJ C 85, 8.4.2003, p. 64.

⁽⁴⁾ Opinion of the European Parliament of 22 October 2002 (not yet published in the Official Journal), Council Common Position of 3 June 2003 (not yet published in the Official Journal) and Decision of the European Parliament of 1 July 2003.

⁽⁵⁾ OJ L 31, 1.2.2002, p. 1.

⁽⁶⁾ OJ L 248, 16.9.2002, p. 1; corrigendum in OJ L 25, 30.1.2003, p. 43.

⁽⁷⁾ OJ L 145, 31.5.2001, p. 43.

(b) paragraph 3 shall be replaced by the following:

'3. Each year, the Executive Director shall submit to the Management Board for approval:

(a) a draft general report covering all the activities of the Authority in the previous year;

(b) draft programmes of work.

The Executive Director shall, following adoption by the Management Board, forward the programmes of work to the European Parliament, the Council, the Commission and the Member States, and shall have them published.

The Executive Director shall, following adoption by the Management Board and by 15 June, forward the Authority's general report to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions, and shall have it published.

The Executive Director shall forward annually to the budgetary authority all information relevant to the outcome of the evaluation procedures.;

(c) paragraph 4 shall be deleted.

3. Article 41 shall be replaced by the following:

'Article 41

Access to documents

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding access to European Parliament, Council and Commission documents (*) shall apply to documents held by the Authority.

2. The Management Board shall adopt the practical arrangements for implementing Regulation (EC) No 1049/2001 within six months after the entry into force of Regulation (EC) No 1642/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (**).

3. Decisions taken by the Authority pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice, under the conditions laid down in Articles 195 and 230 of the EC Treaty respectively.

(*) OJ L 145, 31.5.2001, p. 43.

(**) OJ L 245, 29.9.2003, p. 4.;

4. Article 43 shall be amended as follows:

(a) paragraphs 3, 4, 5 and 6 shall be replaced by the following:

'3. The Executive Director shall draw up, in good time before the date referred to in paragraph 5, a draft statement of estimates of the Authority's revenue and expenditure for the following financial year and shall forward it to the Management Board, together with the establishment plan.

4. Revenue and expenditure shall be in balance.

5. Each year the Management Board, on the basis of a draft statement of estimates of revenue and expenditure, shall produce a statement of estimates of revenue and expenditure of the Authority for the following financial year. This statement of estimates, which shall include a draft establishment plan together with the provisional work programmes, shall be forwarded by 31 March at the latest by the Management Board to the Commission and to the countries with which the Community has concluded agreements in accordance with Article 49.

6. The statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority) together with the preliminary draft general budget of the European Union.;

(b) the following paragraphs shall be added:

'7. On the basis of the statement of estimates, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.

8. The budgetary authority shall authorise the appropriations for the subsidy to the Authority.

The budgetary authority shall adopt the establishment plan for the Authority.

9. The budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.

10. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Management Board within a period of six weeks from the date of notification of the project.'

5. Article 44 shall be replaced by the following:

'Article 44

Implementation of the Authority's budget

1. The Executive Director shall implement the Authority's budget.

2. By 1 March at the latest following each financial year, the Authority's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of the general Financial Regulation.

3. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward the Authority's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for the financial year shall also be forwarded to the European Parliament and the Council.

4. On receipt of the Court of Auditors' observations on the Authority's provisional accounts under Article 129 of the general Financial Regulation, the Executive Director shall draw up the Authority's final accounts under his own

responsibility and submit them to the Management Board for an opinion.

5. The Management Board shall deliver an opinion on the Authority's final accounts.

6. The Executive Director shall, by 1 July at the latest following each financial year, forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.

7. The final accounts shall be published.

8. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He shall also send this reply to the Management Board.

9. The Executive Director shall submit to the European Parliament, at the latter's request, all information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 146(3) of the general Financial Regulation.

10. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 30 April of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.'

Article 2

This Regulation shall enter into force on the first day of the month following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 22 July 2003.

For the European Parliament

The President

P. COX

For the Council

The President

G. ALEMANNIO
