

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No ... of the European Parliament and of the Council setting up a European Maritime Safety Agency

(2002/C 331 E/21)

COM(2002) 406 final — 2002/0182(COD)

(Submitted by the Commission on 17 July 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Following consultation of the Committee of the Regions,

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

Whereas:

- (1) The provisions of Regulation (EEC) No 2002/95 should be harmonised with Regulation ... on the financial regulation applicable to the general budget of the European Communities, and in particular Article 185 thereof.
- (2) The general principles and limits governing right of access to documents 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 ⁽¹⁾.
- (3) When Regulation (EC) No 1049/2001 was adopted, the three institutions agreed in a joint declaration that the agencies and similar bodies should implement rules in line with that Regulation.
- (4) Appropriate provisions should therefore be included in Regulation (EC) No .../2002 to make Regulation (EC) No 1049/2001 applicable to the European Maritime Safety Agency, as should a clause guaranteeing a right of appeal against a refusal of access to documents.
- (5) It would be useful to clarify the rules for the conditions and procedures applying to the renewal of the term of office of the Executive Director and to harmonise the rules for all the Community bodies for which re-appointment is possible.
- (6) Regulation (EC) No .../2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No .../2002 is amended as follows:

1. In Article 4, the following new paragraph 3 is added:

‘3. Regulation (EC) No 1049/2001 of the European Parliament and of the Council shall apply to documents held by the Agency.

The Administrative Board shall adopt the arrangements for implementing Regulation (EC) No 1049/2001 by ...

Decisions taken by the Agency under Article 8 of Regulation (EC) No 1049/2001 may be appealed by means of a complaint to the Ombudsman or an action before the Court of Justice, under Articles 195 and 230 of the EC Treaty respectively.’

2. Article 10(2)(b) is replaced by the following:

‘The Administrative Board shall adopt the annual report on the Agency’s activities and transmit it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States.’

3. Article 16(2) is replaced by the following.

‘2. The term of office of the Executive Director shall not exceed five years. This term of office may, on a proposal from the Commission, be extended for one further period not exceeding five years.’

4. Article 18(5) is replaced by the following:

‘Article 18

5. Each year the Administrative Board, on the basis of a draft drawn up by the Executive Director, shall produce a statement of estimates of revenue and expenditure for the Agency for the following financial year.

This statement of estimates, which shall include a draft establishment plan, shall by 31 March at the latest be transmitted by the Administrative Board to the Commission and to the States with which the Community has concluded agreements within the meaning of Article 54.

On the basis of this statement of estimates, the Commission shall enter the corresponding amounts in the preliminary draft general budget of the European Communities, which it shall submit to the Council and the European Parliament (hereinafter referred to as “the budgetary authority”) in accordance with Article 272 of the Treaty.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

The budgetary authority shall determine the appropriations available for the subsidy to the Agency.

The budgetary authority shall adopt the establishment plan for the Agency.'

5. Article 19(2), (3) and (4) are replaced by the following:

'Article 19

2. The Commission's internal auditor shall exercise the same powers over the Agency as over Commission departments.

3. By 1 March at the latest following each financial year, the Agency'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 within the meaning of Article 128 of the general Financial Regulation.

4. By 31 March at the latest following each financial year, the Commission's accounting officer shall transmit the Agency's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year.

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

responsibility and transmit them to the Administrative Board for an opinion.

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

7. The final accounts shall be published.

8. The Agency's 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 Administrative Board.

9. 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.'

6. Article 21 is replaced by the following:

'Article 21

The financial rules applicable to the Agency shall be adopted by the Administrative Board after the Commission has been consulted. They may not depart from the framework Financial Regulation adopted by the Commission under Article 185 of the Financial Regulation applicable to the general budget of the European Communities unless specifically required for the Agency's operation and with the Commission's prior consent.'
