Procedure file

Basic information

CNS - Consultation procedure Regulation	2000/0337(CNS)	Procedure completed
European Commission, administrative reform: management of Community programmes, statute of executive agencies Subject 8.40.03 European Commission 8.40.08 Agencies and bodies of the EU		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	CONT Budgetary Control	PPE-DE BOURLANGES Jean-Louis	22/03/2001
	Committee for opinion	Rapporteur for opinion	Appointed
	BUDG Budgets	PPE-DE BOURLANGES Jean-Louis	27/02/2001
	JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	2477	19/12/2002
European Commission	Commission DG	Commissioner	
	Taxation and Customs Union		

Key events

13/12/2000	Legislative proposal published	COM(2000)0788	Summary
31/01/2001	Committee referral announced in Parliament		
18/06/2001	Vote in committee		Summary
18/06/2001	Committee report tabled for plenary, 1st reading/single reading	A5-0216/2001	
04/07/2001	Debate in Parliament		
05/07/2001	Decision by Parliament	T5-0392/2001	Summary
28/12/2001	Modified legislative proposal published	COM(2001)0808	Summary

19/12/2002	Act adopted by Council after consultation of Parliament		
19/12/2002	End of procedure in Parliament		
16/01/2003	Final act published in Official Journal		

Technical information

Procedure reference	2000/0337(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 308
Stage reached in procedure	Procedure completed
Committee dossier	CONT/5/14349

Documentation gateway

Legislative proposal		COM(2000)0788 OJ C 120 24.04.2001, p. 0140 E	13/12/2000	EC	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0216/2001	18/06/2001	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0392/2001 OJ C 065 14.03.2002, p. 0173-0288 E	05/07/2001	EP	Summary
Court of Auditors: opinion, report		RCC0008/2001 OJ C 345 06.12.2001, p. 0001-0004	25/10/2001	CofA	Summary
Modified legislative proposal		COM(2001)0808 OJ C 103 30.04.2002, p. 0253 E	28/12/2001	EC	Summary
Follow-up document		SEC(2012)0062	16/01/2012	EC	Summary
Follow-up document		COM(2020)0184	29/04/2020	EC	Summary
Follow-up document		SWD(2020)0073	29/04/2020	EC	
Follow-up document		SWD(2020)0074	29/04/2020	EC	
Follow-up document		SWD(2020)0075	29/04/2020	EC	
Follow-up document		SWD(2020)0076	29/04/2020	EC	
Follow-up document		SWD(2020)0077	29/04/2020	EC	
Follow-up document		SWD(2020)0078	29/04/2020	EC	

Additional information

European Commission	EUR-Lex

Final act

Regulation 2003/58
OJ L 011 16.01.2003, p. 0001-0008 Summary

European Commission, administrative reform: management of Community programmes, statute of executive agencies

PURPOSE: to present a Commission proposal for a Council Regulation laying down the statute for executive agencies to be entrusted with certain tasks in the manangement of Community programmes. CONTENT: this proposed regulation defines the statue of executive agencies to which the Commission, under its own control and responsibility, may entrust certain tasks relating to the management of Community programmes. This proposal is against the background of a Commission's Communication in December 1999 setting out to develop a coherent and manageable externalisation policy in order to correct the aberrations caused by poor control of various technical assistance offices (TAOs). The main provisions of the proposed regulation are the creation and winding-up of executive agencies, legal status, headquarters, tasks, structure, steering committee (and its tasks), the appointment and tasks of the director, various aspects of the budget, staff and supervision and finally, liability of an executive agency and access by the public to its documents. ?

European Commission, administrative reform: management of Community programmes, statute of executive agencies

The committee adopted the report by Mr Jean-Louis BOURLANGES (EPP-ED, F) amending the proposal under the consultation procedure. While subscribing to the proposal in principle, the committee wanted externalisation to be restricted to tasks related to the management of Community programmes. It said that tasks related to the Commission's public service activities may only be delegated to external agencies when justified because of their temporary nature or technical complexity. The committee wanted the Commission to be liable in law for the acts of an executive agency. Furthermore, the Commission should also be responsible for the overall implementation of the budget of those agencies, as MEPs made it clear that they would not accept separate discharge procedures for each individual agency. Finally, the committee wanted an external assessment report covering the first three years of operation of each executive agency to be drawn up in order to decide whether the proposed regulation was properly suited to the externalisation of Community programmes and to rectify any shortcomings where appropriate. ?

European Commission, administrative reform: management of Community programmes, statute of executive agencies

The European Parliament adopted the report by Mr Jean-Louis BOURLANGES (EPP-ED, F). Parliament made it clear that the Commission remains ultimately responsible for the activities of those executive agencies that are entrusted with certain tasks in the management of Community programmes. While subscribing to the Commission proposal in principle, the Parliament wants externalisation to be restricted to tasks related to the management of Community programmes. Tasks related to the Commission's public service activities may only be delegated to external agencies when justified because of their temporary nature or technical complexity. (Please refer to the previous text for additional information on the amendments adopted). ?

European Commission, administrative reform: management of Community programmes, statute of executive agencies

The Court of Auditors generally welcomes the draft regulation, but states that there are a number of provisions that require clarification or amendment, the main ones being: - it is not appropriate to specify that the headquarters of an executive agency can only be in one of the places where the Commission departments are located. - since the Commission remains liable for the agencies' execution of its powers, it is considered advisable to lay down general rules on the controls which the Commission operates in relation to the activities of the agencies, so that it may intervene if an agency acts in a way that is contrary to the objective of the Community programme in question. - the steering committee should adopt clear objectives for the agency, when the latter is first established. - there should be provision for the evaluation at regular intervals of the efficiency and effectiveness of the agency. - charging the expenditure on operations managed by the agency directly to the general budget is welcome. However, it implies that the financial statements of an agency may not include expenditure on the operations which it is responsible for managing. This would not be in line with the Commission's attempts to introduce ABM/ABB for its programmes. It is important that an agency have an obligation to account in global terms for the operating appropriations it manages. - it is not appropriate for the Parliament to grant discharge to each executive agency in respect of their running costs only. As part of its general discharge of the Commission, the Parliament would examine the performance of the Commission and its agencies, rather than give separate discharge to each agency. - there should be an article providing that the Commission, as the delegating institution, is legally responsible for the acts of the executive agencies.?

European Commission, administrative reform: management of Community programmes, statute of executive agencies

The Commission welcomed the changes proposed by the European Parliament and Court of Auditors noting that, by and large, they were in line with the Commission's own thinking. Nevertheless, a number of differences remain outstanding and in certain critical areas the Commission has been unable or unwilling to accept some Parliamentary amendments. Firstly, the Commission rejects Parliamentary attempts to place more restrictions, in terms of specialisation and duration, on the tasks likely to be entrusted to the agencies. Similarly, it rejects attempts to change the wording for the setting-up and winding-up of agencies. On the other hand, amendments to the conditions for setting up of an agency as regards the preparation of decisions to externalise tasks to an executive agency, have been accepted and incorporated into the revised text. Also accepted are changes to the recruitment and liability of staff as well as the location of these agencies. In terms of

budgetary and financial arrangements the Commission has agreed to accept and incorporate requests that a specific statement be included in the work programme of the executive committee and that this then complies with budgetary decisions. Similarly, the establishment of a clearer definition as regards responsibility for the establishment of the budget have been found to be acceptable. On the matter of "administrative appropriations", the Commission has opted not to follow the Court of Auditors line where by an agency managing the operational appropriations that continue be entered in the general budget of the Commission, be appointed. Following a similar vein the Commission has decided to reject Parliament's request that discharge be given in respect of the administrative budgets of agencies when giving discharge in respect of the general budget. Also rejected are Parliamentary attempts to make the adoption of the agencies' financial regulation subject to consultation of both the Parliament and Council. Concerning the thorny issue of liability, the Commission states that it cannot accept the suggestion that it be declared liable in law for the acts of agencies. These agencies, the Commission argues, have their own legal personality for which the Commission expresses no desire to be liable for. The Commission does accept however that the procedures for monitoring the regularity of acts provide that the Commission may, of its own volition, review the acts of an agency and where necessary annul them. Decisions may subsequently be appealed to the Court of Justice. Finally, in terms of evaluation, the Commission has agreed with Parliamentary and Court requests that the agencies be evaluated every three years.?

European Commission, administrative reform: management of Community programmes, statute of executive agencies

PURPOSE : to lay down the statute of executive agencies to which the Commission, under its own control and responsibility, may entrust certain tasks relating to the management of Community programmes. COMMUNITY MEASURE : Council Regulation 58/2003/EC laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes. CONTENT : this Regulation lays down the statute of executive agencies to which the Commission, under its own control and responsibility, may entrust certain tasks relating to the management of Community programmes. As regards the setting-up and winding-up of executive agencies, the Regulation states that the Commission may decide after a prior cost-benefit analysis, to set up an executive agency with a view to entrusting it with certain tasks relating to the management of one or more Community programmes. It shall determine the lifetime of the executive agency. This analysis shall take into account a number of factors such as identification of the tasks justifying outsourcing, a cost-benefit analysis which includes the costs of coordination and checks, the impact on human resources, possible savings within the general budgetary framework of the European Union, efficiency and flexibility in the implementation of outsourced tasks, simplification of the procedures used, proximity of outsourced activities to final beneficiaries, visibility of the Community as promoter of the Community programme concerned and the need to maintain an adequate level of know-how inside the Commission. At the date determined when setting up the executive agency, the Commission may extend the duration of its lifetime for a period not exceeding that originally provided for. Such extension may be renewed. Where the Commission considers that it no longer requires the services of an executive agency which it has set up, or that its existence no longer complies with the principles of sound financial management, it shall decide to wind it up. In that event, it shall appoint two liquidators. The Commission shall determine the conditions for liquidation of the executive agency. The net result after liquidation shall be taken up in the general budget of the European Union. The decision to extend its lifetime, renew such extension or wind up the agency shall be taken on the basis of the cost-benefit analysis. Concerning the legal status, the Regulation stipulates that an executive agency is a Community body with a public service role. It shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings. To this end, it shall be represented by its Director and managed by a steering committee (the term of office of the members of the Steering Committee shall be two years in principle and shall take into account the length of time fixed for implementation of the Community programme, management of which has been entrusted to the executive agency). As far as their tasks are concerned, executive agencies may in particular be entrusted with the following tasks: - managing some or all of the phases in the lifetime of a project, in relation with specific individual projects, in thecontext of implementing a Community programme and carrying out the necessary checks to that end, by adopting the relevant decisions using the powers delegated to it by the Commission; - adopting the instruments of budget implementation for the revenue and expenditure and carrying out all activities required to implement a Community programme on the basis of the power delegated by the Commission, and in particular activities linked to the awarding of contracts and grants; - gathering, analysing and transmitting to the Commission all the information needed to guide the implementation of a Community programme. With regard to the operating budget, forecasts of all the executive agency's revenue and expenditure shall be prepared for each financial year, which shall be the same as the calendar year, and shall be shown in its operating budget It should also be noted that the contractual liability of the executive agency shall be governed by the law applicable to the contract in question. In the case of non-contractual liability, the executive agency shall make good any damage caused by the agency or its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States. The Court of Justice shall have jurisdiction in disputes relating to compensation for any such damage. The personal liability of staff towards the executive agency shall be governed by the rules applicable to them. An external evaluation shall report on the first three years of operation of each executive agency shall be drawn up by the Commission and submitted to the steering committee of the executive agency, to the European Parliament, to the Council and to the Court of Auditors. It shall include the above-mentioned cost-benefit analysis. The evaluation shall subsequently be repeated every three years under the same conditions. ENTRY INTO FORCE : 26/01/2003.?

European Commission, administrative reform: management of Community programmes, statute of executive agencies

Under Article 25(1) of Council Regulation No 58/2003, an external evaluation report on the first three years of operation of each executive agency has to be submitted to the steering committee of the Executive Agency, to the European Parliament, to the Council and to the Court of Auditors.

This Staff Working Document contains the external evaluation of the Executive Agency for Competitiveness and Innovation (EACI), which was delivered on 12 May 2011 and is annexed to this document.

The evaluation confirmed that, overall, the EACI is performing well and is an efficient and effective delivery mechanism for the initiatives for which it has operational responsibility.

The European Commission has taken note of the conclusions and recommendations of the evaluation report. The relevant Commission services and the EACI are implementing the recommendations.

European Commission, administrative reform: management of Community programmes, statute of executive agencies

This report from the Commission evaluates the Consumers, Health, Agriculture and Food Executive Agency (CHAFEA), the Executive Agency for Small and Medium-Size Enterprises (EASME), the Innovation and Networks Executive Agency (INEA), the Education, Audiovisual and Culture Executive Agency (EACEA), the Research Executive Agency (REA) and the European Research Council Executive Agency (ERCEA).

Three years after the creation of each agency and every three years after this, the Commission has to assess whether each agency functions well. The Commission has evaluated the performance of all six executive agencies individually in 2018/2019. The evaluations assessed whether the agencies had fulfilled their tasks in an effective and efficient way, whether there were overlaps, gaps or inconsistencies in the management of the programme portfolio by the agencies, and whether there was a clear delineation of tasks between each agency and the parent DGs or other executive agencies.

The individual evaluations cover 2014 to 2016 for CHAFEA, INEA and EASME, 2015 to 2017 for EACEA and mid-2015 to mid-2018 for ERCEA and REA. The evaluation period varies because the agencies were created at different times.

Overall findings

In general, the evaluations showed that the six executive agencies were effective and efficient over the period analysed. They reached their objectives and the vast majority of the targets in their key performance indicators. They managed to cope with a challenging environment, including new mandates, changes of portfolio, changes of organisational structure and changes in their governance as well as peaks of very high workload coupled with constraints on human resources.

Alongside this positive picture, the Commission reported challenges and related shortcomings concerning the agencies such as:

Achieving their objectives

The six executive agencies managed the delegated programmes efficiently and achieved very good results for most key performance indicators. The evaluations identified improvements in information technology tools and in procedures as key factors that contributed to improving the agencies key performance indicators. The evaluations show that agencies have put in place appropriate processes and procedures and that they have internal control systems that contribute to their efficiency and effectiveness.

Some agencies manage parts of the same programme

In the post-2014 period, the Horizon 2020 research programme is implemented by several executive agencies. Horizon 2020 is the biggest programme to be delegated to executive agencies in terms of financial allocation. In 2013, the Commission decided to delegate different strands of Horizon 2020 to four different agencies REA, ERCEA, INEA and EASME.

Diversity of programme portfolios

The evaluations showed that working with a relatively high number of diverse thematic areas and tasks can pose a challenge to agencies effectiveness.

Relationship with parent DGs

The evaluations found the formal and informal communication mechanisms between the agencies and the Commission sufficiently frequent and effective to ensure that parent DGs are kept informed about the agencies performance and the state of play of implementation of the EU programmes.

The evaluations demonstrated however that despite these good practices, policy feedback from executive agencies tends to lack standardisation and is developed in an ad hoc manner. Wider recognition and better awareness among the Commission departments about the policy feedback offered by the agencies is needed. The evaluation highlighted that one of the key challenges for the next programming period is the need for agencies and the Commission to work more closely together and agree on information sharing.

Relationship with beneficiaries

All the agencies achieved their objectives for proximity to beneficiaries and visibility of EU programmes. All six agencies benefited from high satisfaction rates among beneficiaries of programmes managed by the agencies.

Cost-effectiveness

The evaluations revealed substantial differences in the programme management costs of the executive agencies. The executive agencies implementing Horizon 2020 were found to be more cost-effective than EACEA and CHAFEA. A common feature for all agencies during the evaluation period is that they are constantly taking operational measures to further improve their efficiency.

Human resources management

The report showed positive results but that challenges remained. In general, the survey showed that staff perceive executive agencies as stimulating and dynamic places to work with excellent internal communication and efficient processes and procedures in place. Staff are also of the opinion that agencies encourage collaborative working as well as new and better working methods. In the same survey, however, staff were less positive about their career development and mobility opportunities.

Change of mandate

The mandates of REA, EASME, INEA and EACEA were changed during the programming period. For EACEA, several mandate extensions took place over the period analysed. The evaluations showed that the affected agencies were flexible and effective in addressing the extension of their mandates. All four agencies managed to cope with the increased workload and/or additional tasks. The evaluations showed however that the delegation procedure (cost-benefit analysis, information to the Council committee for executive agencies, amendments to the acts of delegation, etc.) proved to be too complex for limited extensions of mandate.

Conclusion

The evaluations of the six executive agencies confirmed their good performance and their added value in managing EU programmes. At the same time, they revealed some challenges the agencies still face. Some challenges are common to all agencies. One of them is the quality of the policy feedback the agencies deliver to the Commission, another is the need to update some aspects of the legal framework (memoranda of understanding or guidelines on executive agencies). Other challenges are more agency specific stemming from the agencys size, location, the diversity of portfolio of programmes to manage, or related to internal control issues. The Commission and the agencies are preparing and implementing action plans to remedy the shortcomings identified and to face the challenges ahead.

The Commission has presented its proposals for the next generation of EU programmes (2021-2027) and it is currently undertaking a cost-benefit analysis to determine the adequate role that executive agencies should play in implementing them. To this end, the executive agencies need to be able to continuously improve their performance, to continue operating in a cost-effective manner and to deepen cooperation with the Commission. The lessons learned from this common evaluation process will feed the reflections on the delegation of the next generation of EU programmes to the executive agencies.