

**REGULATION (EC) No 1643/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 22 July 2003**

**amending Regulation (EC) No 1592/2002 on common rules in the field of civil aviation and
establishing a European Aviation Safety Agency**

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 ⁽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 1592/2002 of
the European Parliament and of the Council of 15 July
2002 on common rules in the field of civil aviation and
establishing a European Aviation Safety Agency ⁽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 1592/2002 to make Regulation (EC)
No 1049/2001 applicable to the European Aviation
Safety Agency, as should a provision on appeals against
a refusal of access to documents.

(5) Regulation (EC) No 1592/2002 should therefore be
amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1592/2002 is hereby amended as follows:

1. Article 24(2)(b) shall be replaced by the following:

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

The Agency shall forward annually to the budgetary
authority any information relevant to the outcome of
the evaluation procedures;’

2. in Article 47:

(a) paragraph 1 shall be replaced by the following:

‘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 Agency.

^(*) OJ L 145, 31.5.2001, p. 43.’

⁽¹⁾ OJ C 331 E, 31.12.2002, p. 85.

⁽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), Common position adopted by the
Council on 3 June 2003 (not yet published in the Official Journal)
and Decision of the European Parliament of 1 July 2003.

⁽⁵⁾ OJ L 240, 7.9.2002, 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. The Management Board shall adopt the arrangements for implementing Regulation (EC) No 1049/2001 within six months after the entry into force of Regulation (EC) No 1643/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (**).

(**) OJ L 245, 29.9.2003, p. 7'

(c) the following paragraph shall be added:

'5. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the Ombudsman or form the subject of an action before the Court of Justice, under Articles 195 and 230 of the EC Treaty respectively.;

3. in Article 48:

(a) paragraphs 3, 4, 5, 6 and 7 shall be replaced by the following:

'3. Revenue and expenditure shall be in balance.

4. 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 Agency for the following financial year.

5. This statement of estimates, which shall include a draft establishment plan together with the provisional work programme, shall by 31 March at the latest be forwarded by the Management Board to the Commission and to the States with which the Community has concluded agreements in accordance with Article 55.

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.

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.;

(b) the following paragraphs shall be added:

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

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

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.;

4. Article 49 shall be replaced by the following:

'Article 49

Implementation and control of the budget

1. The Executive Director shall implement the budget of the Agency.

2. 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 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 Agency'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 Agency's provisional accounts, under Article 129 of the general Financial Regulation, the Executive Director shall draw up the Agency'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 Agency'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, any 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.;

5. Article 52 shall be replaced by the following:

'Article 52

Financial provisions

The financial rules applicable to the Agency 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 Agency'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.'

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. ALEMANN