

Council Regulation (EC, Euratom) No 2028/2004 of 16 November 2004 amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (repealed)

COUNCIL REGULATION (EC, EURATOM) No 2028/2004

of 16 November 2004

amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 94/728/EC, Euratom on the system of the Communities' own resources (repealed)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 279(2) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the Communities' own resources⁽¹⁾, and in particular Article 8(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Court of Auditors⁽³⁾,

Whereas:

- (1) The Berlin European Council of March 1999 issued a number of conclusions concerning the system of the Communities' own resources, which led to the adoption of Decision 2000/597/EC, Euratom.
- (2) Under Article 2(3) and Article 10(2)(c) of Decision 2000/597/EC, Euratom, the percentage retained by Member States by way of collection costs should be set at 25 % of the amounts referred to in paragraphs 1(a) and (b) of Article 2 of that Decision which are established after 31 December 2000 with the exception of those amounts that, to comply with the own resources Regulations, should have been made available to the Communities before 28 February 2001, for which the rate of 10 % should continue to apply.
- (3) The Berlin European Council decided that, in sharing out the financial burden borne by the other Member States for the correction for budgetary imbalances in favour of the United Kingdom, the shares of Austria, Germany, the Netherlands and Sweden should be adjusted so that their financial contribution is limited to one quarter of their normal contribution.
- (4) In accordance with the Amsterdam Treaty and Protocols 4 and 5 attached thereto, Denmark, the United Kingdom and Ireland need not participate in measures falling under Title IV of the EC Treaty and are not therefore obliged to bear the financial

consequences as a result of measures taken, other than the administrative costs. They can therefore obtain an adjustment to the own resources paid for each year in which they do not participate.

- (5) Given that the Member States are under an equal obligation to pay interest in the event of delays in entering own resources in the accounts and that difficulties are currently being encountered in the determination of the interest rates to be applied which, in practice, lead to differences between the rates notified by the Member States participating in the Economic and Monetary Union which are difficult to justify, the reference rate for these States should be standardised on the basis of the rate used by the European Central Bank for its refinancing operations, which is comparable to those proposed as reference rates for Member States outside the euro area.
- (6) The dual account system introduced in 1989 was set up to distinguish between recovered and outstanding duties. This system has only partly met its objectives regarding the mechanism used to discharge items from the separate account. Checks by the European Court of Auditors and the Commission have highlighted recurrent anomalies in the keeping of the separate account, which prevent the account from reflecting the real situation as regards recovery. The separate account should be cleansed of those amounts where recovery is unlikely at the end of a given period and the retention of which gives an inaccurate balance. In addition, from the cost-effectiveness angle, Member States will no longer incur the administrative costs involved in monitoring these amounts.
- (7) The Commission should act in close cooperation with the Member States. In particular, it should have the possibility to forward its comments to the Member State concerned.
- (8) Taking into account the need to find a temporary solution concerning certain administrative difficulties, it is advisable to provide for some transitional arrangements.
- (9) In response to a request of the Court of Auditors and in order to ensure that the separate account provides a better picture of the actual budgetary situation, the Member States should send to the Commission, together with the final quarterly statement for a given year, an estimate of the total amount of entitlements contained in the separate account for which recovery is unlikely.
- (10) According to Article 2(7) of Decision 2000/597/EC, Euratom, for the purposes of applying that Decision 'GNP' shall mean GNI for the year at market prices as provided by the Commission in application of the ESA 95 in accordance with Council Regulation (EEC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community⁽⁴⁾ In addition, Council Regulation (EC, Euratom) No 1287/2003⁽⁵⁾ lays down rules on the harmonisation of gross national income at market prices.
- (11) In accordance with Decision 2000/597/EC, Euratom, the Commission shall undertake, before 1 January 2006, a general review of the own resources system. New proposals made by the Commission on the basis of this review should give particular attention to Article 2(3), Article 4 and Article 5 of that Decision.
- (12) Regulation (EC, Euratom) 1150/2000 should therefore be amended accordingly⁽⁶⁾,

HAS ADOPTED THIS REGULATION:

Status: This is the original version (as it was originally adopted).

- (1) [OJ L 253, 7.10.2000, p. 42.](#)
- (2) Opinion delivered on 26 February 2004 (not yet published in the Official Journal).
- (3) [OJ C 318, 30.12.2003, p. 1.](#)
- (4) [OJ L 310, 30.11.1996, p. 1.](#) Regulation as last amended by Regulation (EC) No 1267/2003 of the European Parliament and of the Council ([OJ L 180, 18.7.2003, p. 1.](#)).
- (5) [OJ L 181, 19.7.2003, p. 1.](#)
- (6) [OJ L 130, 31.5.2000, p. 1.](#)