



COMMISSION OF THE EUROPEAN COMMUNITIES

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2004/0026 (CNS)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EEC) No 1365/75 on the creation of a European Foundation for  
the Improvement of Living and Working Conditions**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. INTRODUCTION

The European Foundation for the Improvement of Living and Working Conditions, hereinafter referred to as the Foundation, is one of the first-generation Agencies of the European Union, created in 1975 through Council Regulation (EEC) No 1365/75<sup>1</sup>. It is situated in Dublin, Ireland.

The tasks of the Foundation are to develop and to pursue ideas on the improvement of living and working conditions in the medium and long term in the light of practical experience and to identify factors leading to change. The Foundation has a tripartite Administrative Board made up of national representatives of governments, employers' organisations and employees' organisations. In addition, the Commission is represented in the Board. The employers' organisations at European level and the employees' organisations at European level each have an observer in the Board. The European Agency for Safety and Health at Work (EU-OSHA) participates in the Board meetings as an observer, as does a representative for the EFTA countries.

The national and tripartite composition of the Administrative Board of the Foundation is a feature shared with two other decentralised Agencies, the European Centre for the Development of Vocational Training (Cedefop) in Thessaloniki, Greece, and the European Agency for Safety and Health at Work (EU-OSHA) in Bilbao, Spain. The composition of the Boards is clearly stated in the basic acts of the Agencies. While the Board of the Foundation was created in a Community of nine Member States, three new Board members have been added for each new Member State, and the Board is now composed of 48 members, and as many alternates. With ten new Member States next year, the number of Board members will reach 78.

The contribution of the national social partners and government representatives in the Board is fundamental for the functioning of the Foundation, given the diversity that characterises social issues in the European Union. On the other hand, taking into account enlargement, it is important to ensure that the Board has the capacity to provide a strategic contribution.

The Board normally meets twice a year to take decisions related to the work programme and the budget of the Foundation. In addition, a Bureau has been established in the Rules of Procedure with the aim of managing urgent matters between the Board meetings. However, the Board is still in charge of a number of cumbersome and time-consuming administrative issues, which does not leave enough room for more important strategic deliberations on the functioning and role of the Foundation.

This legislative proposal aims at reinforcing the strategic role of the Administrative Board while conferring more administrative tasks on the already existing Bureau, and at formally recognising the role of the Bureau in the basic act.

In addition, it aims at providing for a more modern and flexible model for the contribution of independent experts to the activities of the Foundation.

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<sup>1</sup> OJ L 139. 30.5.1975, p.1.

Finally, certain provisions have been included in order to transfer the staff of the Foundation into the Community staff rules. The Foundation is the only Community Agency that has its own Staff Regulations. Within the framework of the Staff Reform for the staff of the European Communities, it is appropriate to include the Foundation in the Community rules as from the entry into force of this Regulation.

## **2. CONTEXT**

### **2.1. The external evaluation**

The external evaluation of the Foundation carried out in 2001 recognises the Foundation's important contribution to the knowledge of living and working conditions in the European Union, but it also identifies a number of areas for improvement. While most of these issues are included in a Foundation action plan adopted by its Board following the external evaluation and covering strategic and operational aspects to be addressed in order to remedy the identified weaknesses, two points raised by the evaluators should be treated by means of adaptations to the legislative framework: the role and tasks of the Administrative Board, and the functioning of the Committee of Experts of the Foundation.

#### *2.1.1. The Administrative Board*

The evaluators found that the administrative tasks of the Board prevented it from devoting sufficient time to strategic considerations. This weakens the decision-making capacity of the Board. In addition, the added value of the tripartite construction of the Board is partially lost.

The Bureau, already laid down in the rules of Procedure, could play a more important role in carrying out certain administrative tasks of the Board. In addition, this role should be given formal recognition in the Regulation, and the relationship between the Board and the Bureau should be clearly stated.

#### *2.1.2. The Committee of Experts*

The Committee of Experts is set up by Articles 10-11 of the basic Regulation of the Foundation. Its role is to provide the best possible technical and scientific advice within the main areas of research of the Foundation, i.e. living and working conditions. It is composed of one member for each Member State. It shall deliver its opinion on the draft work programme prepared by the Director of the Foundation and may also deliver opinions in all fields falling within the competence of the Foundation, either at the request of the Director or at its own initiative.

The Committee thus has a rather weak position in the structures of the Foundation and has not played an important role in its activities. It has been difficult to ensure a relevant and complementary experience of its members and a firm commitment to the work of the Committee. In relation to the tasks of the Committee, the national representation does not seem to be a relevant criterion. On the other hand, certain members of the Committee of Experts have given an excellent contribution to the work of the Foundation within their specific areas of expertise. Therefore, it is considered important to maintain the possibility in the Regulation to provide for the continued contribution of external experts in specific areas of research, in accordance with the specific competence of the experts concerned and the needs of the Foundation. In addition, the experts should not be selected on a national basis but rather according to their capacity to contribute usefully to the work of the Foundation. It is

therefore proposed not to keep the formal Committee of Experts in its current form, but to include provisions that will make it possible for the Foundation to ensure a well targeted and timely input from independent experts to its activities. The precise arrangements will be decided by the Board on a proposal of the Director of the Foundation.

## **2.2. The Joint Opinion of the tripartite Boards of the Foundation, Cedefop, and EU-OSHA<sup>2</sup>**

The three Community agencies having Boards with a tripartite composition, i.e. the Foundation, Cedefop and EU-OSHA, function in a very similar way. The tripartite structure is of fundamental importance to these agencies and should be maintained. However, as reflected in the external evaluations of the three agencies, they share certain shortcomings in relation to the functioning of their Boards. The solutions proposed in the evaluations are to strengthen the strategic role of the Boards and the executive role of the Bureaux, while leaving the director accountable and responsible for every-day management.

In line with the findings of the external evaluations, in January 2003 the agencies transmitted a Joint Opinion of their Boards on the functioning and governance of their management structures to the Commission. In this opinion, the Boards stress that their future rules of governance should be based on the following principles: the fundamental value of tripartite governance; the role of the social partners (workers and employers) in these bodies that creates a specificity requiring them to function according to common rules and differently from the other Community agencies; and finally that the maintenance of the national tripartite representation from each country is essential for the involvement of all actors, taking account of the diversity of interests and approaches which characterise social issues.

In order to respect these principles, the Joint Opinion suggests that the Boards should remain the decision-making structures, with responsibility for the major orientations of the agency (strategy, budget, work programme). In addition, they suggest that the Bureaux become executive structures, with well-defined tasks. Their size ought to remain limited to ensure efficient operations but should be sufficient to reflect the different views of the tripartite Boards.

The Boards also consider that the co-ordination of each group (governments, employees, employers) has proven to be an important factor to increase efficiency. They propose therefore to formalise the already existing function of co-ordinator.

## **2.3. The opinion of the European Parliament**

The Commission notes that the European Parliament in the recent discharge procedure underlines for both the Foundation and Cedefop the need for rationalisation of agency boards and invites the Commission to put forward proposals to this end<sup>3</sup>. The Commission has

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<sup>2</sup> The European Foundation for the Improvement of Living and Working Conditions, the European Centre for the Development of Vocational Training, and the European Agency for Safety and Health at Work.

<sup>3</sup> EP A5-0079/2003 § 28 [The European Parliament] “considers it out of the question, on grounds of efficiency and cost, further to expand the administrative boards of the Community bodies during the forthcoming enlargement; takes the view that enlargement offers a good opportunity thoroughly to reconsider the composition and working methods of these administrative Boards, which are already very ponderous as a rule; calls on the Commission to put forward appropriate proposals by 31 July 2003 to amend the founding regulations accordingly”.

carefully considered the invitation of the European Parliament to rationalise the functioning of these Bodies.

The full representation of all Member States and the involvement of social partners being essential for the development of Community social policy, the Commission considers that any reduction of the number of members of the Boards would be detrimental to the tripartite representation of all Member States and would not be advisable. On the other hand, the different nature of the responsibilities entrusted to the Agency, as compared to other Community agencies, precludes the Commission to consider the European Parliament suggestion for joint administrative Boards for bodies with similar responsibilities. Therefore, while maintaining the national and tripartite character of the Boards, which is a key feature of the agencies, the Commission proposes to rationalise the Boards' working methods by reinforcing the strategic role of the Boards and reducing the frequency of meetings to once a year. This should ensure that enlargement will not have a negative financial impact.

### **3. JUSTIFICATION OF THE COMMISSION'S PROPOSALS**

In the light of the findings of the external evaluators, of practice in recent years and of the above-mentioned Joint Opinion delivered by the three relevant Boards, the Commission proposes changes to the basic Regulation of the Foundation, with a view to increasing effectiveness and cost efficiency. Similar changes are proposed for Cedefop and EU-OSHA.

The proposed changes concern mainly the governance and functioning of the Board. The national tripartite representation in the Board is acknowledged as a key element of success and maintained. The existing three groups, namely government, employers' and employees' representatives are formalised, as is the designation of a co-ordinator within each group.

The Commission proposes that the Board meets in principle once every year and takes all strategic decisions in relation to the annual work programme and the budget. This shift from administrative to strategic tasks is reflected in the modification of the denomination of the Board from Administrative Board to Governing Board.

In addition, the Commission's proposal gives formal recognition to the existing Bureau and formalises the relationship between the Bureau and the Board. The Bureau would be composed of eight members, namely the Chairperson, the three Vice-chairpersons of the Board, the three co-ordinators, and one more representative of the Commission. Upon delegation of the Board, the Bureau will have the mandate to take certain measures on its behalf. The proposed size and composition of the Bureau will ensure efficiency and reflect the different groups represented in the Board. The Bureau would not vote but have a consensus-based decision-making.

As for the Committee of Experts, the proposed provisions would ensure a structured and targeted contribution of external and independent experts to the work of the Foundation, in accordance with the specific needs of the different research areas.

The proposed staff provisions aim at the inclusion of the staff of the Foundation, recruited after the entry into force of this Regulation, into the Staff Regulation and Conditions of Employment of Other Servants<sup>4</sup>.

#### **4. SUBSIDIARITY AND PROPORTIONALITY**

The tasks of the Foundation are to develop and to pursue ideas on the improvement of living and working conditions in the medium and long term in the light of practical experience and to identify factors leading to change. It provides data and analysis for informing and supporting the formulation of EU policy on working and living conditions. In this way, the Agency conforms to the principles of subsidiarity and proportionality.

#### **5. LEGAL BASIS**

Article 235 of the Treaty establishing the European Community (now Article 308) provided the legal base for the basic Regulation; therefore the Commission considers Article 308 to be the legal base for the amendments proposed to this Regulation.

#### **6. COMMENTARY ON THE AMENDMENTS PROPOSED**

Article 1 of the proposed Regulation:

Article 3(2):

A specific reference is added to the need for appropriate co-operation with EU-OSHA. This is in line with current practice and with a similar provision in the Regulation for EU-OSHA. Both bodies operate in the social policy area, although they each have distinctive tasks.

Strengthening the existing co-operation between the two bodies is already under way. In 2001, the two agencies signed a Memorandum of Understanding, which sets out guidelines to ensure efficient co-operation following the recommendations of the external evaluation. More recently, in June 2003, they signed a co-operation agreement which identified concrete actions and activities. The Commission, taking account of the comments of the European Parliament and the European Economic and Social Committee on this issue, considers that it is important to have an explicit reference to this co-operation in the Regulation and proposes the same reference in the proposal amending the Regulation of the EU-OSHA.

Article 5:

The Bureau is formally recognised. In addition, the reference to the Committee of Experts is deleted, since this Committee will no longer exist in its current form.

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<sup>4</sup> The Staff Regulations of officials and the conditions of employment of other servants of the European Communities applicable from 5 March 1968, as laid down by Articles 2 and 3 of Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 (OJ L 56, 4.3.1968) and later Regulations amending that Regulation.

*Article 6(1):*

The amendments to this Article, relevant to the composition and functioning of the Board, are in line with the external evaluation and the Joint Opinion submitted to the Commission by the management or administrative Boards of the European Foundation for the Improvement of Living and Working Conditions, the European Agency for Safety and Health at Work, and the European Centre for the Development of Vocational Training.

The proposed modification does not change the national and tripartite composition of the Board; however the wording allows for maintaining the principle of national and tripartite representation for each Member State without the need for amendments to the article in case of change of number of Member States.

*Article 6(2):*

A gender dimension is introduced in the composition of the Board through a provision based on Article 3 of the Treaty on balanced representation in the Board of the Foundation. In addition, a subparagraph has been added on the need to publish the list of Board members in the Official Journal of the European Union for information purposes. The latter provision reflects the current practice of the Foundation and is in line with the European Union's policy of transparency and access to information for citizens.

*Article 6(4):*

It is clearly expressed that the Chairperson and Vice-Chairpersons shall represent each of the Groups of the Board as well as the Commission. This clarifies the fact that one of the Chairpersons represents the Commission, as expressed in the provisions of the Rules of Procedure of the Foundation. In addition, the period of mandate of the Chairpersons is set at one year renewable, which is justified in particular by the need for continuity since the Board will meet only once a year.

*Article 6(5):*

The frequency of meetings is reduced to once a year instead of twice. This is justified by the new, more strategic role of the Board, and its large number of members. If necessary, additional meetings may be convened at the request of at least one third of the Board members.

*Article 6(7) – 6(10):*

The Groups and the co-ordinators of the social partners' organisations at European level, which already play an important role for the preparation of decisions, are formally recognised through point 7.

The aim is to formalise the existence of the three groups represented in the Board and the way they operate. In practice there are three separate groups: representatives of national governments, employees' organisations and employers' organisations. Before Board meetings, the three groups hold separate internal discussions, the results of which are reported in the Board meeting, without prejudice to each Board member's individual entitlement to be given the floor.

In this context it is important to note that representatives of the social partners' organisations at Community level who also attend the Board meetings without being entitled to vote, play an active role in the work of the Board, in particular by co-ordinating views within the respective groups. As requested in the Joint Opinion of the three Community bodies concerning the future governance of their Boards, it is proposed that the government group also designate a co-ordinator, for reasons of balance among the groups and of better efficiency of the Board's work.

The Commission believes that, as this organisational structure has proven its usefulness and is supported by stakeholders, it seems appropriate to formalise it in principle, leaving any operational details to a new set of rules of procedure.

The responsibilities, composition and operational rules of the Bureau are stated in the Rules of procedure, without any reference in the Regulation. In point 8, it is proposed to formalise the role of the Bureau, since it will have more responsibilities delegated to it by the Board. The wording reflects current practice of the Foundation. The number of members (the chairman and the three vice-chairmen of the Governing Board, the three co-ordinators of the groups and one more representative of the Commission) is sufficient to ensure that the different opinions of the Board are taken into account, while not exceeding a number that would have a negative impact on the efficiency of the proceedings.

Point 9 states that the Board will decide on the annual schedule of meetings of the Bureau, while additional meetings may be convened at the request of the Bureau members.

Point 10 states that the Bureau shall deal with measures delegated to it by the Board and that decisions be taken by consensus. If no consensus can be reached, the Bureau can refer the matter to the Governing Board for decision. This will ensure the necessary transparency between the Board and the Bureau, and the compliance of the proceedings of the Bureau with the strategic guidelines of the Board.

Article 7(1):

The reference to the consultation of the Committee of Experts in the preparation of the work programme of the Foundation is deleted, since the Committee will be replaced by a model for ad hoc contribution of external experts on specific issues in relation to the work programme.

Article 7(4):

A new point is added to determine the mandate of the Bureau: It shall not overlap with the prerogatives of the Director, nor the exclusive competencies of the Board in relation to the work programme and the budget of the Foundation.

Article 9:

Amendments have been added to ensure that the tasks of the Director in relation to the Board also include the Bureau, where appropriate.

Article 10:

The article is amended to reflect the new role and tasks of external experts. The Board may take the necessary measures to ensure the contribution of independent experts, on a proposal of the Director.



Article 11:

Since the Committee of Experts will be replaced by a more flexible model for expert contributions, Article 11 on the role and functioning of this Committee should be deleted.

Article 12(1):

The reference to the Committee of Experts in relation to the preparation of the work programme of the Foundation is made superfluous by the fact that this Committee will no longer exist in its current form.

Article 17:

The current specific provisions of the Foundation are replaced by the standard provisions for Agency staff in relation to the regulations and rules applicable to the officials and other servants of the European Communities. The Community rules will apply to Foundation staff recruited after the entry into force of this Regulation. As laid down in Article 2, (see below), the current rules will continue to apply to staff recruited under these rules.

In addition, it is proposed that all references to "the Administrative Board" in this Regulation shall be replaced by "the Governing Board" in order to reflect more accurately the strategic role of the Board.

Article 2 of the proposed Regulation:

This article states that the current staff provisions, Council Regulation (ESC, EEC, EURATOM) No 1860/76, will continue to apply to the staff of the Foundation recruited under this Regulation.

**7. BUDGET CHARACTERISTICS:**

The proposed changes will have no impact on the overall budget of the Foundation, in the sense that no new activities are launched. As a consequence, the proposal is presented without a financial statement.

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EEC) No 1365/75 on the creation of a European Foundation for the Improvement of Living and Working Conditions**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission<sup>5</sup>,

Having regard to the opinion of the European Parliament<sup>6</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>7</sup>,

Having regard to the opinion of the Committee of the Regions<sup>8</sup>,

Whereas:

- (1) Council Regulation (EEC) No 1365/75 on the creation of a European Foundation for the Improvement of Living and Working Conditions<sup>9</sup> includes provisions concerning the organisation of the Foundation, and in particular of its Administrative Board. These provisions have been amended several times following each accession of new Member States, when new members had to be added to the Administrative Board.
- (2) The external evaluation of the European Foundation for the Improvement of Living and Working Conditions (hereinafter “the Foundation”) carried out in 2001 underlines the need to adapt the provisions of Regulation (EEC) No 1365/75 in order to maintain the efficiency and effectiveness of the Foundation and its management structures, including a revision of the provisions concerning the Committee of Experts.
- (3) The European Parliament has called upon the Commission to review the composition and working methods of agencies' boards and to put forward appropriate proposals<sup>10</sup>.
- (4) A Joint Opinion concerning the future governance and functioning of the Boards of the Foundation, the European Agency for Safety and Health at Work and the European

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<sup>5</sup> OJ C , , p. .

<sup>6</sup> OJ C , , p. .

<sup>7</sup> OJ C , , p. .

<sup>8</sup> OJ C , , p. .

<sup>9</sup> OJ L 139. 30.5.1975, p.1, last amended by Council Regulation (EC) No 1649/2003 (OJ L 245, 29.9.2003, p. 25.

<sup>10</sup> EP A5-0079/2003§28

Centre for the Development of Vocational Training has been submitted to the Commission by their respective management or administrative Boards.

- (5) The tripartite governance of the Foundation, the European Agency for Safety and Health at Work and the European Centre for the Development of Vocational Training by representatives of national governments, employers' organisations and employees' organisations, is fundamental to the success of those bodies.
- (6) The participation of the social partners in the governance of those three Community bodies creates a specificity, which requires them to function according to common rules.
- (7) The existence, within the tripartite Board, of the three groups, drawn from government, employers and employees and the designation of a co-ordinator for the groups of employers and employees have proved to be essential. That arrangement should therefore be formalised and also extended to the government group.
- (8) The maintenance of the tripartite representation from each Member State ensures that all major stakeholders are involved and that account is taken of the diversity of interests and approaches which characterise social issues.
- (9) It is necessary to anticipate the practical consequences for the Foundation of the forthcoming enlargement of the Union. The composition and functioning of its Board should be adjusted to take account of the accession of new Member States.
- (10) The Bureau, provided for in the Rules of Procedure of the Board, needs to be strengthened in order to ensure continuity in the functioning of the Foundation and efficiency in its decision-making; the composition of the Bureau should continue to reflect the tripartite structure of the Board.
- (11) According to Article 3 of the Treaty, the Community shall aim to eliminate inequalities and promote equality between men and women in all its activities. Therefore, it is appropriate to make provision for encouraging a balanced representation of men and women in the composition of the Board.
- (12) The Board should have the possibility to ensure a formal contribution of independent experts for a limited duration in accordance with specific needs in relation to the implementation of the work programme.
- (13) The Foundation is the only Community Agency that has its own Staff Regulations. In view of the planned entry into force of the Reform of the Staff Regulations of the European Communities in 2004, it is appropriate to remedy this incoherence and to adapt the provisions relating to the staff of the Foundation. Council Regulation (ECSC,EEC,EURATOM) No 1860/76 laying down the Conditions of Employment of Staff of the European Foundation for the Improvement of Living and Working Conditions<sup>11</sup> should continue to apply to staff members of the Foundation who were recruited under the rules of that Regulation.
- (14) Regulation (EEC) No 1365/75 should therefore be amended accordingly.

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<sup>11</sup> OJ L 214. 6.8.1976, p. 24

- (15) The Treaty does not provide, for the adoption of this Regulation, for powers other than those under Article 308,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 1365/75 is amended as follows:

- (1) In Article 3, paragraph 2 is replaced by the following:

“2 The Foundation shall cooperate as closely as possible with specialised institutions, foundations and bodies in the Member States and at international level. In particular, the Foundation shall ensure appropriate co-operation with the European Agency for Safety and Health at Work, without prejudice to its own aims.”

- (2) Article 5 is replaced by the following:

*"Article 5.*

The Foundation shall comprise:

- (a) a Governing Board;
- (b) a Bureau;
- (c) a Director and Deputy Director. “

- (3) Article 6 is replaced by the following:

*“Article 6*

1. The Governing Board shall consist of:

- (a) one member representing the Government from each Member State;
- (b) one member representing the employers’ organisations from each Member State;
- (c) one member representing the employees’ organisations from each Member State;
- (d) three members representing the Commission.

2. The members referred to in paragraph 1(a), (b) and (c) shall be appointed by the Council on the basis of one member for each Member State and for each of the above mentioned categories. The Council shall at the same time appoint under the same conditions as for the members an alternate to attend meetings of the Governing Board only in the absence of the member.

The Commission shall appoint the members and alternates who are to represent it.

When submitting the lists of candidates, the Member States, employers' organisations and employees' organisations shall endeavour to ensure a balanced representation of men and women in the composition of the Governing Board.

The list of members of the Governing Board shall be published by the Council in the *Official Journal of the European Union*.

3. The term of office of members of the Governing Board shall be three years. It shall be renewable.

Upon the expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.

4. The Governing Board shall elect its chairman and three vice-chairmen, from among the three groups referred to in paragraph 7 and the Commission, to serve for a period of one year, which may be renewed.

5. The chairman shall convene the Governing Board once a year. The chairman shall convene additional meetings at the request of at least one-third of the members of the Governing Board.

6. Decisions by the Governing Board shall be taken by an absolute majority of its members.

7. Within the Governing Board, the representatives of governments, employees' organisations and employers' organisations shall each form a group. Each group shall designate a co-ordinator. The co-ordinators of the employees' and employers' groups shall be representatives of their respective organisations at European level and attend the Board meetings without the right to vote.

8. The Governing Board shall establish a Bureau. The Bureau shall be made up of the chairman and the three vice-chairmen of the Governing Board, one co-ordinator per group referred to in paragraph 7 and one more representative of the Commission.

9. The annual schedule of meetings of the Bureau shall be decided by the Governing Board. The chairman shall convene additional meetings of the Bureau at the request of its members.

10. Decisions by the Bureau shall be taken by consensus. If no consensus can be reached, the Bureau shall refer the matter to the Governing Board for decision."

(4) Article 7 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. The Governing Board shall govern the Foundation whose guidelines it shall lay down. On the basis of a draft submitted by the director, the Governing Board shall, in agreement with the Commission, adopt the programme of work."

(b) the following paragraph 4 is added :

"4. Without prejudice to the responsibilities of the Director set out in Articles 8 and 9, the Bureau shall, as delegated by the Governing Board, take all necessary

measures for the management of the Foundation between the Governing Board meetings except those referred to in Articles 12 and 15."

- (5) Articles 9 and 10 are replaced by the following:

"Article 9

1. The director shall be responsible for the management of the Foundation and shall implement the decisions of the Governing Board and the Bureau. He shall be the legal representative of the Foundation.

2. Without prejudice to Article 8(1), the director shall exercise the powers referred to in Article 17(1).

3. The director shall prepare the activities of the Governing Board and the Bureau. The director, or the deputy director, or both shall attend the meetings of the Board and Bureau.

4. The director shall be accountable to the Governing Board for the running of the Foundation.

*Article 10*

The Governing Board shall have the possibility to seek the opinion of independent experts on specific issues in relation to the annual work programme, on the proposal of the Director."

- (6) Article 11 is deleted.

- (7) In Article 12(1) the second subparagraph is replaced by the following:

"When drawing up the programme, the director shall take account of the opinions of the Community institutions and the European Economic and Social Committee."

- (8) Article 17 is replaced by the following:

"Article 17

1. The staff of the Foundation recruited after [*date of entry into force of this Regulation*] shall be subject to the Staff Regulations applicable to officials of the European Communities or, as the case may be, to the Conditions of Employment of other Servants of the European Communities. The Foundation shall exercise, in respect of the staff, the powers conferred on the appointing authority or the contracting authority as the case may be.

2. The Governing Board shall, in agreement with the Commission, adopt the appropriate implementing rules."

- (9) Each time the term "Administrative Board" or "Management Board" appears in the articles , it is replaced by "Governing Board".

*Article 2*

Regulation (ECSC,EEC,EURATOM) No 1860/76 shall continue to apply to staff members of the European Foundation for the Improvement of Living and Working Conditions who were recruited under the rules of that Regulation.

*Article 3*

This Regulation shall enter into force on the twentieth day 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,

*For the Council  
The President*