

**EVALUATION OF THE IMPLEMENTATION OF
COUNCIL REGULATION 2667/2000 ON THE
EUROPEAN AGENCY FOR RECONSTRUCTION**

Synthesis Report

Volume II

**Part A and B – Historical Perspective and Summary of
the Agency's functioning in line with the Regulation**

June 2004

Contract N.: B7-6510/2002/005

**between the European Community, represented by
the European Commission and**

Development Researcher's Network Consortium



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Service contract for the
Evaluations of
the EC support to selected initiatives in
Regional Cooperation
and
Economic Integration
as well as aspects of
3Cs and Policy Mix

in the field of external cooperation with partner countries

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The opinions expressed in this document represent the authors' points of view which are not necessarily shared by the European Commission or by the authorities of the countries concerned.
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Volume I of the Synthesis Report includes the report on Part C of the ToRs which is an assessment of the Agency's contribution to the achievement of the objectives of CARDS.

Volume II of the Synthesis Report includes Part A (Historical perspective) and Part B (Summary of the Agency's functioning in line with the Regulation) of the ToRs.

Volume III of the Synthesis Report includes all annexes of the evaluation.

ACRONYMS

AP	Action Programme
BiH	Bosnia and Herzegovina
CARDS	EU Programme for Assistance, Reconstruction, Development and Stabilisation
CFSP	Common Foreign and Security Policy
COM	EU Communication
CRIS	Common RELEX Information System
CSO	Civil Society Organization
CSP	Country Strategy Paper
CVT	Continuing Vocational Training
DAC	Development Assistance Committee
DEM	Deutschemark
DG	Directorate-General
DG JAI	Directorate-General for Justice and Home Affairs
DG RELEX	Directorate-General for External Relations
DG TREN	Directorate-General for Transport and Energy
EAR	European Agency for Reconstruction
EBRD	European Bank for Reconstruction and Development
EC	European Community
ECB	European Central Bank
ECHO	European Commission Humanitarian Office
EIB	European Investment Bank
EIDHR	European Initiative for Democracy and Human Rights
EP	European Parliament
ETF	European Training Foundation
ETM	Exceptional Trade Measures
EU	European Union
EuropeAid	EuropeAid Co-operation Office
FA	Financial Agreement
FFR	Framework Financial Regulations
FIDIC	International Federation of Consulting Engineers (Fédération internationale des ingénieurs – conseils)
FRY	Federal Republic of Yugoslavia
GB	Governing Board (EAR)
ISC	Inter-Service Consultation
HR	Human Rights
IBM	Integrated Border Management
ICTY	International Criminal Tribunal for Yugoslavia
IDP	Internally Displaced Person
IFI	International Financial Institution
IMF	International Monetary Fund
IMG	International Management Group
IT	Information Technology
KFOR	Kosovo Force (UN-led peace troops in Kosovo)
LA	Local Agent
MIP	Multi-annual Indicative Programme
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OBNOVA	EU Programme for the Reconstruction of the Former Yugoslavia
OC	Operational Centre (EAR)

OECD	Organisation for Economic Co-operation and Development
OSCE	Organization for Security and Co-operation in Europe
PCM	Project Cycle Management
PHARE	Poland and Hungary: Action for the Reconstructing of the Economy
PM	Project Manager
RRM	Rapid Reaction Mechanism
SAA	Stabilisation and Association Agreement
SAP	Stabilisation and Association process
SEE	South Eastern Europe
SME	Small and Medium Enterprise
TA	Temporary Agent
TAFKO	Task Force for the Reconstruction of Kosovo (European Commission)
TEMPUS	Trans-European Co-operation Scheme for University Studies (Higher Education)
ToRs	Terms of Reference
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Interim Administration in Kosovo
VET	Vocational Education and Training
WB	World Bank
WTO	World Trade Organisation

REPORT PART A

Historical Perspective

1 OVERVIEW

This report corresponds to *Part A: Summary of Activities* of the Terms of Reference (ToR) of the study [in Volume III, Annex A]. Together with the report on Part B of the ToRs [*Confirmation of legal obligations and functioning according to the Agency Regulation*], it represents the **Volume II** of the Synthesis Report. This Part A report aims to present a description of the Agency's mandate and tasks as defined in the EAR Regulation 2667/2000 of 5 December 2000.

It provides a historical perspective and describes the Agency in terms of its evolution, governing arrangements, the composition of the Governing Board, its awareness of stakeholder and recipient expectations and its qualitative and quantitative reporting to stakeholders.

In addition, it offers an overview of the planning and other managerial aspects of the Agency and a historical narrative of the Agency's execution of tasks conferred on it under Article 2 of Regulation 2667/2000 in the following areas:

- Collection, analysis and communication of data;
- Preparation of draft programmes in accordance with Commission guidelines;
- Implementation of Community assistance in terms of the eight aspects of the project cycle described in Article 2.1.c. of the Agency Regulation; and
- Implementation of programmes entrusted to the Agency by other donors.

Finally, the report presents a summary of the organisational arrangements and structure of the Agency in terms of division of responsibilities, the financial and budgetary aspects and the human resources management features of the operational practices of the Agency.

This report has been written following a review of the large quantity of key documents provided and a number of interviews conducted with key stakeholders in the European Commission (hereafter referred to as "the Commission") and with staff of the Agency at its Headquarters in Thessaloniki and its Operational Centres (OC) in Skopje and Pristina.

Volume I of the Synthesis Report includes the report on Part C of the ToRs which is an assessment of the Agency's contribution to the achievement of the objectives of CARDS.

Volume III of Synthesis Report includes the annexes of the study as follows: Terms of Reference (Annex A); full list of people met during the evaluation (Annex B); list of documents reviewed and bibliography consulted (Annex C); synthesis of the status of the assistance managed by the Agency (Annex D); agendas for the field visits during the field phase (Annex E); Evaluation Matrix used for the Survey carried out during the field visits (Annex F); and statistical analysis of the Survey (Annex G).

2 **THE EUROPEAN AGENCY FOR RECONSTRUCTION (EAR): A HISTORICAL PERSPECTIVE**

2.1 *The Context*

The Agency operates within the context of the EU commitment to a process of stabilisation and association with countries-entities in *South Eastern Europe* (SEE), a process which aims to bring about the fullest possible integration of the countries-entities of the region into the political and economic mainstream of Europe. Partner countries-entities in the region are being assisted in adjusting and adapting their political, economic and institutional development to European values, principles and standards.

The *Stabilisation and Association process* (SAp) serves to prepare the Western Balkan countries-entities “as potential candidates – to move closer to the European Union” and is modelled on the enlargement process and will therefore guide the countries-entities of SEE in their reform efforts “in the same way the accession process has in *Central and Eastern Europe* (CEE)”¹. Since the establishment of the SAp, the focus of the assistance has shifted from physical reconstruction in the initial phase to the present support for the political, institutional and economic transition of the SEE countries-entities.²

The specificity of the SAp is that it has two features, namely stabilization and association. Distinction is made between more immediate, post-conflict rehabilitation needs and the long-term aim of achieving institutional and legislative convergence with the European Union. This allows for a certain flexibility in the design of country- or entity-specific programmes. Both objectives are of course closely inter-linked. Since the creation of the SAp, the focus of assistance has shifted from physical reconstruction in the initial phase, to support for political, institutional and economic transition and, lately, on EU convergence. In some countries or entities Community Assistance still targets both aims simultaneously.

Each country-entity is expected to progress at its own pace towards membership (regatta principle), according to its individual ability to take on the obligations of a closer association with the Union. Like the enlargement process, the SAp is built on economic and political conditionality geared towards democratic consolidation and, in parallel, EU integration. Conditions emerged from the Copenhagen criteria of 1993 and, additionally, the Regional Approach of 1997. The SAp conditionality represents a mixture of political demands and requirements related to convergence. These conditions have changed over time along with the evolving political necessities on the ground (related, for example, to the implementation of UN Security Council Resolution 1244 of 1999 – on Kosovo –, the Ohrid Framework Agreement of 2001– the former Yugoslav Republic of Macedonia –, and the Belgrade agreement of 2001).

The SAp comprises three main instruments:

- ***A Stabilisation and Association Agreement*** (SAA) by which the beneficiary countries-entities commit themselves to reform their societies in accordance with European standards. Currently, SAAs have been signed with Croatia and the former Yugoslav Republic of

¹ Report from the Commission, The Stabilisation and Association Process for South East Europe. Second Annual Report, Brussels, 26.03.2003 [COM(2003) 139 final], p.3

² Ref. CARDS evaluation Desk report, January 2004, p.7

Macedonia. Further, SAAs are under discussion with Bosnia and Herzegovina (BiH) and Albania.

- ***Liberalisation of the trade*** relations between the EU and the CARDS countries-entities in order to support the economic development of these countries-entities.
- ***The CARDS assistance programme***, which initially includes support of € 4.65bn for the period 2000 to 2006 for assistance to promote the social, institutional and economic development of the region.³

With regards to the CARDS programme, it covers a wide range of interventions, including:

- Reconstruction, aid for the return of refugees and displaced persons, and stabilisation of the region;
- The creation of an institutional and legislative framework to support democracy, the rule of law, human and minority rights, reconciliation and the consolidation of civil society, independence of the media and strengthening of the legality of measures to combat organised crime;
- Promotion of economic development and market-oriented economic reform;
- Promotion of social development, poverty reduction, gender equality, education and environmental rehabilitation.⁴

At the EU-Western Balkans Summit in Thessaloniki (21 June 2003) it was decided to enhance the SAp by enriching it with instruments used in the enlargement process, which further illustrates the priority shift from stabilisation measures towards accession-oriented assistance. New frameworks include, for instance, ***European Partnerships***, inspired by the Accession Partnerships for candidate countries. It also opens community programmes to Western Balkan countries, along the lines established for the participation of candidate countries, in particular regarding education and training, culture, research, energy, environment, civil society, SME support, and anti-fraud coordination. SAp countries-entities have been invited to align themselves with CFSP-related issues (demarches, declarations and common positions). Further, a high-level multilateral political forum, the EU-Western Balkans Forum, has been established that will periodically bring together the heads of state or governments of SAp countries-entities and their EU counterparts. Last but not least, community financial support for the period 2004-2006 was increased by more than € 200m.

In December 2003 the Commission issued a communication aimed at putting into practise the statements made in Thessaloniki about the participation of Western Balkans to the Community Programmes⁵. “The aim is to start an initial selection of those programmes in 2005, i.e. to be operational within two years of the adoption of the Thessaloniki Agenda, which is a political imperative”. In order to enable this, the Commission foresees that the guidelines for the CARDS Programme will be revised to incorporate rules on CARDS co-financing for the SAp countries-entities’ contributions towards participation in Community programmes. Multi-annual programming for 2005-2006 and national action programmes from 2005 will be adjusted accordingly.

³ For a more detailed description of the SAp, reference is made to e.g. COM (2003) 139 final, *Report from the Commission: The Stabilisation and Association process for South East Europe*, Second Annual Report, Brussels, 26.3.2003

⁴ Council Regulation 2666/2000, Article 2

⁵ COM (2003) 748: *Preparing for the participation of the Western Balkan countries in Community programmes and agencies*

2.2 *The Agency genesis*

On 4 June 1999, following the end of the conflict in Kosovo and with awareness of the urgency of the situation and of the level of destruction of the physical infrastructure as well as of disruption of the social life of the province, the European Council (EC) confirmed the EU's intention to take a leading role in the reconstruction efforts.

Taking into consideration the previous experience in providing assistance to Bosnia and Herzegovina (BiH) after the signature of the Dayton Agreement in 1995⁶, the Council called upon the Commission to draw up, as a matter of priority, proposals regarding the organisation of the reconstruction assistance envisaged and in particular the appropriate means and mechanisms for putting such a programme in place, including the setting up of an agency responsible for implementing the Community's reconstruction programmes.⁷

In July 1999 the Commission set up a temporary body called: the *European Commission Task Force for the Reconstruction of Kosovo* (TAFKO).

During the summer of 1999 following the first Donors' Conference for Kosovo, the EU provided € 127m for reconstruction programmes in Kosovo⁸ to restore adequate living conditions before the winter, make urgent repairs to essential infrastructure, restart public administration, and clear mines. This assistance was managed by the recently created TAFKO.

In November 1999, during the 2nd Donors' Conference for Kosovo, the EU confirmed its intention to continue to take a prominent role in Kosovo, and established the principle of close cooperation and collaboration with UNMIK and other bilateral donors in the key areas of reconstruction and development.

On 15 November 1999, five months after the end of the Kosovo crisis and in order to implement its extensive assistance programme in Kosovo and build on the experience of the EC TAFKO, a Council Regulation (2454/1999⁹) was approved establishing the framework for the structure and operations of the European Agency of Reconstruction (EAR) with the following main features:

- Flexible rules and procedures for programme management, to ensure rapid implementation (point 13);
- An Operational Centre (OC) based in Pristina, so that the reconstruction programme would be managed locally, whereas the general support service would be in Thessaloniki (point 14);
- A mandate that could be extended to other parts of the region by the Council (point 15);

⁶ Though the experts did not consult any formal assessment of that programme, it transpired, following several interviews with key informants in the Commission in Brussels, that the provision of emergency assistance in BiH immediately after the signature of the Dayton Agreement had been characterized by a very slow pace of implementation due to inappropriate aid management system and its centralization in Brussels. This undermined the effectiveness of the assistance provided as well as the Commission's image as major player in that context.

⁷ EC Council Regulation, 2454/1999, point (2)

⁸ Report from the Commission to the European Parliament and the Council on the European Agency for Reconstruction (Annual Report 2000)

⁹ Regulation 2454/1996 laid down the current organization, structure and main activities of the EAR. The financial and procedural background for the operations of the EAR was however based on the OBNOVA programme (Council Regulation 1628/96) and the PHARE programme (Council regulation 3906/89).

- A mandate that would allow the Agency to manage other donors' programmes contributing to the reconstruction of the region (point 16); and
- Special financial regulations to allow rapid response while ensuring accountability and transparency (point 17).

2.3 Start up in Kosovo

On 17 January 2000, at the first meeting of the Governing Board of the Agency and on a proposal from the Commission, Mr Hugues Mingarelli was appointed as the first Director of the Agency. The EAR's first Operational Centre was opened in Pristina in Kosovo during February 2000. At the Governing Board meeting on 28 February 2000, a staffing table was approved by the Board, allowing for the recruitment of 51 Temporary Agents (TA) and 34 Local Agents (LA)¹⁰.

Thereafter, the EAR established its headquarters in Thessaloniki in Greece, inherited the Community programme for Kosovo worth € 496m, out of which € 134m had been committed by the Commission and TAFKO, as part of its own 2000 programme¹¹. During this period the EC assistance for SEE was subject to the procedures of the OBNOVA Regulation¹².

In this early stage, the Agency activity in Kosovo focused on the rehabilitation and repair of the key infrastructures and public utilities required to bring life back to normal in Kosovo closely following the work programmes developed jointly with UNMIK. The main sectors of work included: energy, housing, transport, and water supplies with additional activities in agriculture, health and economic reconstruction through the development of a market-oriented economy including private enterprise development¹³.

On 5 December 2000, a new Council Regulation (EC) 2666/2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia called: *Community Assistance, Reconstruction, Development and Stabilisation* (CARDS) replaced OBNOVA and established a new single legal framework for assistance to the Western Balkans.

Also on 5 December 2000 the above Regulation was complemented by Council Regulation (EC) 2667/2000 (hereafter referred to as "the Agency Regulation") on the establishment and operations of the EAR which confirmed the ongoing activities of the EAR. Since December 2000 these Regulations have constituted the legal and institutional framework for the operations of the Agency.

¹⁰ On 24 July 2000 the Board had granted permission to increase the number of LAs for the year 2000 to 54. Source: Report from the Commission to the European parliament and the Council on the European Agency for Reconstruction (Annual Report 2000)

¹¹ Source: Annual Report from the Commission to the European Parliament and the Council on the European Agency for Reconstruction, 2000

¹² The Council Regulation No 1628/96 (OBNOVA Regulation) was amended in November 1999 by the Regulation No 2425/1999 to extend it to Kosovo. Source : EU Bulletin 11-99.

¹³ Source: Kosovo AP 2001 and previous assistance implemented by the Agency

2.4 *Extension of the Agency's mandate to Serbia and Montenegro*

On 9 October 2000, the General Affairs Council decided to extend the activities of the Agency to the entire State of Serbia & Montenegro. Shortly thereafter EAR's Belgrade Operational Centre (OC) was opened.

At its meeting of **December 2000**, the Governing Board gave formal approval to the administrative and organisational structure of the Agency based on three Operational Centres (Pristina, Belgrade and Podgorica) and to the proposed increase in personnel amounting to an additional 53 Temporary Agents and 88 Local Agents.

On 8 January 2001 the Commission transferred to the Agency the responsibility for the implementation of all of its assistance programmes under OBNOVA and CARDS for Serbia and Montenegro. Thus the EAR assumed management responsibility for the 1998, 1999 and 2000 EC assistance programmes in Serbia, which were previously being implemented by the Commission in Brussels, and its Delegation in Belgrade.

On March 2001 the Operational Centre in Podgorica was opened and the Agency took over the management of the EC projects that had previously started under the OBNOVA. In addition, a further € 16m were committed in 2001, concentrating largely on municipal development, transport and infrastructure, institution-building and vocational training.

2.5 *Extension of the mandate to the former Yugoslav Republic of Macedonia*

On 9 April 2001 the Stabilisation and Association Agreement with the former Yugoslav Republic of Macedonia was signed in Luxembourg. Following this, on **8 May 2001** the Commission adopted the first Rapid Reaction Mechanism (RRM) financing decision for a € 2.5m programme for reconstruction of areas which had been affected by the conflict.

Following the signature of Ohrid Framework Agreement in August 2001, on **3 October 2001**, the Commission signed a second RRM financing decision for a € 10.3m programme for reconstruction and to support the confidence-building process to bolster the implementation of the Ohrid Framework Agreement. An additional support programme for € 12m was also approved under the CARDS programme to promote the return of refugees and IDPs and to reconstruct local facilities (houses and local infrastructures) .

During the summer of 2001 the Agency was requested by the Commission to provide assistance for the preparation and management of the Emergency Assistance Programme for the former Yugoslav Republic of Macedonia, which was launched in the wake of the signature of the Ohrid Framework Agreement.

In December 2001 the Agency was asked to assume management responsibility for EC assistance programmes in the former Yugoslav Republic of Macedonia. Council Regulation 2666/2000 (CARDS Regulation) and 2667/2000 (Agency Regulation) were thereby amended by Council Regulation 2415/2001 of 10 December 2001.

In January 2002 the Agency established an OC in Skopje. At its meeting of **28 January 2002** the Governing Board approved the new staff table for 2002 which included 123 TA and 193 LA for the four OC (Belgrade, Podgorica, Pristina and Skopje) and the Thessaloniki HQ.

In March 2002 the Agency took over full responsibility for the management of the former Yugoslav Republic of Macedonia Emergency Assistance Package (RRM 1 and 2 and CARDS additional programme) as well as the responsibility for the majority of ongoing EC-funded

programmes in the country, which amounted to some € 102m of uncontracted funds, out of a total of € 131m originally committed (programmes previously administrated by the Commission)¹⁴. These programmes aimed at supporting the country's economic and democratic evolution by providing know-how, including advice on policy and training for a wide range of non-commercial public and private organisations..

In September 2002, the Agency also took on the responsibility for the management of the CARDS 2002 Action Programme (AP) which it had been instrumental in preparing. A Financing Agreement for this € 37.5m programme was officially signed with the Government in August. The programme is now in the first phase of implementation, with projects starting in September 2002.¹⁵

By the end of 2002 the Agency had started thirteen new projects and awarded 56 new contracts for a total of € 26.8m. Five inherited projects (the Tetovo by-pass, statistical reform, water and transport feasibility studies, and Regional Enterprise Support Centres) were also completed.

2.6 *The present situation*

At present the EAR is managing most of the European Community assistance in Serbia, Montenegro, Kosovo and the former Yugoslav Republic of Macedonia and some programmes entrusted by other donors (see Section 4.4).

Since September 2002, Mr Richard Zink has been the new Director of the Agency in succession to Mr Mingarelli.

In February 2003, the Director presented the new organisational chart to the Governing Board. *“The main objectives of the proposed reorganisation were to increase the authority of the operational centres and reinforce guidance and supervision on a horizontal level. The four operational centres would be given a large degree of autonomy, with a Head of Centre being in charge of management supervision of all local services. In addition, a new Division (Quality Assurance) would supervise the former programming, evaluation and coordination services on a central level”*¹⁶.

A more detailed description of the current organisational structure can be found in Section 5 - *Organisational Arrangements and Structure*.

2.7 *The future of the Agency*

The Agency Regulation applies until 31 December 2004 and, as stated in Article 14 of the Agency Regulation, “once the Commission considers that the Agency has fulfilled its mandate it shall submit to the Council a proposal for winding up the Agency”. The same article also provides that the Commission will submit to the Council (on 30 June 2004 at the latest) an evaluation report on the application of the Regulation and a proposal on the status of the Agency as an element of analysis and judgement for any further decision in this regard.

¹⁴ Source: Quarterly Report to the European Parliament. July to September 2003

¹⁵ EAR Annual Report to the European Parliament and the Council from January to December 2002

¹⁶ Extract from the minutes of the 22nd Governing Board meeting, 18 February 2003

3 GOVERNING ARRANGEMENTS AND RELATIONS WITH THE STAKEHOLDERS

As a European Agency, the activities of the Agency are overseen by a Governing Board comprising representatives of the Member States and of the Commission, while the European Parliament has to provide a discharge to the Agency's Director for the implementation of the Agency's yearly budget.

The European Parliament follows closely the activities of the Agency through two main Parliamentary Committees:

- The Budgetary Control Committee, and
- The Foreign Affairs, Human Rights, Common Security and Defence Policy Committee.

The Agency is accountable to the Council and the European Parliament, which are regularly informed either directly by the Agency or by other oversight bodies such as the Court of Auditors and express their expectations of the Agency, make formal requests, and ask it to perform specific activities such as:

- Making proposals aimed at fostering better functioning of the Agency, ensuring better value for money through a cost/benefit analysis; and
- Considering whether the spread of the Agency between various locations is, from the point of view of its functioning, the most appropriate solution.

As an example, the European Parliament's Committee on Budgetary Control:

- Called for reinforced co-operation and co-ordination between the Agency, UNMIK and the Commission;
- Invited the Agency to establish an overall plan for monitoring the projects financed and evaluating their consistency with the EU policy for the region;
- Underlined in particular the strict segregation of duties between authorising officers and accounting officers and the enhanced role of the latter;
- Invited the Commission, in line with its proposal on European governance aimed at concentrating its activity on the core tasks, to include in its action programme the appropriate proposals with a view to ensuring that overlapping between the activities of its services and those of the Agency's is avoided¹⁷.

As the implementing mechanism of the CARDS programme, the Agency's work is carried out within the strategic framework of the CARDS programme and in particular the Country Strategy papers and MIPs prepared by DG RELEX for the countries and entities where the Agency operates. Within the overall CARDS programming cycle, EuropeAid ensures the coherence and coordination of the Agency's work with the Commission's policies and with the CARDS

¹⁷ Reporting from the European Parliament's Committee on Budgetary Control session of 20 March 2003

programme in the rest of the Balkans through the inter-service consultation and through input from the operational units in Directorate A (see Section 4.4 - *Preparation of draft programmes in accordance with commission guidelines on programming* for more details). In addition, EuropeAid is responsible for the implementation of regional programmes, and co-ordinates with the Agency to ensure coherence between national and regional programmes.

Following the CARDS programme Regulation, the work of the Agency related to the CARDS implementation is to be submitted and approved by the CARDS Committee before being implemented.

3.1 Composition and representativeness of the Governing Board

The Governing Board (GB) comprises one representative of each Member State and two representatives of the Commission. One Commission Member chairs the meetings of the Board while the other is not entitled to vote. The current chairman of the GB is the Director of Western Balkans, Directorate D of DG RELEX. EuropeAid is also represented by the Director of Directorate A (Europe, Caucasus and Central Asia).

The first GB meeting under the Agency Regulation was held on the 15 December 2000. On that occasion the Commission representative explained the difference between the GB and the CARDS Committee and the tasks that the former would have to carry out. Since then, the GB has met 4 times a year, with the exception of 2003 when the GB met only three times¹⁸.

The Director of the Agency attends the meetings of the GB (art.5.2) to which he/she is accountable for his/her activities. Depending on the issue discussed, other Agency staff members are usually invited to attend the meeting.

In addition, a representative of the *European Investment Bank* (EIB) can participate at the meeting of the GB as a non-voting observer.

In June 2003 the representatives of the 10 future new Member States took part in the GB meeting for the first time, with observer status. Other institutional stakeholders may take part in the GB according to the subject discussed.¹⁹

The Agency provides the Secretariat of the Governing Board and is in charge of the organisation of each GB meeting and the drafting of the minutes, acting on the behalf of the Chairman. The Agency also meets the costs associated with the travel and accommodation of up to one participant per Member State.

Decisions by the Governing Board are adopted by a two-thirds majority except for decisions on the languages of the Agency, which are taken unanimously²⁰.

3.2 Role and responsibilities of the Governing Board

While the Commission and the Agency are in constant dialogue, the Agency's Governing Board is the principal forum for interaction between the EU Member States, the Commission and the Agency.

¹⁸ A fourth meeting was foreseen for December but was moved to January 2004

¹⁹ UNMIK representatives take part in certain GB meetings.

²⁰ c.f. Rules of Procedure of the Governing Board of the European Agency for Reconstruction, adopted by the Governing Board, Thessaloniki, 24 March 2000.

The GB is kept informed on the implementation of the specific tasks allocated to the Agency for the CARDS implementation (Art. 2, (2) of the Agency Regulation) as well as of the strategy framework, multi-annual programme and annual action programme related to CARDS (Art. 4.10).

Based on a proposal from the Director of the Agency, the GB decides and approves the following issues (Art. 4.13):

- i) arrangements for evaluating the implementation and proper execution of projects;
- ii) proposals for programmes by other donors for possible implementation by the Agency;
- iii) setting the multi-annual contractual framework with the provisional authorities responsible for the administration of Kosovo for the implementation of the CARDS programme;
- iv) establishment of new operational centres;

The GB also:

- v) on the basis of a proposal from the Commission, appoints or terminates the appointment of the Director of the Agency²¹;
- vi) adopts, after receiving the opinion of the Commission, the budget of the Agency at the beginning of each financial year (Art. 7.4)

Further, on the basis of the agreement of the Commission and the opinion of the Court of Auditors, the GB adopts the Agency's Financial Regulation.

3.3 Reporting and Communication with the Stakeholders

The means of communication and reporting to stakeholders includes formal reporting, following the Agency Regulation requirements and agreed working procedures; informal communication with the Commission (mainly DG RELEX and EuropeAid) based on a day-to-day working relationship; and a complete set of other information products developed by the Agency for a wider public and in particular for the local stakeholders²².

3.3.1 Reporting instruments

The Agency produces the following reports:

- **Quarterly Report to the Commission.** This is a report prepared for each Operational Centre and informing on progress in CARDS implementation. This report was not required before May 2001 and was not an obligation foreseen by the Agency Regulation. The format and type of information included has been evolving since the inception of the procedure and currently the report is in the form of a table where progress and follow-up actions are set out in accordance with the recommendations of the SAp report. It is an unpublished internal report.

²¹ Article 4(13) and article 5(1) of EC Regulation 2667/2000, 05/12/2000).

²² The type of formal and informal communication with national counterparts and beneficiaries is briefly described in the section on programming and will be mostly dealt with in the part C of the evaluation.

- **Quarterly Report to the European Parliament.** This is a formal obligation required by the Agency Regulation (Art.5.5). It is a single document on the activities of the Agency and includes a section on each operational centre. The report also comprises an extensive Annex on CARDS implementation where progress is presented by country and entity and by main sector of intervention. This report is published on the Agency's web page. The current tendency in the preparation of such reports is to contextualize progress (or lack of progress) more, indicating the type of problems faced during implementation.
- **Annual Report to the European Parliament and Council.** This report emanates from Art.4.14 of the Agency Regulation stating that the GB shall present a draft annual report to the Commission which, after adoption, it shall submit it to the EP and Council. While the Quarterly Report to the European Parliament covers only the progress of the Agency in the implementation of the CARDS programme, the Annual Report also includes a short analysis of the economic and political situation of each of the areas where the Agency operates and highlights future challenges. The Annual Report is also published on the EAR web page. While the quarterly reports are published only in English, the Annual Reports are available in all EU official languages.
- **Annual Financial report to the Court of Auditors, Commission and Governing Board.** This report emanates from the Art.8.3 and is the point of departure for the Court of Auditors for preparing their report based on which the European Parliament will give annual discharge to the Agency's Director in respect of the implementation of the previous year budget.

Official reporting represents about the 5 % of the time and resources of the Information and Communication Unit of the Agency²³. The rest of the resources are channelled towards communication with local stakeholders. In addition, Agency's four OCs and HQ's functional Divisions contribute extensive reporting inputs to the HQ's Information & Communication Unit for overall reporting and data compilation.

3.3.2 *Communication*

Communication to local stakeholders is aimed at increasing public awareness of the Agency and CARDS programme, as well as to increasing the Agency's visibility. The activities include:

- regular articles for the local press on specific projects;
- speeches by the Agency's Director and other staff on the occasion of local events, round tables, seminars, etc., where the Agency is invited;
- video-material, also in the local language, on the Agency's activities in the different OCs, on the individual projects and their contribution to the local process of stabilization and development; and
- a web page for each of the Operational Centres which provides synthesised and detailed information on the programmes implemented by the Agency²⁴. This information is also provided in Serbian (in Serbia and Montenegro); in Serbian and Albanian (in Kosovo); and in Macedonian and Albanian (in the former Yugoslav Republic of Macedonia).

²³ As from interviews held in Thessaloniki in November 2003

²⁴ The information provided is the same as the one included in the quarterly and annual report to the Parliament, which is here organized geographically

Furthermore, in each OC the person in charge of Information and Communication has also the title of spokesperson which facilitates dialogue and rapidity of communication with the local stakeholders.

Through its web page the Agency provides information to the larger public and other stakeholders. The communication products that can be found on the web page in addition to those already mentioned above are:

- news bulletins providing highlights on the latest news on the CARDS programme;
- press releases including the latest headlines on CARDS project implementation or on events that occurred thanks to the support provided by CARDS through the Agency; and
- evaluations: executive summaries of the 17 evaluations carried out by the Agency.

Finally, the Head of the Communication and Information Unit takes part in the 6-monthly meeting organised by DG RELEX information Unit (I5) for the information officers of the entire region for the purpose of developing common programmes. In this framework for instance the Agency participated and contributed with the provision of a range of information materials to the participants of the Thessaloniki Summit on the EU-Balkans in June 2003.

3.3.3 Coordination meetings

The Agency also hosts regular co-ordination meetings with the locally based representatives (assistance) of EU Member States in Belgrade, Pristina and Skopje – and also since late 2003 in Podgorica - (EC Delegations are also involved with these meetings). Meetings allow for information sharing, co-ordination of assistance actions, and the development of shared EU positions on assistance related matters.

4 **PLANNING AND OTHER MANAGERIAL PROCESSES**

The main responsibility of the Agency is the implementation of Community assistance to Kosovo, Serbia and Montenegro and the former Yugoslav Republic of Macedonia (Art.1). To achieve this objective, Article 2 of the Agency Regulation indicates three main tasks:

- Data collection, analysis and communication
- Drafting of the annual action programmes based on the CSPs and MIPs
- Managing the implementation of assistance projects

The same article also opens the possibility for the Agency to:

- Implement projects funded by other donors
- Carry out eventual follow-up activities (monitoring, evaluation and audit) related to the EU support for UNMIK

In the following sections 4.1 to 4.3 a summary description is presented on each of these tasks assigned to the Agency.

4.1 Collection, Analysis and communication of data (Art. 2.1a)

Based on Art 2.1(a) of the Agency Regulation, the data to be collected, analysed and communicated to the Commission include:

- damage estimates, requirements for reconstruction and return of refugees and displaced persons, and related initiatives taken by governments, local or regional authorities and the international community;
- the urgent requirements of the communities concerned, taking account of the various population displacements and the possibilities for the return of those displaced; and
- the priority sectors and geographical areas requiring urgent assistance from the international community.

With regards to the above, the main thrust of the Agency has been the implementation of programming decisions in the area of reconstruction due to damage requiring urgent attention. Here below, an overview of how the above activities were carried out in Kosovo, Serbia and Montenegro and the former Yugoslav Republic of Macedonia.

4.1.1 Kosovo

From June to November 1999 the above mentioned organisations assessed the extent of the human, social and infrastructural damage in Kosovo, also taking account of the results of a decade of neglect of human rights and public institutions.

On the 3 November 1999, based on the above assessments, the EC and the *World Bank* (WB) prepared a Report titled “*Towards stability and prosperity: a programme for reconstruction and recovery in Kosovo*” which was considered at the 2nd Donors Conference for Kosovo in November 1999. This

Report outlined a recovery strategy, set overall goals and priorities, and provided an estimate of external funding requirements needed for each sector.

The Agency's annual work programme for 2000 was developed in parallel with the UNMIK strategy for reconstruction. This included the UNMIK Public Sector Investment Plan, which was based on the earlier EC and WB plan. The Agency's plan focussed on the most immediate needs for physical and economic reconstruction, but also intended to put the basis for longer-term development on initiatives aimed at fostering the private sector. The plan was unanimously approved by the GB on 27 April 2000.

The annual programme for 2001 included energy, transport, agriculture and enterprise development, housing, water and solid waste management as areas of assistance.

The GB however expressed concerns over issues such as the long-term strategic development plan of the EAR in Serbia and Montenegro and requested an analysis of social aspects in the various sectors, and the involvement of the local population in the decision-making process. Consequently the Agency recruited a social policy expert and produced a document entitled "*On the Inclusion of a Social Dimension and the Strengthening of Local Capacity*", the Agency specifying that Kosovars should be involved in every stage of the design and implementation of the programme. In March 2001 the social dimension of the Agency's programme in Kosovo was presented by the Agency's social expert in Pristina, through three social impact studies on the Agency's agriculture programme, on the situation of women in the rural economy and on housing reconstruction. These studies, "snapshots" of a particular period in programme implementation in Kosovo, were further elaborated and their findings incorporated in future projects as social dimensions to programmes.

Since 2002 the action programme is prepared in accordance with the sectors and priority areas of assistance identified by the Commission in the Country Strategy Paper for 2002-2006 (Serbia, Kosovo and Montenegro) and the multi-annual indicative programme (MIP) for the period 2002-2004.

4.1.2 *Serbia and Montenegro*

In October 2000, following extension of its mandate to cover Serbia and Montenegro, the Agency provided information and assisted the Commission in putting together a €180 million Emergency Assistance Programme for Serbia, providing informal advice and collaborating on the preparation of priority programmes for the most pressing areas of need in Serbia.

Earlier projects, which began in October 1999 to assist the democratic Serbian Municipalities ("Energy for Democracy") and then in July 2000 ("Schools for Democratic Serbia"), were subsequently extended to all municipalities. The Agency assisted in preparing the several programme components²⁵.

Since the beginning of 2001 the EAR has not systematically reported on damage, urgent reconstruction requirements, or those geographical areas in need of urgent assistance from the international community, as the damage assessment and urgent reconstruction programmes have been replaced by programmes in the areas of good governance, institutional and capacity building and social development.

²⁵ European Agency for Reconstruction Annual Report 2001 for the European Parliament and the European Council, Final version, 19/04/2002.

In the Republic of Montenegro, the Agency accelerated key improvements in basic infrastructure, buildings roads, bridges, and schools. Increasingly, it gave more impetus to the reform of central and local administration.

4.1.3 *The former Yugoslav Republic of Macedonia*

The Agency's mandate in the former Yugoslav Republic of Macedonia emphasized the need to support a specific emergency situation as well as to support the implementation of the Framework Agreement signed in Ohrid on 13 August²⁶.

The 2002 work programme of the Agency included three components:

- 1) the Rapid Reaction Mechanism (RRM 1 and 2) and CARDS Emergency Assistance Programme
- 2) the inherited PHARE backlog
- 3) the CARDS action programmes 2001 and 2002

With regards to data on physical damage and urgent remedial measures needed, an initial assessment of needs and damages undertaken by Agency experts led to the first RRM financing decision of € 2.5m programme adopted on 8 May 2001. A further needs assessment of the physical reconstruction (by the Agency) and of priority areas for support to institutional reform and civilian administration (by the EC Delegation) led to the second RRM financing decision adopted on 3 October 2001. Needs and damage were completed in the autumn by the EC-funded International Management Group (IMG) in conjunction with National and Local authorities. The requirements for reconstruction and return of displaced persons were set by the Government and the International Community (including the EU Special Representative), the latter involving the return of 75,000 Internally Displaced People and Refugees, following a European Parliament mission in June 2001 and the signature of the "Ohrid" Framework Agreement in August 2001.

The Agency made the final choice of reconstruction areas and priorities, once they had been discussed and co-ordinated with the authorities as well as other important donors (UNHCR, OSCE, etc). Additionally, a social assessment and clear identification of the beneficiaries were carried out in co-operation with the Ministry of Labour and Social Policy to provide financial assistance to families hosting Internally Displaced Persons and Refugees, drawing on UNHCR experience.

The speed of implementation was helped by the effective role that the EC Delegation played in identifying the key areas of policy in which the government needed assistance. In this they were considerably helped by the long-standing relationships they had already established with the governments officials and Ministers in the implementation of the long-term EC assistance programmes, and the close working relationship they were subsequently able to build with the EU Special Representative.²⁷

²⁶ Council Regulation No 2415/2001

²⁷ Rapid Reaction Mechanism End of Programme Report – November 2003

4.2 Preparation of the draft annual action programmes in accordance with Commission guidelines (Art. 2.1b)

4.2.1 The Overall Programming instruments

The programming of the Agency is based on the Art. 3 of the CARDS Regulation, the Commission aid programming cycle²⁸, and the Interservice Agreement between DG RELEX, DG DEV and EuropeAid of June 2001. It includes three basic elements:

- **A Country Strategy Paper (CSP)**, in the case of CARDS for the period 2002-2006, which provides a framework for EU assistance programmes based on EU/EC objectives, the partner country government policy agenda, an analysis of the partner country's situation and the activities of the other major partners, and sets priorities and guidelines on selection of areas of assistance in the partner country. The continued relevance and effectiveness of a CSP is to be regularly assessed by the Commission and could lead to an update or modification of the CSP if necessary. The CSP constitutes the strategic framework and is prepared by DG RELEX.
- **Multi-annual Indicative Programme (MIP)**, for a three-year period (currently for CARDS from 2002-2004), specifies the priority areas for action within and across sectors for each country-entity and includes indicative resource allocations (budgets) by year as well as for the identified priority sectors. As necessary, the MIPs may be updated on a yearly basis, that is if experience or events should make it appropriate. Also this document is prepared by DG RELEX and is part of the reference guidelines for the Agency mentioned in Art. 2(b) of the Agency Regulation.
- **Action Programmes (APs)**. The APs are closely based on the MIPs and include detailed objectives for the assistance to be provided, including a detailed list of projects to be implemented, with corresponding budgets. The Action Programme is the responsibility of the Agency.

The starting point for the annual programming of EAR's activities and its four OCs basically consists of two sets of documents:

- (a) The CSP 2002-2006 for the Federal Republic of Yugoslavia (FRY)
The MIP 2002-2004 for the Federal Republic of Yugoslavia (FRY)
- (b) The CSP 2002-2006 for the former Yugoslav Republic of Macedonia
The MIP 2002-2004 for the former Yugoslav Republic of Macedonia

The annual action programming process has developed considerably since the first annual programmes were elaborated and established in 2000 in Kosovo (which took place prior to the establishment of the CSP's and the MIP's for the countries concerned).

After the first years of operation (2000 and 2001), following the MIP 2002-2004 priorities the Agency's activities and the character of the planning and programming have gradually shifted from infrastructure and reconstruction activities towards a greater focus on institutional development and capacity building. This has led to a gradually growing complexity in respect to the planning process itself, and possibly also required a relatively higher input of planning and

²⁸ Programming Manual, Directorate General for External Relations, September 2001 and

management resources to achieve a certain output of the Agency in terms of funds committed and spent.

From an initial planning period of relatively few months, the annual planning process has become more complex and now requires almost a full year of planning.

TABLE 1 - MULTI-ANNUAL INDICATIVE PROGRAMME (MIPs) FOR SERBIA, MONTENEGRO, KOSOVO AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA- PRIORITIES SECTORS AND INDICATIVE AMOUNTS- 2002-2004

Sectors	FRY		
	Serbia	Kosovo	Montenegro
Governance and Inst. Building			
a. Justice and home affairs	28	16	3
b. Customs & taxation	17	8	3
c. Publ. adm. reform & statistics	72	32	6
Econ. Reconstruction and Reform			
d. Energy	187	80	5
e. Transport	97	6	4
f. Environment	28	12	6
g. Economic development	116	44	7
h. Housing		16	
Social and Civil Society			
i. Education and VET	32	13	2
j. Tempus programme	12	3	2
k. Civil Society and NGOs	15	7	1
Other			
l. Agency's administrative costs	32	20	4
m. Spec. assistance and studies	15	5	2
n. Transfer to UNMIK		8	
Total maximum indicative budget	615	245	45

Sectors	FYROM
Democracy and Rule of Law	
a. Inter-ethnic relations and Civil Society	9
Economic and Social Development	
b. Private and financial sector & approx. to internal market	11
c. Trade	14
d. Development of local infrastructure	30
e. Social cohesion	6
f. Tempus programme	9
Justice and Home Affairs	
g. Reform of the judiciary	4
h. Immigration and asylum	4
i. Fight against crime	5
Environment and Natural Resources	
j. Environment	4
Other	
k. Agency's administrative costs 1)	12
l. Reserve	2
Total maximum indicative budget	110

1) Include costs of managing ongoing 1996-2001 projects (>100 mill €)

4.2.2 The Programming Process

The programming process can be divided into four main phases:

- Project and programme identification
- Preparation, consultation and finalisation phase

- Approval Phase
- Conclusion of Financial Agreements

A detailed overview of the stages, activities, responsible parties and approximate timing of the programming process of the EAR can be found in Table 2 at the end of this section. The overview is based on the actual 2004 programming process, on interviews at the Commission, the EAR's Headquarters and the OC in Kosovo and on the documentation made available to the team. Below is given a brief description of the phases indicated above .

Projects and Programme identification

This phase includes the initial identification of projects and programmes to be included in the following year's Action Programme (AP). The starting point and general framework for this planning activity are the sector priorities and the maximum budgets set out in the MIP. A preliminary timetable for finalisation of the AP is also set. For a given AP, the planning process normally starts early in the year before (i.e., in the month of February 2003 for the 2004 AP)

Preparation, consultation and finalisation phase

This phase runs until about the end of November. Project concepts are developed and elaborated, using available reports produced by other donors or organisations (for instance reports produced by UN agencies). Detailed, brief descriptions of all proposed projects, including indicative amounts ("Project Fiches") are elaborated and incorporated. Where the needs and type of intervention required are not clear, the Agency launches technical studies using the Commission framework contract, or other specific thematic facilities (such as OECD SIGMA group for public administration reform).

These studies are launched around March-April and serve to prepare the "*Project Fiches*" and are the basis for the later preparation of the Terms of Reference. Before launching these studies a discussion of the project outline is held with the national stakeholders. Consultation with the Commission, mainly DG RELEX, was reported to take place throughout this process, but not in a formal way, depending rather on the sensitivity of the issue in question and the interest shown by the Commission.

During the preparation of the "*Project Fiches*", consultation is also carried out locally. Documents are circulated, discussed and revised in a comprehensive consultative process involving a wide range of parties, including beneficiary authorities, institutions and groups, local representatives of Member States, other donors, UNMIK, etc.

A draft AP text document and draft project fiches are prepared and submitted to EuropeAid and DG RELEX services for review and comments, before the launching of an Inter-Service Consultation with the other Commission services.

The inter-[Commission] service consultation is also carried out under the responsibility of EuropeAid in which the near-final draft AP - including the "*Project Fiches*" with budgets for all projects - is circulated to all DGs of the Commission for comment. Based on the responses from the DGs the Final Draft AP is completed by December.

Approval Phase

Typically in December the draft final AP is presented to the Governing Board for comments. Following the inclusion of possible recommendations from the GB, the AP is then presented to the CARDS Management Committee for opinion.

While the APs are presented to the GB in English, they need to be translated into the EU official languages for transmission to the CARDS Committee which requires the translated documentation to be available three weeks ahead of the meeting. The translation process therefore starts before the GB meeting, with subsequent corrigenda to reflect any GB requests for adjustments to the text.

Following the agreement of the CARDS Committee, the APs are finally approved by a Commission Decision. The approval phase takes around 3-5 months.

TABLE 2 : THE ACTION PROGRAMME PREPARATION PROCESS: THE CASE OF 2004

The Annual Action Programming Process	Responsible	Comments	Approval	Milestones / duration
Following consultations with EuropeAid on submission dates to the Commission, the EAR sets an internal timetable and steps for the annual action programming process.	EAR	The initial timetable may be adjusted during the programming cycle	-	February (2003)
On the basis of the priorities of the CSP/MIP and PM knowledge of sectors the Programme Managers - consult with ministries, relevant donors (particularly EU Member States), partner organisations and other beneficiary bodies to identify, develop and appraise project concepts for possible inclusion in the 2004 action programme:	EAR	The EAR Director is informed early on project concepts for potential inclusion in the annual action programme, and continues to be consulted on the development of the AP throughout the programming process.	-	February - July
EAR Programme Managers develop and propose alternative project concepts for each MIP sector for potential inclusion in the 2004 action programme.	EAR	EAR Programming coordinators in each OC, provide a template for the concept notes	-	
EAR holds Thematic Group Discussions within each OC and at the inter-OC level to improve the quality of projects and programmes.	EAR	The thematic group discussions build on earlier inter-OC meetings of operations staff	-	March - ongoing
EAR Programming Coordinator and the Head of Centre at each OC appraise the project concepts to ensure agreement with the (i) CSP/MIP and the (ii) SAP country report (incl. SAP Tracking Mechanism recommendations in the case of Kosovo), and (iii) the priorities of beneficiary authorities. The	EAR	An informal Programme Manager peer review of the project concepts is also undertaken, including through EAR Thematic Group meetings.	-	March - July

The Annual Action Programming Process	Responsible	Comments	Approval	Milestones / duration
proposed projects are also reviewed for EAR cross-OC and cross-sector coherence and coordination.				
EAR Programming Coordinator compiles a ' Draft Summary Outline of Projects for the 2004 AP ' for review and internal agreement at each OC and inter-OC levels, and with the EAR Director.	EAR	The Draft Summary Outlines also identify the necessary steps to develop the project (e.g. preparatory design studies). The Summary Outline is regularly updated to reflect the continuing development of the proposed annual programme.	-	April - October
EAR Programme Managers and the Programming Coordinator share the draft project descriptions with the following for comments and feedback: <ul style="list-style-type: none"> • EAR Finance and Procurement unit • The EAR Evaluation Unit who provides feedback on the applications of the findings and the lessons learned from past evaluations. • Thematic group members • Monitoring staff • The EAR social advisor on ethnic minority and gender inclusion. 	EAR	The EAR procurement services ensure compliance with the new EC Financial Regulation, and the advance resolution of procurement issues that may arise during the subsequent tendering, contracting and implementation stages.	-	April - November
EuropeAid provides the templates for the annual action programme (a) main text document and (b) project fiches, and forwards to the EAR.	EuropeAid		-	July - September
The EAR Programme Managers draft project fiches , including logical frameworks, for each of the proposed annual projects for internal review, comment and updating.	EAR	This step is done in consultation with project partners and beneficiaries. Where relevant, sector experts are often contracted by the EAR to assist the development of the project design and terms of reference. In the case of Kosovo, a number of projects were jointly developed with EU Member States.	-	August - October
EAR Programme Managers advance preparation of tendering documents (e.g. procurement forecasts) related to the 2004 AP	EAR	Contracts under the 2004 AP can not be signed until the Financing Agreement is signed.	-	October - on-going
EAR Programming Coordinator	EAR		-	October -

The Annual Action Programming Process	Responsible	Comments	Approval	Milestones / duration
drafts the Action programme main text document for internal review, including by the EAR Director and the Head of Programming/Quality Assurance				November
EAR Programming Coordinator, in coordination with the EAR Head of Programming, liaise with DG RELEX on any changes to the MIP 'Resource Table' that DG RELEX may need to propose to the CARDS Committee.	EAR	<i><u>Specific to the 2004AP:</u></i> <i>The extra €15 million 'Thessaloniki' funds for Kosovo necessitated the raising of the 2004 MIP sector resource ceiling for a number of sectors.</i>	-	April-December
EuropeAid drafts and submits to the EAR main text sections and the project fiches for projects managed directly by the Commission (i.e. Customs and TEMPUS)	EuropeAid		-	October - November
EAR Programming Coordinator forwards a draft of the action programme documents (main text plus project fiches) to EuropeAid and DG RELEX and the EC Delegations/EU Pillar of UNMIK.	EAR	The draft Main Text incorporates informal comments/feedback from EuropeAid, which are provided on an earlier advance copy of the Main Text.	-	
EuropeAid and DG RELEX services review the AP documents and provide comments	EuropeAid, DG RELEX	The EC Delegations coordinate their comments from DG RELEX.	-	
EAR programming coordinator incorporate comments and send the (i) updated Action Programme main text documents and (ii) the set of project fiches to EuropeAid for the inter-service consultation process	EAR	AP documents are copied to DG RELEX	-	November - December
EuropeAid launches the inter-service consultation (ISC) , in which the Draft AP is distributed to a wide range of DGs and other Services of the Commission for comments. The DGs and Services have two weeks to provide comments.	EuropeAid	The communication on the draft AP takes place via the Commission's CIS-Net, where the draft AP is shown and where comments can be written and displayed in an open process. Normally, many DGs have comments.	-	December
EuropeAid forwards the received replies/ comments from the ISC to the EAR OCs on a rolling basis.	EuropeAid		-	
EAR prepares a note responding to the comments received, including (i) how the comments will be taken into account in the preparation of the Action Programme, and (ii) any changes to the main text and project fiches in response to the comments.	EAR		-	

The Annual Action Programming Process	Responsible	Comments	Approval	Milestones / duration
A new Final Draft AP documentation , for each OC is forwarded by each EAR OC to EuropeAid.	EAR		-	
EuropeAid releases the Action Programme main text document to the Commission's translation services.	EuropeAid	The translated versions must be submitted 14 working days before the CARDS Committee meeting. The language regime of the Cards Committee includes 11 languages (prior to the accession of new EU Member States).	-	
The Final Draft of all the EAR 2004 Programme Documents are submitted to the EAR Governing Board	EuropeAid	The AP documents must be submitted a minimum of 10 days ahead of the meeting, however, the documents are normally submitted a few weeks ahead of the meeting.	-	January
Meeting of the EAR Governing Board to comment on, and endorse the Action Programme.	EAR/DG RELEX	Proposed modifications are noted at the meeting, and the AP documents are subsequently updated, as necessary	Endorsement by the Governing Board	January 23
Presentation of the AP to the CARDS Committee (subject to the incorporation of any proposed modifications).			Opinion by the CARDS Management Committee	February 20
Commission Decision for the Annual Programme.	EuropeAid		Formal Adoption by the Commission	March – May
Signature of the Financing Agreement for each of the Action Programme by the Commission and the beneficiary authority.	EuropeAid		Commission & beneficiary authority	April – May

Source: Interviews with the Commission, EAR HQs and OC in Kosovo, December 2003

4.3 *Implementation of Community assistance in terms of the eight aspects of the project cycle described in Article 2.1(c) of the Agency Regulation*

4.3.1 *Drawing up of Terms of Reference*

The ToRs are prepared on the basis of the "Project Fiches" which already include the budget and the log frame. The elaboration of some ToRs may be already ongoing from around November, after a first round of consultations on the draft project fiche is completed. A significant amount of the subsequent detailed preparatory work is carried out through engagement of external consultants (detailed project identification and documentation, feasibility studies, etc.), including the elaboration of draft ToRs. The use of external consultants depends also on the type of project and expertise of the Programme Manager, who is in any case responsible for their finalisation.

Before the launching of tenders all draft ToRs are reviewed by the Head of Operations, and/or his nominee (and regularly by EAR monitors and the lead economist, as appropriate) for their technical content and consistency (including clear objectives, activities, outputs and log frames) and their compliance with the financing proposals. Often the reviews result in substantial changes of the ToRs. Furthermore the ToRs are checked by the Procurement and Contracts Unit before launching, in particular for tender relating to supply of equipment. The Procurement and Contracts Unit also helps in defining the tendering planning so as to limit possible procedural constraints. Apparently some differences exist in this respect between the centres.

Consultation with the Commission on the drafting of ToR is not systematically planned. It could take place on a project in an area of interest and consultation is mostly with DG RELEX. The exchange of ToR with other Delegations operating in the region has also been reported, but this is not yet a fully established practise.

4.3.2 *Preparing and Evaluating Invitations to Tender*

The tendering procedure is not normally launched before the APs (and project fiches) have been discussed with the GB. Standard Commission procedures apply to the tendering process, i.e. tender forecast, procurement notice, expressions of interest, short-listing, preparation and submission of tender dossier, invitation to tender, clarifications, tender opening and tender evaluation. However, compared to the Delegations of the region, an important difference is represented by the fact that the Agency has been allowed the possibility of launching the tenders with the “*Suspensive Clause*”. This allows the Agency to start the tender process before the formal approval of the APs by the CARDS Committee.

For each tender an evaluation committee is appointed with at least three evaluators (often two from the Agency and one from the beneficiary institution or organisation). At least three offers are evaluated on technical and financial parameters.

In addition to the standard procedures EAR administrative instructions are issued specifying certain aspects of the tendering process.²⁹ The Procurement and Contract Units thus have the overall responsibility for the management of the tendering process. Further, according to the administrative instructions, the Head of the Procurement and Contract Unit appoints the chairperson of the evaluation committee while the administrative departments or the operational units propose the committee members. The Head of Centre endorses the composition of the evaluation committee for all contracts above € 2m and, similarly, the EAR Director endorses it for all contracts above € 5m.

4.3.3 *Awarding Contracts*

As an independent agency EAR has the power to sign all contracts related to its operations. In principle contracts must be signed by the EAR Director, but he can delegate these powers to subordinates.

The Head of Centre is delegated by the Director of the Agency the responsibility for tendering and contracting and is empowered to sign on behalf of the Director the following:

²⁹ Instruction No. 9, Tender Process and Evaluation Committees, European Agency for Reconstruction (1 October 2002, revised 17 February 2003)

1. Assistance contracts up to € 5m, following a tender procedure or an exceptional procedure approved by the Director;
2. Evaluation and short list reports;
3. Addenda with positive value approved in accordance with the Practical Guide;
4. Purchase orders for Title II for budget lines of the respective OC.

Exceptions on procurement procedures are proposed by the Head of Centre to the Director for decision. The Director may delegate on an *ad hoc* basis the decision to the Head of Centre.

The Head of Operations of the Centre also receives a delegation from the Director of the Agency and is empowered to sign on behalf of the Director the following:

1. Requests for services and letters of contract under the Framework Contract for short term experts for assistance;
2. Assistance Contracts up to € 1m following a tender procedure or an exceptional procedure previously approved by the Director;
3. Addenda without financial implications; and
4. Evaluation reports for assistance with at least three offers left for price comparison and short list reports.

In addition, the Heads of Centres and the Heads of Operations may receive sub-delegations for the signature of contracts through *ad hoc* sub-delegations.

The documents to be signed by the Head of Centres and Head of Operations under the delegation received from the Director of the Agency require also the endorsement of the respective Head of Procurement and Contracting Unit prior to its signature. Under these delegation procedures the Heads of Procurement and Contracting Units are empowered to:

1. Initiate the publication of forecasts and tender notices, approve complete tender dossiers and send them to the Tenderers (including clarification notes); and
2. Sign side letters.

Thus, for example in Pristina, the right to sign contracts lies with the Head of Centre and the Head of Operations and the Operation Coordinator (Deputy Head of Operations). This applies to contracts up to € 5m. Contracts in excess of these amounts as well as all grant agreements still require the signature of the EAR Director.

Previously, Commission contract formats were used for service and supply contracts, while the *International Federation of Professional Engineers'* (FIDIC) format was used for "works" contracts. This has changed as EAR now uses the new Commission contract format for work that was introduced in late 2001/early 2002.³⁰

The contracting activity of EAR is considerable. In 2000 EAR concluded 324 contracts; 814 contracts in 2001, and 418 contracts in 2002.³¹

4.3.4 Conclusion of Financing Agreements

The signing of the Financing Agreement (FA) by EuropeAid and the beneficiary government marks the final step for each annual programming process, and signals that the programme funds can be released. The drawing up of the FA documents and the subsequent procedures related to the signing of FA lie with EuropeAid and require little or no input from EAR. FAs are often signed several months into the actual calendar year of the AP.

4.3.5 Programme Monitoring and Evaluation

Monitoring

Monitoring officers have been present in the Agency since the beginning. In Pristina a monitoring unit has existed since the period of TAFKO. Following the approval of monitoring guidelines by the Governing Board³² in September 2000, the OC in Pristina set up a Monitoring Unit staffed with three international staff and two local staff. Monitoring Units were subsequently created in Belgrade in 2001 and in Skopje in 2002, although no monitors were planned for the smaller Podgorica OC³³. Initially part of the Operation Unit, the monitoring function has recently been more clearly linked to the Quality Assurance function (see organisational chart of 2003).

The Pristina and Belgrade OCs agreed, in April 2002, on a set of monitoring guidelines³⁴ based on the principles of the initial monitoring guidelines approved by the Governing Board in September 2000. The guidelines foresee two types of monitoring:

- **Project implementation Monitoring** which envisages three types of reports per programme: Inception, Progress and End of Project Assessment; a contribution to the Monthly Agency Report; and a Monitoring Database report with a summary of the monitoring report comments including the key observations of the actions required.
- **Contract Monitoring**, for coordination and monitoring of pre-contracting and contracting activities in close cooperation with the Contract Units.

It is uncertain however to what extent these guidelines have been followed by these two OCs.

³⁰ A criticism was made as to why the Commission had 'tried to re-invent the wheel' instead of keeping the internationally well-known and recognised FIDIC format for works. Problems caused by this change were reported to the evaluators in a waste-management related project in the Northern part of Kosovo.

³¹ EAR Annual Reports 2000 - 2002

³² "Monitoring Unit Role within the Agency, European Agency for Reconstruction" (undated), approved by the Governing Board, September 2000

³³ Ref. The Agency and its OC organisational chart, 2000, 2001, 2002 and 2003

³⁴ Practical Implementation Guidelines for Monitoring Activities, European Agency for Reconstruction, Operations Division, Pristina, April 2000

In Skopje, the monitoring system based a one-page monitoring sheet designed to provide key information on the project at three stages of the project cycle: (a) inception; (b) progress (to be used regularly); and (c) end of project assessment, started in August 2003³⁵.

Apparently, all OCs run similar internal systems to follow-up on tendering and contract implementation activities.

In Pristina the internal project tracking and monitoring system is based on:

- **Weekly** written comments from the Programme Managers on the progress of all projects including progress or changes in tendering and contract activities. This information is entered into standardised project sheets and tender planning sheets. These sheets serve as a background for a weekly planning meeting between the Head of Operations, the Coordinator of Operations, and the Head of Finance and Procurement Unit, where achievements of previous week are checked, and possible problems identified and measures taken, as adequate.
- **Bi-weekly** meetings take place with all Programme Managers and the Head of Centre, in which achievements and possible problems with the progress of projects as well as the overall programme are discussed.

In Skopje the *Information Technologies* (IT) Unit has established a database for all projects with the possibility of following up on quantitative indicators agreed with the Programme Managers. A “*Tableau de Bord*” application combined with information from SINCOM provides a regular and accessible report on budgets, commitments and disbursements, which is used as a monitoring tool by all sectors³⁶. In parallel, however, each Programme Manager still designs his/her own monitoring and planning tool to follow-up on their individual projects. Each Programme Manager prepares on a monthly basis a brief progress report in a template format³⁷ which is presented and discussed at a Sectoral Monthly Meeting with the Head of Centre or the Head of the Programming and Quality Assurance Unit, the Monitoring Unit and the Procurement and Contracting Unit. Progress of all contracts within the sector is reviewed (project preparation, contracting and disbursement) and outstanding balances are monitored against budgeted figures.

Monitors are also in charge of collecting information about the previous three months’ activities as provided by the regular project progress reports and the Programme Managers³⁸, which is used for the preparation of the quarterly report to the European Parliament.

At the *project level* the individual Programme Managers in all OCs play a key role for the monitoring and follow up. Projects are especially monitored through:

- reviews of the regular progress reports from the individual projects and contractors on the basis of the Inception Report, prepared by the team leader of the contacted firm;

³⁵ Interviews carried out in Skopje in December 2003

³⁶ “*Tableau de Bord*” (updated 01/12/2003)

³⁷ As examples of the template used, reference is made to Progress reports for November 2003 of contracts n°01/MAC03/01/015 “Cash Assistance to families hosting IDPs and refugees”, and n°02/MAC01/07/001 – EUROPAID/117131/D/SVMK “Establishment of National Integrated Phytosanitary System”

³⁸ Summary of assistance under Border Management, Fighting against Crime, and Police Assistance programmes and state of play (the former Yugoslav Republic of Macedonia – 8 December 2003)

- participation in regular project Steering/Working Group meetings³⁹, which include the contractor and representatives of the national counterparts; and
- field visits and/or meetings with project staff and beneficiaries.

Programme Managers are also requested to update the section “Implementation Issues” of a SAP matrix⁴⁰, which lists the Agency projects against each of the most recent SAP recommendations. The matrix is sent to the EC Delegation as a contribution to their “*SAP Monthly Report*”.

In 2003 some initiatives have been taken at a cross-centre level:

- Monitoring Units have been staffed in each OC with one international staff member and one local staff member as an average;
- A cross-centre monitoring meeting was held between the monitors from the four OCs in May 2003 with the aim of harmonising the monitoring practices of the OCs;
- “Ad hoc” trainings for the Monitoring Units have been initiated; and
- A Monitoring Coordinator to be recruited in EAR’s Headquarters in Thessaloniki.

Evaluation

The Agency conducts regular assessments of its operational programmes. The evaluations are carried out on the basis of the Agency Evaluation Guidelines which are built on the OECD’s Development Aid Committee’s (DAC) evaluation criteria of relevance, efficiency, effectiveness, impact and sustainability. According to the guidelines, “evaluations contribute to three basic functions: Accountability (making sure that public institutions are held responsible for their performance); Allocation (making sure that resources are allocated to activities which contribute most effectively); and Learning (making sure we learn from our success and failures, to do things better)”⁴¹.

The evaluations are carried out by the Evaluation Unit itself or with assistance of external experts, and in some cases in collaboration with other donors. The Unit is based in the EAR’s Headquarters in Thessaloniki and comprises three international staff and two local staff. Created in 2001, it is currently part of the Programming and Quality Assurance Division.

Each year an Annual Evaluation Plan is prepared including the projects to be evaluated and a corresponding timetable. Projects to be evaluated are selected using the following criteria:

- Projects with a significant share of the programme budget;
- Projects with significance for long term development;
- Projects where the monitoring reports have shown constant delays in implementation, financial weaknesses or other problems; *and*
- Projects which are to be repeated.

³⁹ Minutes of the Inter-Ministerial Working Group for the Creation of an Integrated Border Management System for the former Yugoslav Republic of Macedonia, 12 November 2003

⁴⁰ Stabilisation and Association Process Report and Commission Projects addressing recommendations.

⁴¹ EAR Evaluation Guidelines, May 2001, § 2: the concept of Evaluation

By the end of 2002 the EAR had conducted sixteen evaluations (including three reviews/joint missions).⁴² The total value of programmes covered by these evaluations was € 681.5m, amounting to around 40% of the Agency's total portfolio of EC assistance.

In addition to the above, five evaluations are included in the evaluation plan for 2003:

- non-financial support to SMEs in Serbia;
- support to SMEs in the former Yugoslav Republic of Macedonia;
- the housing programme in the former Yugoslav Republic of Macedonia;
- legal aid to Kosovo; and
- water supply and waste management in Kosovo.

The Agency's evaluation programme for 2003 has introduced *thematic evaluations* carried out across the Agency's four OCs (covering both support to economic/SME development and institutional capacity building). These thematic evaluations are planned to be completed in early 2004.

The findings and recommendation of the evaluations are presented and communicated to the relevant Heads of Operation and sector Programme Managers. They are also fed into the design of the Agency's operational programme proposals for future EC APs. Therefore, the feedback from the evaluations becomes lessons applied in the design and implementation of new projects thus, "*enabling past lessons learned to be applied in the design and implementation of new projects*".⁴³

4.3.6 *Effecting payments*

All payments are handled by the Finance Section of the OCs and common rules have been established for the processing and execution of payments.⁴⁴ The process involves four main steps:

- i) All invoices are checked by the Finance Section of the OC for compliance with the financial and legal provisions of the contract and for accuracy of the calculations;
- ii) The Authorising Officer (mostly the Programme Manager) checks that the services or goods have actually been delivered in accordance with the contract and approves and signs it;
- iii) An accountant or deputy accountant endorses the payment; and
- iv) The Finance Section makes the payment.

Various procedures apply in "not clear-cut cases", i.e. in cases where the invoice is not compliant with the technical requirements (missing or not correct information, etc.), or if the services have not been fully delivered.⁴⁵

⁴² These evaluations can be found at EAR website: <http://www.ear.eu.int/publications/publications.htm>.

⁴³ Quarterly report to the European Parliament (July to September 2003), European Agency for Reconstruction, October 2003 p. 18

⁴⁴ "Instruction No 2: Payments in Operational and Administrative Expenditure". European Agency for Reconstruction (8 June 2000, revised 25 November 2003)

⁴⁵ E.g. a "Notification of Disputed Invoice" – form may be prepared and sent by the Finance Section to the contractor in cases of non-compliance with the technical provisions. Also, the Authorising Officer may request additional information from the contractor or the officer may give a "partial acceptance" in which case the officer shall clearly identify and explain the items denied. In cases of non-compliance or if additional information is

The OCs use a common IT system for keeping track of payments and for accounting (the Commission SINCOM's SI2 version of the system). The system was implemented in November 2001. An extension to the system is available that includes tools for project management purposes.

Since its start the EAR has made 1,200 to 2,600 project payments each year. In the same period the average time between receipt of invoices and payment is between 10-15 days.⁴⁶

Since mid-2001 all EAR OCs have been linked together in an Intranet-system. The system, which is continuously being developed and upgraded, includes for example financial Regulations, administrative procedures, OC policies and so on, and also serves as a channel for distribution of general information within the EAR.

4.3.7 Donor Coordination

The Agency initiates and cooperates and participates in all donor coordination meetings initiated by the EC Head of Delegation or in other initiatives undertaken by other donors such as the World Bank or UN⁴⁷.

In the particular situation of Kosovo, the Agency's coordination with other donors has been achieved through:

- Agency-convened bi-weekly meetings of EU Member State representatives in Pristina, to discuss programme priorities and bilateral programmes;
- Participation in the regular and ad-hoc meetings convened by UNMIK and government, especially the Ministry of Finance and Economy; and
- Participation in the regular and ad hoc meetings convened by UNMIK and government, especially the Ministry of Finance and Economy, and other agencies to ensure consistency with UNMIK priorities; and day-to-day informal contacts with the main donors in each sector.

Other donor coordination meetings have been arranged for individual sectors, such as in the past the UNMIK-chaired bi-weekly meetings on housing reconstruction. These meetings have proved essential in reducing fragmentation in planning, and reducing the risks of overlap between programmes.

4.3.8 Summary of reported results

By the end of 2003 the Commission had committed some € 210.2m for the former Yugoslav Republic of Macedonia, € 904.1m for Kosovo, € 71.2m for Montenegro, and € 778.2m for Serbia for a total of € 1,963.7m. Of these sums the rate of disbursement by the Agency was approximately 49% for the former Yugoslav Republic of Macedonia, 83% for Kosovo, 78% for Montenegro and 64% for Serbia.

requested, the 60 days invoice payment deadline is suspended and held pending until sufficient information is submitted by the contractor.

⁴⁶ Annual Reports to the European Parliament and the Council 2000 – 2002.

⁴⁷ Interviews carried out in Skopje and Pristina in December 2003

Out of € 1,963.7m committed in total, since its creation the Agency has globally contracted € 1,750.5m and disbursed € 1,408.7m, resulting in an overall disbursement rate for the Agency of 72%.⁴⁸

This disbursement rate varies from a low of 40,45% for Environment Projects to a high of 99,33% for projects identified as Posts and Telecommunications [see Volume III, Annex D for details]. It is worth noting that more than 43% of the funds disbursed by the Agency have been in the energy sector. If we consider the projects in sectors such as energy, housing, transport, infrastructure, agriculture, water, and solid waste, which were initially in large part for assistance in construction, buildings and equipment, though more recently including “softer” actions, they represent between 70% and 75% of the aid money disbursed by the Agency to date.

The below tables illustrate the above results.

Table 3 IMPLEMENTATION STATUS OF FUNDS MANAGED BY EAR BY YEAR AND OPERATIONAL CENTRE (IN MILL €), 1997-2003

Year of commitment	Operational Centre in Belgrade			Operational Centre in Podgorica			Operational Centre in Pristina			Operational Centre in Skopje		
	Committed	Contracted	Paid	Committed	Contracted	Paid	Committed	Contracted	Paid	Committed	Contracted	Paid
1997	0	0	0	0	0	0	0	0	0	19.321	19.118	17.114
1998	3.608	3.608	3.608	3.928	3.928	3.928	6.799	6.799	6.799	22.899	22.841	22.373
1999	6.827	6.827	6.637	8.049	7.925	7.394	115.542	113.843	113.071	21.800	21.281	13.467
2000	183.293	181.984	181.984	19.000	18.966	18.562	432.756	429.744	417.075	20.203	13.891	9.550
2001	193.825	193.772	183.246	16.300	16.253	13.958	144.564	136.001	115.387	58.953	48.328	34.316
2002	170.708	153.634	100.844	11.967	11.658	8.681	158.400	140.830	93.499	33.500	20.858	6.805
2003	220.000	146.953	22.387	12.000	8.749	3.124	46.000	22.445	4.492	33.500	352	197
1997-2003	778.261	686.778	498.706	71.244	67.479	55.647	904.061	849.662	750.323	210.176	146.669	103.822

Source: Status of Assistance on 22 December 2003, EAR

Table 4 IMPLEMENTATION STATUS OF EAR FUNDS BY OPERATIONAL CENTRE (%), 1997-2003

	Committed (in mill €)	Contracted (in mill €)	Contracted / Committed	Paid (in mill €)	Paid / Committed
OC in Belgrade	778.261	686.779	88%	498.897	64%
OC in Skopje	210.176	146.670	70%	103.822	49%
OC in Pristina	904.061	849.662	94%	750.323	83%
OC in Podgorica	71.244	67.479	95%	55.648	78%
Agency-wide	1.963.742	1.750.590	89%	1.408.689	72%

Source: Status of Assistance on 22 December 2003, EAR

4.4 Implementation of programmes entrusted to the Agency by other donors

The Agency's mandate allows it to manage the programmes of other donors contributing to the reconstruction of the region, in particular in the context of the cooperation established with the appropriate financial institutions. Coordination of assistance for reconstruction with the Member States, *European Investment Bank* (EIB), the *International Financial Institutions* (IFI) such as the World Bank, the United Nations High Commissioner for Refugees and *Non-Governmental Organisations* (NGOs) is ensured by working together with them closely.

⁴⁸ Source: Status of assistance for the whole Agency, 22 December 2003

Programmes entrusted to the Agency include the following:

- € 0.5m from the Netherlands' government for road rehabilitation in Montenegro;
- € 4m from the Danish government for municipal development in the former Yugoslav Republic of Macedonia;
- € 23m from UNMIK for an energy project in Kosovo; *and*
- € 1m each from UNMIK and KFOR for roads projects in Kosovo.

The IFIs do not provide funds to the Agency. On the other side, the EAR makes available within the Action Programmes start-up funds or finances studies which provide the leverage that allows international financing institutions and other donors to further develop work and often to inject additional capital.

4.5 Resourcing and Resources Planning

As mentioned previously, the first Annual Working Plan of the EAR was presented to the Governing Board in March 2000. It was comprised of projects in the areas of:

- Energy
- Housing
- Transport
- Environment
- Health and
- Economic development⁴⁹

In accordance with this plan, in December 2000 the Governing Board adopted the 2001 staff table taking into account the imminent extension of the Agency's mandate to Serbia and Montenegro. This staff plan called for the recruitment of professionals with specific qualifications and experience in:

- Housing
- Energy
- Water and Sanitation
- Transport
- Institution building
- Training
- Health
- Agriculture
- Enterprise development and
- Monitoring

⁴⁹ EAR Annual Report to the European Parliament and the Council from January to December 2000

Since then the Agency has progressively adapted its skills mix to reflect the shift of Community assistance priorities from emergency reconstruction to institution building and other SAP priorities as set out in the CSPs for FRY (Serbia, Montenegro, and Kosovo) and the former Yugoslav Republic of Macedonia. This transition has had to be implemented in phases, as past assistance projects are still in the implementation phase, requiring a certain degree of continuity in staffing. The general trend in focus away from infrastructure to institution building is particularly evident in the recent recruitment of four experts in various aspects of institution building and European integration for the Good Governance Sector. The latest job descriptions also for infrastructure experts, for example in the energy sector, have taken into account these changing needs.

4.6 Knowledge Management

During the year 2003 the Agency established Thematic [Working and Discussion] Groups to improve the quality of its programmes' design and implementation. These thematic groups built on earlier inter OC meetings of operations staff which took place on a sector by sector basis.

At present the Thematic Groups operate at two levels:

- 1) Within an OC
- 2) Between OCs

With regard to the first modality, each Centre has elaborated its own proposals for thematic group initiatives to develop programme concepts and initiatives aimed at ensuring coherence and quality in the elaboration of new proposals.

At the inter OCs level the Thematic Groups provide a forum for:

- Exchange of ideas and information among colleagues working on similar or complementary assistance programmes by together building on, and learning from, each other's ideas;
- Joint review and debate on findings and recommendations of related programme evaluations, and consideration of operational responses with a view to applying lessons learned to current and new projects;
- Discussion of evaluation approaches, sharing of information on good practices under development, and joint setting of procedural and other guidelines and good practices for the various sectors;
- Brainstorming and opportunities to obtain feedback from others' ideas in what should be an open and constructive internal environment; and
- Identification of opportunities for synergy, cost-efficiency and fostering of the regional cooperation objectives of the SAP through joint OC projects or joint preparatory studies.

During 2003, five inter-OC Thematic Groups were convened in the following areas:

- Public administration
- Justice and Integrated Border Management
- Economic Development (including VET/Employment actions, rural economy, agriculture)
- Infrastructure & Environment (including energy, transport, water, waste)
- Social Development.

5 **ORGANISATIONAL ARRANGEMENTS AND STRUCTURE**

A reorganisation of the Agency structure, reflecting the evolution of the Agency's work, was approved by the Agency's Governing Board in February 2003. This reorganisation is aimed at improving coherence and guidance, and increasing accountability, speed and efficiency by the devolution of tasks and responsibilities to the lower levels of the organisation.

The reinforcement of horizontal tasks aims to provide the Heads of Centres with the required guidance from a central level in the interests of sound and harmonised management of programmes and resources. The newly created positions of *Internal Controller* and *Legal Services* would increase control and support to the OCs and provide expert advice to the Director. Furthermore, the transformation of the Programming, External Coordination and Evaluation Division into the new Programming and Quality Assurance Division would provide additional input on monitoring, thus leading to increased coherence amongst the OCs' activities.

It should be noted that the Head of the Finance Section in each OC reports directly to the Head of the Finance Division at the Headquarters of the Agency in Thessaloniki. This aims to increase the independence of the local Finance Sections in relation to local administrations and, being based on sound organisational principles, to increase credibility and decrease the opportunities for risk at the Agency. All other functions and sectors at the OCs report directly to the Head of Centre. Nevertheless, each head of a functional or sectoral section receives policy and methodological directions from the head of the corresponding division at the headquarters in Thessaloniki.

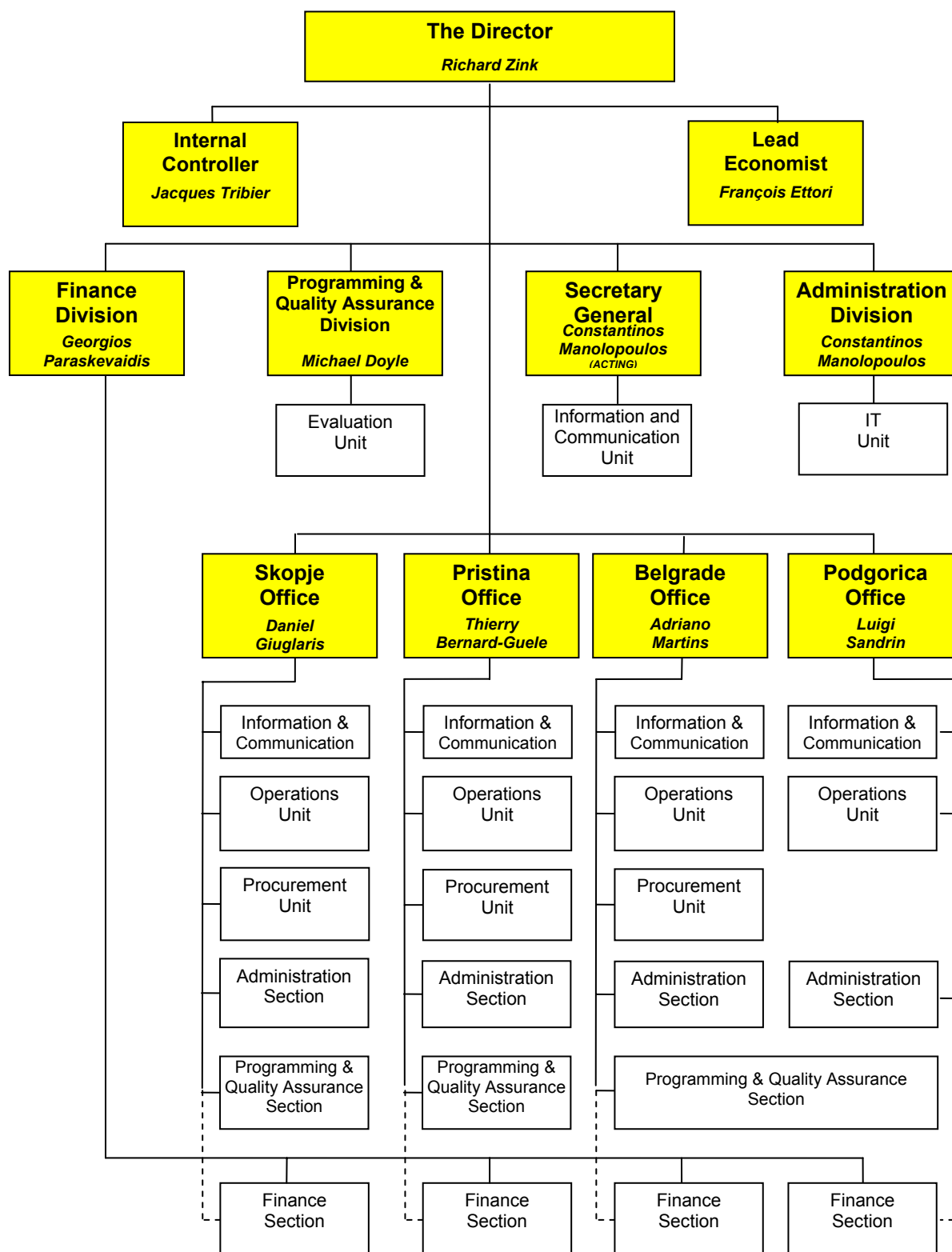
The Agency reorganised its resources and structure along the following lines:

1. In addition to the Director, the Agency's headquarters in Thessaloniki house the heads of the following 4 functional Divisions and 2 positions (Lead Economist and Internal Controller), directly reporting to the Director:
 - Lead Economist
 - Internal Controller
 - Programming and Quality Assurance (subdivided into one Unit and three sectors):
 - Evaluation (Unit)
 - Programming (incorporating external coordination),
 - Monitoring,
 - Social Development Advice
 - Secretary-general (subdivided into three sectors):
 - Relations with EU and national authorities
 - Information & communication
 - Legal services
 - Finance (subdivided into two sectors):
 - Accounting

- Budgeting
- Administration (subdivided into one Unit and three sectors):
 - Logistics
 - Personnel
 - Security
 - IT (Unit)
- 2. The Agency operates and implements its programmes through its 4 OCs in:
 - Belgrade
 - Pristina
 - Podgorica
 - Skopje
- 3. The Agency's four OCs are headed by a Head of Centre. The following Units and sections report to the Head of Centre:
 - Information and Communication
 - Procurement and Contracting
 - Administration
 - Programming and Quality Assurance
 - Operations (subdivided into up to eleven functional sub-sectors, the number varying according to the programme portfolio at each OC):
 - Agriculture & Environment
 - Economic Development
 - Energy
 - Enterprise Development
 - Good Governance & Civil Society
 - Health
 - Infrastructure
 - Municipal Development
 - Rural Economy
 - Social

Diagram 1 here below presents the new organisational chart of the Agency. The following Table 5 shows a breakdown of the number of posts approved and Table 6 shows the total number of actual staff members of the Agency as of the 15th of December 2003 and also illustrates the TAs, LAs, by Division and by function. Table 7 presents the staff members by grade and place of work.

DIAGRAM 1: THE EAR ORGANISATIONAL CHART (15 DECEMBER 2003)



= Members of the Senior Management Team of the EAR

TABLE 5: TOTAL NUMBER OF APPROVED POSTS BY TYPE OF AGENT -HEADQUARTERS AND OPERATIONAL CENTRES (15-12-2003)

Divisions and Sections		TOTAL			
		Temporary Agents (TA)	Local Agents (LA)	TAs and LAs	TAs and LAs Grouped by Division
Director's Office		2	2	4	4
Lead Economist		1	4	5	5
Internal Control		1	0	1	1
Secretary General	Legal Services	1	0	1	7
	Information and Communication	2	1	3	
	Secretary General Office	2	1	3	
Programming & Quality Assurance	Evaluation	3	3	6	29
	PQA	12	11	23	
Administration	Logistics	2	10	12	94
	Personnel	4	2	6	
	Security	2	0	2	
	HoA Office	1	1	2	
	IT	7	18	25	
	Administration Section	6	41	47	
Finance		12	22	34	34
Information and Communication		2	7	9	9
Head of Centre		4	6	10	10
Operations	Coordination	3	1	4	89
	Agriculture & Environment	2	3	5	
	Economic Development	3	6	9	
	Energy	6	8	14	
	Enterprise Development	1	2	3	
	Good Governance & Civil Society	12	11	23	
	Health	2	2	4	
	Infrastructure	8	11	19	
	Municipal Development	1	3	4	
	Rural Economy	1	1	2	
	Social	1	1	2	
Procurement and Contracting		14	18	32	32
TOTAL		118	196	314	

Source: EAR Organisational chart, 15 December 2003

TABLE 6: TOTAL NUMBER OF ACTUAL STAFF BY TYPE OF AGENT- HEADQUARTERS AND OPERATIONAL CENTRES (15-12-2003)

Divisions and Sections		TOTAL			
		Temporary Agents (TA)	Local Agents (LA)	TAs and LAs	TAs and LAs Grouped by Division
Director's Office		2	1	3	3
Lead Economist		1	2	3	3
Internal Control		1	0	1	1
Secretary General	Legal Services	0	0	0	5
	Information and Communication	2	1	3	
	Secretary General Office	1	1	2	
Programming & Quality Assurance	Evaluation	3	2	5	21
	PQA	8	8	16	
Administration	Logistics	2	8	10	82
	Personnel	3	2	5	
	Security	2	0	2	
	Headquarters Office	1	1	2	
	IT	5	15	20	
	Administration Section	5	38	43	
Finance		6	22	28	28
Information and Communication		2	7	9	9
Head of Centre		4	6	10	10
Operations	Coordination	2	0	2	79
	Agriculture & Environment	2	3	5	
	Economic Development	2	5	7	
	Energy	5	7	12	
	Enterprise Development	1	1	2	
	Good Governance & Civil Society	11	9	20	
	Health	2	2	4	
	Infrastructure	8	11	19	
	Municipal Development	1	3	4	
	Rural Economy	1	1	2	
	Social	1	1	2	
Procurement and Contracting		11	16	27	27
TOTAL		96	173	268	

Source: EAR Organisational chart, 15 December 2003

TABLE 7: TOTAL NUMBER OF STAFF (TA AND LA) BY GRADE – HEADQUARTERS AND OPERATIONAL CENTRES (15-12-2003)

GRADES		At Headquarters in Thessaloniki	In Skopje	In Pristina	In Podgorica	in Belgrade	TOTAL
<i>Temporary Agents (TA)</i>	A1						0
	A2	1					1
	A3					1	1
	A4	7	4	3	1	7	22
	A5	7	7	8	1	8	31
	A6			3			3
	A7	4	6	7	1	6	24
	A8			1	1		2
	B1					1	1
	B2						0
	B3	4	2	1			7
	B4	4					4
	B5	2	2	2			6
	B (NOT RATED)	2	2	1		3	8
	C1						0
	C2						0
	C3					1	1
TOTAL TAs		31	23	26	4	27	111
<i>Local Agents (LA)</i>	AI	7	6	11	3	4	31
	AII	17	16	16	3	29	81
	AIII	4	2	4	2	6	18
	BIV		12	18	2	17	49
	BV		3	5	2	6	16
	CVI			1		1	2
TOTAL LAs		28	39	55	12	63	197
TOTAL TAs and LAs		59	62	81	16	90	308

6 OPERATIONAL ASPECTS OF THE AGENCY

The Agency benefits from a degree of freedom in its daily operations in relation to:

- Budgeting and financial management;
- Recruitment of staff, and
- All stages of the project cycle (project identification, design, contracting, management, implementation, payments, monitoring, evaluation)

The Court of Auditors in its report for the financial year 2000 concluded that the efficiency of the Agency's administration and its budget management was high. However, the Court made a series of recommendations to the Agency on the need to introduce a reliable computerised system of budgetary accounts.

6.1 Management and Administrative Information System and Technologies

Since mid 2001 all EAR centres have been linked together by an Intranet. The system, which is continuously being developed, includes financial regulations, administrative procedures, Centre policies and so forth and also serves as a channel for distribution of general information from EAR management.

During the second half of 2001 the Agency installed the new special version of the computerised budgetary account system (SINCOM) called SI2 adapted by the Commission for the Agencies.

The EP Committee on Budgetary Control, in its report dated 20 March 2003, urged the Agency, along with the Commission, to remedy the problems identified by the Court of Auditors stemming from the introduction of SI2 and to find adequate means of reducing dependency on the use of auxiliary information technology (IT) tools which until now have been used to obtain accurate information on budget implementation.

Reportedly these difficulties now are resolved through extensive training in the SI2 and significant efforts during the last few months to update and improve the IT capabilities of the EAR. The IT Unit has been transferred to the EAR's Headquarters in Thessaloniki and recently with new recruitments, among which new recruits is a new Head of Unit.

The IT Unit actually comprises the Head of Unit and 8 technical personnel responsible for supporting the Agency's IT applications, software, networking and hardware. This Unit reports to the Head of the Administration Division in Thessaloniki. In addition to this IT unit the Agency has also IT helpdesks in each of the four Operational Centres to meet local IT needs in software, hardware and networks. In summary, around 20 specialised personnel are at present working in the IT function Agency-wide. Five of these employees are TAs and fifteen LAs. The local IT helpdesks report directly to the Heads of Administrative Sections in the OCs and are coordinated functionally by the IT experts and specialists in the Headquarters IT Unit.

6.2 Integrated Management Control Framework

6.2.1 Establishment and Adoption of the Agency Budget

Up to the end of 2002, the establishment and adoption of the Agency's budget was taking place in accordance with the procedures laid down in the Agency Regulation and the provisions of its own Financial Regulations approved by the EAR's Governing Board.

As required by the *Framework Financial Regulations* (FFR), applicable to all agencies as from 1 January 2003, and the Agency Regulation, the EAR submits its budget for approval to its Governing Board, with a clear breakdown by budget lines and budget titles:

- **Title 1** for Staff-related expenditure,
- **Title 2** for Running costs such as equipment costs, office rent, telecommunication costs; *and*
- **Title 3** for Operational expenditure.

It is foreseen in the comments of the general EC budget that the Agency's administrative costs (Titles 1 and 2) cannot exceed 8% of the overall multi-annual budget for Agency assistance programmes. The experience of the Agency to date however has been that the combined expenses of Titles 1 and 2 have not exceeded 5.5% of total funding allocations. Over the period 2000-2005 the funds to be used by the Agency to cover its administrative expenditures of Title 1 and Title 2 were calculated to have been € 133.4m. This amount is equivalent to 5.28% of the total portfolio of € 2.5bn managed by the Agency over this period, as presented in the Note to the Governing Board submitted by the Director of the Agency to the GB on 22 January 2004 in Thessaloniki.

Because the Agency budget is funded directly by CARDS under Title B7, chapter 54 (budget lines 541, 542 and 546) of the Community Budget, its breakdown does not appear in the annual European Union budget that has to be approved by the European Parliament. The control of the Budgetary Authority on the Agency budget is ex-post and represented by the discharge to the Director for the implementation of the Agency's yearly budget (Art 8.4). Ex-post control on the use of the budget is also carried out by the Court of Auditors that shall publish a report on the Agency's activities every year (Art. 8.3).

Therefore, ex-ante control on the appropriateness of the Agency's budget is under the responsibility of the Commission that has to assess the draft proposal (already approved by the GB) at the light of the priorities that has decided and the overall financial guidelines for the assistance to the FRY and the former Yugoslav Republic of Macedonia (Art.7.3). It is finally the GB, after receiving the opinion of the Commission that approves the budget of the Agency at the beginning of each financial year (Art. 7.4).

6.3 Agency's Financial Rules

The Agency Regulation was amended by Council Regulation (EC) 1646/2003 of 18 June 2003, which updated the various Agency procedures in accordance with those of the new Financial Regulation, applicable to the general budget of the EC.

In terms of procedures applied to project management, the Agency operates under the so-called "Centralised Controls" model for projects financed under the external aid programmes of the EC. This means that the EAR is the Contracting Authority and takes decisions for and on behalf of the beneficiary country. In addition to this, the Agency applies the *Practical Guide to contract procedures financed from the General Budget of the European Communities in the context of external actions* as

if the implementation were carried out by the Commission, acting for and on behalf of the beneficiary country-entity.

This means that decisions concerning procurement and award of contracts taken by the Director of the Agency do not have to be referred for approval to the Commission.

The EAR implements the budget right through to the closure of the final accounts according to the rules stated in the FFR. The EAR has been following the FFR using the new SI2. This new version is used as the principal tool for budgetary and accounting purposes.

The new *Framework Financial Regulation* for the European Agencies was approved in November 2002. The week following the approval of this regulation the EAR presented to the Commission its proposal for new *Financial Rules* specific for the EAR arguing that its mandate and its activities are significantly different from the other European Agencies for which the new FFR was designed.

The EAR argued that the new FFR is designed to suit Agencies with annual budgets and activities that can be accounted for on a yearly basis. Whereas, EAR's budgetary commitments are multiannual and the accountability for projects spill from one year to the next. In addition, the EAR operates under the *Guidelines for Contractual Procedures Financed from the General Budget of the European Communities in the Context of External Actions*. With the partial exception of the European Training Foundation (Turin), the EAR is the only Agency of the EC that operates under these Guidelines and commits, contracts and disburses sums on behalf of the EC for external actions.

Following some discussions with DG BUDGET the Financial Rules and Accompanying Implementing Provisions developed specifically for the EAR have been approved by the DG BUDGET. Nevertheless these new and specific EAR Rules and Regulations have to be also approved by the Council. It is expected that the Council will approve the new EAR Financial Rules and Regulations by the end of February 2004. Subsequently, these EAR Financial Rules and Regulations will be submitted to the GB for approval through a written procedure during its next meeting planned for the month of May 2004. The new version of SI2 should fully support the implementation of these new Financial Rules and Implementing Provisions of the EAR.

6.3.1 *Implementation of the Financial Checks and Audit Discharge*

Verifications and internal controls take place by means of an appropriate workflow associated with checklists and routing slips and cover the various aspects of financial management.

As mentioned previously, the newly created *Internal Control* function aims at ensuring that the Agency uses coherent, efficient and safe internal management and control systems in application of the principles laid down in the financial Regulations.

6.3.2 *Procedures for Ensuring Respect of Contractual Liability*

The Agency follows standard EU tendering procedures. It reports regularly to the European Parliament, and is controlled ex post by the European Court of Auditors.

For the assistance programmes the EAR strictly follows the same procedure applied in the Commission's External Relations Services, as set out in the Practical Guide and Financial Guide.

6.4 *Management of Human Resources Practises*

6.4.1 *Contractual Arrangements, Staff Regulations and Remuneration*

The Agency employs personnel under Temporary Agent (TA) contracts of 18 months in duration⁵⁰ after which they are renewable for an indefinite period. However, their duration shall not exceed the expiry date of the Agency⁵¹. There are also a limited number of officials seconded by the Commission in the interest of the service and carrying out management duties⁵².

In addition, the Agency employs local personnel under Local Agent (LA) contracts of 12 months' duration. LA contracts are renewable for two further periods of 12 months and for an indefinite duration after the third year.

The GB has taken the necessary decisions and adopted the implementing procedures to ensure that the Regulations and Rules applicable to officials and other public servants of the European Communities apply equally to the Agency staff.

On 28 February 2000 the GB approved the standard contract of employment for the EAR personnel. On the same date the Board also approved, within the framework of the Agency's operations in Pristina, the application of the special and exceptional provisions of *Annex X* of the Staff Regulations of the European Communities applicable to Officials and Other Servants serving in a third country. Those provisions were subsequently extended to Belgrade and Podgorica (December 2000) and to Skopje (January 2002).

TABLE 8: NUMBER OF STAFF (TA AND LA) FROM 2000 TO PRESENT

Staffing at:	TAs	LAs	TOTAL
28/02/2000	51	34	85
24/07/2000	51	54	105
15/12/2000	104	142	246
31/01/2001	97	144	241
31/01/2002	108	174	282
31/01/2003	120	201	321

Source: : EAR Organisational Chart and GB minutes

⁵⁰ This duration was agreed by the GB in February 2000.

⁵¹ The contract of employment says also that "The Agency reserve the right to terminate the contract following a significant reduction or winding up of its operations before the expiry date of the Agency" (Art.4 of addenda to the contract)

⁵² If the official is seconded in the interest of the service, his/her career development continues; if the official is seconded in his/her own interests, that's not the case and he/she performs under the same TA contract offered to the other international staff.

6.4.2 *Recruitment and Staffing*

For staff recruitment the Agency follows EU procedures. TAs are engaged in accordance with Article 12 of the *Conditions of Employment of Other Servants of the European Communities*. Vacancies are publicised in the "Economist" magazine, in the career pages of the Commission's intranet and on the Agency's website. Every selection procedure is carried out by a selection panel, which follows written recruitment guidelines.

Applicants are short-listed on the basis of their CVs, and short listed candidates are invited for interview. Their aptitude for the job in question is assessed on the basis of their CV, qualifications, oral interviews, and, where necessary, written tests. The Agency is an equal opportunity employer, and encourages applications from women. Once the selection is finalised, the Agency determines the grade for the expert and the file then has to be approved by the Commission's personnel Directorate.

6.4.3 *Career Advancement*

On 12 November 2001 the Governing Board decided on the procedures for the career advancement scheme for Agency staff. This decision was subsequently amended on 28 January 2002 and again on 17 May 2002. On the same date the Governing Board also decided on the deadlines for submission of proposals for the Agency's 2002 career advancement exercise.

On 29 September 2002 the Governing Board approved the rules laying down the composition and operation of the Staff Committee of the Agency.

REPORT PART B
***Summary of the Agency's functioning in
line with the Regulation***

1 OVERVIEW

This report corresponds to Part B of the ToRs (*Confirmation of legal obligations and functioning according to the Agency Regulation*) and has been carried out internally by EuropeAid's Evaluation Unit as for fulfilment of the requirements of ToRs. The purpose of this part of the report is to summarise briefly the Agency's functioning according to each article of the Regulation, and to refer readers to sources of further information. This section is not concerned with evaluation in the strict sense but provides a record of the scope of actual activities compared to what was foreseen in the Agency's principal legal base. This reports has not been therefore taken into consideration for the assessment carried out in Part C (Volume I of the Synthesis Report) nor Part A (in the previous section of this Volume II) reports of this evaluation.

Both supporting documents accompanying this Part B (at the end of the report) have been included in this section as referring documentation to this part and not in the annexes (Volume III, Annex C: Bibliography) for keeping internal coherence with the text.

2 SUMMARY OF THE AGENCY'S FUNCTIONING

2.1 Article 1 – Delegated Responsibility of the Agency

As foreseen in this article, the Agency was delegated responsibility for the implementation of CARDS assistance. The minutes of the 11th meeting of the Governing Board describe the Commission's presentation of the division of responsibilities of the CARDS Management Committee and the Governing Board.

2.2 Article 2 – Tasks conducted by the Agency

During the evaluation, documents were made available showing the Agency's execution of the principal tasks described in this article. These amount to:

- collection and analysis of information on aspects listed in article 2.1.(a)sections (i), (ii) and (iii);
- preparation of draft programmes for the reconstruction of FRY (subsequently amended to include FYR Macedonia) and the return of refugees and displaced persons;
- implementation of Community assistance according to the phases of the project and expenditure cycle described in Article 2.1.(c)
- informing the Governing Board of the implementation of tasks listed in paragraph 1 of Article 2.

Regarding specific responsibilities of the Governing Board, minutes of Board meetings and of the CARDS Committee provide evidence of the adoption of recommendations subsequently brought to the attention of the Commission and communicated to the CARDS Committee as foreseen in Article 2.2.

There were a limited number of examples of funding from other donors entrusted to the Agency as provided for in Article 2.3. The Agency received grants from The Netherlands (€500.000 for Montenegro, budget line 30202 MON), Denmark (€4 million for FYROM, budget line 30302 MAC), from UNMIK (€23 million for the energy project Kosovo B in Kosovo, budget line

30203 KOS, this project is co-financed by the EAR BL 30201) and from UNMIK and KFOR (€1 million each for roads projects in Kosovo, budget line 30204 KOS, this project is co-financed by the Agency budget line 30201). For the three first programmes the EAR keeps separate bank accounts to ensure clearer follow-up.

Regarding “follow-up” of UNMIK support as described in Article 2.4 (and taken to refer to monitoring, evaluation and auditing), it was determined by the Commission that this option would not be implemented for various reasons (technical budgetary issues regarding the permitted uses of the budget lines concerned and a preference by Commission Headquarters for retaining central control over commitments, contracting and payments for supervision of UNMIK activities).

2.3 Article 3 – Legal personality of the Agency

The international legal personality of the Agency was established by the Hellenic Republic, in respect of its seat at Thessaloniki. A Headquarters agreement was signed by the General Secretary of the Greek Ministry of Foreign Affairs and the Director of the Agency pursuant to a decision of 17 January 2000 by the Governing Board of the Agency. This document is contained in the Official Journal of the Hellenic Republic (Vol. 76, 12/4/01). The Headquarters Agreement was ratified by the Greek Parliament as Law no.2901/12-4-2001.

2.4 Article 4 – Governing Board

Minutes of Governing Board meetings were made available to the Evaluation team. The Governing Board’s 16th meeting was cancelled due to adverse weather conditions. Minutes reflect the conduct of the Board according to Article 4 of the Regulation, although neither the Evaluation Unit nor the Evaluation team tested whether the Commission or Member States had respected the provisions of Article 4.3 (term of office of representatives).

2.5 Article 5 – Activities of the Director

The activities of the Director as laid down in Article 5 are reflected in minutes of the meetings of the Governing Board and the CARDS Committee, in official documents in which the Director is designated as the legal representative of the Agency, and in Article 1 of the Headquarters Agreement between the Agency and the Hellenic Republic. The Director was appointed at the 20th meeting of the Governing Board on a proposal from the Commission.

2.6 Article 6 – Revenue and Expenditure

Establishment of accounts: Since January 2003, the Agency applied the framework financial regulation for Community bodies (2343/2002 of 19/11/2002), as its own financial rules had (at the time of evaluation) not yet been approved by the Commission. According to Article 84 of the framework regulation, the accounting rules and methods and the harmonised chart of accounts to be applied by the Agency shall be adopted by the Commission’s accounting officer. In addition, and according to Article 89 of the framework regulation, the Agency shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting Community property in accordance with a model drawn up by the accounting officer of the Commission.

Before the entry into force of the framework financial regulation, the Agency applied its own Financial Regulation approved by the Governing Board on 29/05/00. Following recommendations from the Court of Auditors to that effect, the Agency was preparing implementing rules at the time when the FFR was approved by the Commission. The new implementing rules will therefore be based on those applicable to the recast general Financial Regulation, the large majority of the provisions of which is taken up in the FFR.

It is important to note that, in line with the functional separation of evaluation, audit and control, the Terms of Reference of the present evaluation did not include any audit or assessment of the regularity of expenditure by the Agency, and that no judgement on respect for accounting rules should be made on the basis of the report.

2.7 Article 7 – Adoption of the budget

Establishment and adoption of the budget: As foreseen in the framework financial regulation and in the constituent act (Council Regulation 2667/2002 amended by 1646/2003 of 28/06/03), the Agency submits for approval to the Governing Board its budget with a clear breakdown by Titles (Title 1 for Staff related expenditure, Title 2 for Running costs, Title 3 for Operational expenditure) and budget lines. The budgetary authority (Council and European Parliament) approves the EC budget comprising the allocation for the Agency under Title B7 chapter 54 (budget lines 541, 542 and 546); as from 2004 the nomenclature of these budget lines has changed to 19.07.01, 19.07.02 and 19.07.03 respectively.

Prior to 2003, the establishment and adoption of the budget took place in accordance with the procedures foreseen in the constituent act (before its amendment) and the provisions of the own Financial Regulation approved by the Governing Board

2.8 Article 8 – Implementation of the budget

Implementing of the budget, financial checks, audit discharge: The Agency should implement the budget and proceed to the closure of the final accounts according to the rules stated in the framework financial regulation. The special version of SINCOM adapted by the Commission for the Agencies is used as the principal tool for budgetary and accounting purposes. The Agency states that verifications and internal controls take place by means of an appropriate workflow associated with check-lists and routing slips and covering the various aspects of financial management. A new function of Internal Controls Coordinator was created aiming at ensuring that the Agency operates coherent, efficient and safe internal management and control systems in application of the principles laid down in the financial regulation.

The Agency made available closure reports from the 2001 and 2002 exercises, and the Preliminary Observations made by the Court of Auditors for these two exercises. Upon positive relevant recommendations of the Council, the European Parliament delivered discharge to the Agency for the corresponding years.

2.9 Article 9 – Adoption of the Agency's Financial Regulation

Adoption of the EAR's Financial rules: In November 2002, the Agency presented a proposal for new Financial Rules to the Commission. Few modifications compared to the financial framework regulation were proposed, and dialogue ensued with DG BUDGET. At the time of writing, agreement was expected shortly, allowing the Agency to have its own Financial Rules and accompanying implementing rules approved by the Governing Board.

2.10 Article 10 – Rules applicable to Agency staff

The Regulations and Rules applicable to officials and other servants of the European Communities apply to the Agency staff. The Governing Board has adopted the necessary implementing rules (this can be confirmed in the list of Decisions adopted by the Governing Board).

The Agency employs personnel under Temporary Agent contracts of 18 months' duration, renewable for an indefinite period, or under Local Agent contracts of 12 months' duration, renewable. There is a limited number of officials seconded by the Commission in the interest of

the service, carrying out management duties, who serve under the same Temporary Agent contract. Because of its limited lifespan, the Agency does not dispose of any permanent posts.

The Agency started its operations in Pristina and established its Headquarters in Thessaloniki. The first annual working plan presented to the Governing Board in March 2000 comprised projects in the areas of energy, housing, transport, environment, health and economic development. The Agency states that in accordance with this plan, professionals with specific qualifications and experience in housing, energy, water and sanitation, transport, institution building, training, health, agriculture, enterprise development, and monitoring were recruited in the Operations Division. The Programming, External Coordination and Evaluation Division was staffed with experts in programming and evaluation. Finance, contracts, and IT staff were recruited for the Finance Division, while the Secretariat General, based in Thessaloniki, supervised Administration, Information and Communication staff, as well as the legal service, which was later incorporated in the Contracts Unit.

In December 2000 the Agency Governing Board adopted the 2001 staffing table taking into account the imminent extension of the Agency's mandate to Serbia and Montenegro. Two Operational Centres were then established in Belgrade and Podgorica. These replicated the structure of the Pristina centre: an Operations Division was established in Belgrade, backed up by personnel for programming, finance, administration and an Information and Communication Team; in Podgorica an Operations Division was supported by finance and administration personnel. One more Operational Centre was established in Skopje in January 2002, following the Commission's decision to extend the Agency mandate to FYROM and to entrust it with the management of uncommitted past assistance funds.

It is for the evaluation itself to assess whether the Agency has succeeded in adapting its skills mix to reflect the shift of EU assistance priorities from emergency reconstruction to institution building and other SAP priorities as set out in the Country Strategy Programmes for FRY and FYROM and the respective MIPs. This transition would need to take account of the fact that significant past assistance projects were and are still in the implementation phase, requiring a certain degree of continuity in staffing.

For staff recruitment the Agency should follow EU procedures. It employs its personnel under either Temporary or Local Agent contracts. Temporary Agents are engaged in accordance with Article 12 of the Conditions of Employment of Other Servants of the European Communities. The Agency states that vacancies are published in the "Economist" magazine, in the career pages of the Commission's intranet and on the Agency's website. Every selection procedure is carried out by a selection panel, which follows written recruitment guidelines (guidelines' text in attachment). Applicants are short-listed on the basis of their CVs, and short-listed candidates are invited for an interview. Their aptitude for the job in question is tested on the basis of their CV, qualifications, oral interviews, and, where necessary, written tests. The Agency is an equal opportunity employer, and states that it encourages applications from women.

A reorganisation of the Agency structure, reflecting the evolution of the Agency's work, was approved by the Agency's Governing Board in February 2003. The Agency reorganised its resources and structure along two lines:

- Four divisions (Quality Assurance, Secretary General, Finance and Administration), based at the Headquarters, along with the Lead Economist and the Internal Controller.
- Four operational centres (Belgrade, Pristina, Podgorica, Skopje). All the local services are now administratively dependent on the Head of Centre. Some functions (e.g. procurement and programming) of the centre of Podgorica are covered by the Belgrade centre.

This reorganisation aimed at improved coherence and guidance, increase of responsibility, speed and efficiency, with the devolution of tasks to the local level. The new structure took into consideration the expansion of the Agency to Serbia and Montenegro and notably the further extension of the mandate of the Agency in 2002 to FYROM.

Recruitment guidelines decided by the Director of the Agency were made available to the evaluation team.

2.11 Article 11 – Translation services

Translation: The Agency signed an agreement with the Translation Centre (in Luxembourg) to proceed to the necessary translations in the EC official languages. When a translation is needed to/from one of the languages spoken locally in the Operational Centres, then the Agency contracts external translators, or has recourse to the services of a local assistant. The total expenditure for translation in the period 2001-2002 was about 30,000 €.

2.12 Article 12 – OLAF investigations and spot checks

The Decision of the Agency of 24 July 2000 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and illegal activity detrimental to the Communities' interests describes the appropriate procedures. This document is attached in annex.

2.13 Article 13 – Liability of the Agency

Procedures for ensuring respect of contractual liability: For the assistance programmes, the Agency follows the same procedure applied in the EC/External Relations Services, stated in the Practical Guide and Finance Guide.

2.14 Article 14 – Proposal for winding up: future status of the Agency

(not applicable to this section of the report)

2.15 Article 15 – Delegation of assistance under Regulation 1628/96

Every year the Commission decides the amount out of the Community budget lines financing assistance under the CARDS programme for the Western Balkans that will be delegated for implementation by the European Agency for Reconstruction. This concerns:

Kosovo (EC budget line 19.07.03, ex B7-546)

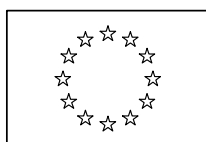
Serbia and Montenegro (EC budget line 19.07.02, ex B7-542)

FYROM (EC budget line 19.07.01, ex B7-541)

The Agency reflects the amounts delegated by the European Commission in its budget as revenues coming from a European Commission subsidy from the budget. In accordance with Article 7(6), the budget of the Agency is adopted by the Governing Board. It becomes final following final adoption of the general budget of the European Union. Where appropriate, it is adjusted accordingly.

3 REFERRING DOCUMENTS

3.1 *RECRUITMENT PROCEDURES OF THE AGENCY*



EUROPEAN AGENCY FOR RECONSTRUCTION

DECISION OF THE DIRECTOR OF THE EUROPEAN AGENCY FOR RECONSTRUCTION CONCERNING THE RECRUITMENT PROCEDURES OF THE AGENCY

HAVING REGARD to the Council Regulation (EC) No 2667/2000 of 5 December of 2000 establishing a European Agency for Reconstruction as amended by Council Regulation (EC) No. 2415/2001 of 10 December 2001

HAVING REGARD to the Conditions of Employment of Other Servants of the European Communities

HAVING REGARD to Special and Exceptional Provisions applicable to Officials and Other Servants serving in a third country (Annex X)

IT IS DECIDED THAT:

A. DEFINITIONS

1. By 'Agency' is meant the European Agency for Reconstruction
2. By 'agents of the Agency' are meant:
 - Temporary agents
 - Local agents
3. By 'external candidates' are meant candidates who are not, on the closing date for applications, agents of the Agency as defined above.
4. By 'vacancy' is meant any post, which is vacant.
5. By 'selection board' is meant the committee in charge of the tasks indicated in article 7 of the present decision.
6. By 'relatives' are meant the family relatives up to the second degree (children, brother, sister), marital relatives and persons living as marital relatives, including persons of the same gender.
7. By 'management' is meant the Director, the Heads of Centre and Division.

B. PRINCIPLES

Article 1

Recruitment shall be directed to securing for the Agency the services of agents of the highest standard of professionalism, skills and integrity, recruited from among nationals of Member States of the European Union.

Agents shall be selected without reference to age, race, political, philosophical or religious beliefs, sex or sexual orientation.

Article 2

An agent may be appointed only on condition that he/she fulfils the conditions of engagement set out in article 12 in the Conditions of Employment of Other Servants of the European Communities.

Article 3

Administration maintains a list of posts, which states the category and career bracket of the post and where it is in the organization chart and states the grade and step of the agent occupying it or indicates if the post is vacant.

C. PROCEDURES

Article 4

Details of the vacancy notice are drawn up by the Head of the Centre or Division, where the vacancy is situated, and endorsed by the Head of Administration.

The publication must specify:

- the career bracket or the grade of the vacancy
- the type of duties and tasks involved
- all compulsory requirements for eligibility of candidates
- where appropriate, the core expertise and skills required
- where appropriate, the aspects which will be considered as assets
- the closing date for applications (with a minimum of 10 working days from the date of publication of the vacancy notice).

The vacancy notice should also mention that the Agency has the right, on the basis of the overall information given in the CVs, to draw up a short list in order to limit the number of candidates to be invited for interview.

Article 5

Candidates shall provide the Agency with a curriculum vitae and other information they think relevant. Candidates will be invited to send their applications by email.

Candidates may be required subsequently to provide Administration with additional documents or information.

Article 6

The Director shall appoint for each vacancy a selection board.

The role of the selection board is to:

- determine which candidates fulfill the requirements detailed in the notice
- create a short list of candidates to be invited to an interview according to the provisions of article 4
- decide on suitability of candidates for the post based on their qualifications and experience as well as on their performance at interview and/or in written/practical tests
- make recommendations on the candidate(s) to be chosen.

The selection board will consist of a Chairman (usually the Head of Centre concerned or someone delegated by them), a member from another Centre, a member of Administration. The Staff Committee will be invited to nominate a member of staff as their representative in the selection board. The representative of Administration will also support the committee as facilitator and secretary. The Director has the right to nominate an external expert to act as a member of the selection board.

Article 7

Candidates invited for interviews will be asked by the selection board whether they are related to any agent employed in the Agency. Similarly, agents of the Agency must inform Administration when they know that a relative applies for a vacancy.

In no case may agents of the Agency take part in any way in the recruitment procedure of a relative or of any other external person who they happen to know to whatever degree or for whatever reason without declaring it beforehand. Members of the selection board will be asked explicitly if they know or are related to external candidates whose applications are considered by the board.

Article 8

Preferably, no later than 10 working days after the deadline to submit applications, applicants invited for an interview shall be informed of this decision in writing.

Candidates selected for an interview must accept the invitation to the interview within a reasonable timescale (10 working days).

Article 9

All the interviews shall be carried out by the selection board, preferably no later than 20 working days after the decision of the board on the list of candidates to be interviewed.

Candidates invited for interview will be asked questions predefined by the selection board and designed to assess their suitability for the post. Where appropriate, they will be asked to undergo written or practical tests.

Article 10

The representative of Administration shall prepare a Procès Verbal (PV) and a justification of choice on the outcome of the interviews listing the candidates in order of suitability and recommending the candidate to be selected. Whenever possible, the selection board shall draw up a reserve list of two further candidates.

The PV shall be approved and signed by all members of the selection board. It will be kept by Administration.

If no candidate is considerable suitable after interview, the selection board will decide whether to continue the procedure with the candidates in reserve or to re-launch the procedure.

Article 11

The proceedings of the selection board are strictly confidential. No information on the proceedings shall be communicated outside the board by the members of the selection board. No information on the outcome shall be communicated until the choice of a candidate has been done and until the chosen candidate has accepted the job offer.

Article 12

The same recruitment procedures apply mutatis mutandis to Local Agents.

3.2 INTERNAL INVESTIGATIONS IN RELATION TO THE PREVENTION OF FRAUD, CORRUPTION AND ANY ILLEGAL ACTIVITY

DECISION OF THE EUROPEAN AGENCY FOR RECONSTRUCTION of 24 July 2000

Concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests

THE GOVERNING BOARD OF THE EUROPEAN AGENCY FOR RECONSTRUCTION,

Having regard to Regulation (EC) N° 1628/96⁵³ of 25 July 1996 relating to aid for Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia, in particular by the setting up of the European Agency for Reconstruction (hereinafter referred to as 'the Agency'), as amended by Council Regulation (EC) N° 2454 /1999⁵⁴ of 15 November 1999.

Having regard to Article 24 thereof,

Whereas:

(1) Regulation (EC) N° 1073/1999 of the European Parliament and of the Council⁵⁵ and Council Regulation (Euratom) N°1074/1999⁵⁶ concerning investigations conducted by the European Antifraud Office (hereinafter 'the Office') provide that the Office is to initiate and conduct administrative investigations within the institutions, bodies and offices and agencies established by or on the basis of the EC Treaty or Euratom Treaty;

(2) the responsibility of the Office as established by the Commission extends beyond the protection of financial interests, to include all activities relating to the need to safeguard Community interests against irregular conduct liable to give rise to administrative or criminal proceedings;

(3) the scope of the fight against fraud should be broadened and its effectiveness enhanced by exploiting existing expertise in the area of administrative investigations;

(4) therefore, on the basis of their administrative autonomy, all the institutions, bodies and offices and agencies should entrust to the Office the task of conducting internal administrative investigations with a view to bringing to light serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials and servants of the Communities, as referred to in Articles 11, 12, second and third paragraphs, 13, 14, 16 and 17, first paragraph, of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (hereinafter referred to as the 'Staff Regulations'), detrimental to the interests of those Communities and liable to result in disciplinary or, in appropriate cases, criminal proceedings, or serious misconduct, as referred to in Article 22 of the Staff Regulations, or a failure to comply with the analogous obligations of the

⁵³ OJ L 204, 14.8.1996, p.1.

⁵⁴ OJ L 299, 20 .11.1999, p.1.

⁵⁵ OJ L 136, 31 .5.1999, p. 1.

⁵⁶ OJ L 136, 31.5.1999, p. 8.

Members, managers or members of staff of the institutions, bodies and offices and agencies of the Communities not subject to the Staff Regulations;

(5) such investigations should be conducted in full compliance with the relevant provisions of the Treaties establishing the European Communities, in particular the Protocol on privileges and immunities, of the texts implementing them and the Staff Regulations;

(6) such investigations should be carried out under equivalent conditions in all the Community institutions, bodies and offices and agencies; whereas assignment of this task to the Office should not affect the responsibilities of the institutions, bodies, offices or agencies themselves and should in no way reduce the legal protection of the persons concerned;

(7) pending the amendment of the Staff Regulations, practical arrangements should be laid down stipulating how the members of the institutions and bodies, the managers of the offices and agencies and the officials and servants of the institutions, bodies and offices and agencies are to cooperate in the smooth operation of the internal investigations,

HAS DECIDED AS FOLLOWS:

Article 1

Duty to cooperate with the Office

The Director, the services and any agent of the Agency shall be required to cooperate fully with the Office's agents and to lend any assistance required to the investigation. With that aim in view, they shall supply the Office's agents with all useful information and explanations.

In order to facilitate the tasks of the Office and in accordance with Article 24 of Regulation 1628/96, Financing decisions and any implementing contract or instrument arising therefrom shall expressly provide that the Office may, if necessary, carry out on-the-spot checks on recipients of the Agency's funds and on the intermediaries distributing them.

Without prejudice to the relevant provisions of the Treaties establishing the European Communities, in particular the Protocol on privileges and immunities, and the texts implementing them, the Members of the Governing Board of the Agency shall cooperate fully with the Office.

Article 2

Duty to supply information

Any agent of the Agency who becomes aware of evidence which gives rise to a presumption of the existence of possible cases of fraud, corruption or any other illegal activity detrimental to the interests of the Communities, or of serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials or servants of the Communities liable to result in disciplinary or, in appropriate cases, criminal proceedings, or a failure to comply with the analogous obligations of the Members of the Governing Board, managers or members of staff not subject to the Staff Regulations, shall inform without delay the Director of the Agency or, if he considers it useful, the Office directly.

The Director of the Agency shall transmit without delay to the Office any evidence of which he is aware from which the existence of irregularities as referred to in the first paragraph may be presumed.

Agents of the Agency must in no way suffer inequitable or discriminatory treatment as a result of having communicated the information referred to in the first and second paragraphs.

Members of the Governing Board of the Agency who acquire knowledge of facts as referred to in the first paragraph shall inform the Director of the Agency or, if they consider it useful, the Office directly.

Article 3

Assistance from the security

At the request of the Director of the Office, the Agency's Security Officer shall assist the Office in the practical conduct of investigations.

Article 4

Informing the interested party

Where the possible implication of a Member of the Governing Board or an agent of the Agency emerges, the interested party shall be informed rapidly as long as this would not be harmful to the investigation. In any event, conclusions referring by name to one of those persons may not be drawn once the investigation has been completed without the interested party's having been enabled to express his views on all the facts which concern him.

In cases necessitating the maintenance of absolute secrecy for the purposes of the investigation and requiring the use of investigative procedures falling within the remit of a national judicial authority, compliance with the obligation to invite the person concerned to give his views may be deferred in agreement with the Director of the Agency.

Article 5

Information on the closing of the investigation with no further action taken

If, following an internal investigation, no case can be made out against the person against whom allegations have been made, the internal investigation concerning him shall be closed, with no further action taken, by decision of the Director of the Office, who shall inform the interested party in writing.

Article 6

Waiver of immunity

Any request from a national police or judicial authority regarding the waiver of immunity from judicial proceedings of an agent of the Agency concerning possible cases of fraud, corruption or any illegal activity shall be transmitted to the Director of the Office for his opinion. If a request for waiver of immunity concerns a Member of the Governing Board the Office shall be informed.

Article 7

Effective date

This decision shall take effect on 24 July 2000.

Done at Thessaloniki, 24 July 2000

For the Governing Board
The Chairman

