



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 30 July 1999
(OR. en)**

10096/99

LIMITE

EUROPOL 34

Subject : Council Act adopting the Financial Regulation applicable to the budget of
Europol and repealing Council Act 1999/C 25/01

COUNCIL ACT

of

adopting the Financial Regulation applicable to the
budget of Europol and repealing Council Act 1999/C 25/01

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention on the establishment of a European Police Office
(Europol Convention) ¹, and, in particular, Article 35(9) and Article 36(6) thereof,

Having regard to the opinion of the Management Board,

Having regard to the opinion of the Joint Audit Committee,

¹ OJ C 316, 27.11.1995, p. 1.

Whereas:

- (1) The principles of sound financial management and, in particular, those of economy and cost-effectiveness must apply to the Europol budget, clear objectives for planned activities must be identified in the annual budgets and business plans, progress of their realisation monitored and, if necessary, any further action taken to achieve them;
- (2) The Financial Regulation adopted under this Act may not be applied in a way that would endanger the independence of the Joint Supervisory Body mentioned in Article 24 of the Europol Convention;
- (3) Council Act 1999/C 25/01 of 18 January 1999 adopting the Financial Regulation applicable to the budget of Europol ¹ should therefore be repealed,

HAS ADOPTED THIS FINANCIAL REGULATION:

¹ OJ C 25, 30.1.1999, p. 1.

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TITLE I

General Principles

Article 1

1. The budget of Europol (hereinafter called "the budget") shall be the instrument which provides for the estimated revenue and expenditure of Europol for each financial year. For both revenue and expenditure, it shall contain separate headings for activities financed by third parties.

The five-year financing plan of Europol (hereinafter called "the financing plan") shall stipulate the revenue and expenditure of Europol for the financial year which the draft budget concerns and the following four financial years.

2. Subject to the provision of Article 22 and with the exception of activities financed by third parties, expenditure may not be authorised for a period extending beyond the financial year

3. Expenditure arising from:

- contracts which have been concluded, in accordance with local usage, or
- contractual provisions relating, in particular, to the supply of equipment,

for periods extending beyond the financial year shall be charged against the budget for the financial year in which it is effected.

Article 2

The budget appropriations shall be used in accordance with the principles of sound financial management, and in particular those of economy and cost-effectiveness. Quantified objectives shall be identified and the progress of their realisation monitored.

Article 3

1. Subject to Article 22, all revenue and expenditure shall be entered in full in the budget and in the accounts without any adjustment against each other.

2. Total revenue shall cover total expenditure.

3. Notwithstanding paragraph 2, certain revenue shall not be used for any other purpose, notably:

- revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests, and
- revenue from third parties in respect of work carried out at their request.

Such contributions must be authorised by the Management Board, acting unanimously, in accordance with one of the following procedures:

- Contributions from third parties shall be authorised both at the time of the adoption of the budget and in the course of the financial year.
- Donations made to Europol, including gifts and bequests, may be accepted provided that these are consistent with the policies, aims and activities of Europol as established in the Europol Convention.

Article 4

1. No revenue shall be collected and no expenditure effected unless credited to, or charged against, an Article in the budget.

Without prejudice to Article 22, no expenditure may be committed or authorised in excess of the authorised appropriations.

2. The establishment plan adopted pursuant to Article 13 and 14 shall constitute an absolute limit for Europol; no appointment may be made in excess of the limit set.

Instances of part-time work may be compensated for by the engagement of other staff within the limits set.

Article 5

1. The financial year shall run from 1 January to 31 December

2. Revenue shall be entered in the accounts for each financial year on the basis both of the amounts due and the amounts collected.

Notwithstanding the first subparagraph, Member States' contributions to the budget received before the beginning of the financial year which they concern shall be credited to the budget for that financial year.

3. With the exception of activities financed by third parties, the allotted appropriations may be used solely to cover expenditure properly entered into and paid under the financial year for which they were granted, save as otherwise provided in Article 6, and to cover the debts relating to preceding financial years for which no appropriation was carried forward.

The expenditure of a financial year shall be entered in the accounts for that year on the basis of expenditure authorised no later than 31 December, and for which the corresponding payments are effected before the following 15 January.

Article 6

1. The following rules shall govern the utilisation of appropriations:

- (a) appropriations still uncommitted at the end of the financial year for which they were entered shall, as a rule, lapse;
- (b) appropriations relating to remuneration and allowances of staff may not be carried over;
- (c) appropriations in respect of payments still outstanding at 31 December by virtue of commitments duly entered into between 1 January and 31 December shall be carried over automatically to the next financial year only.

2. Notwithstanding paragraph 1, the Director may forward to the Management Board, before 31 January, duly substantiated requests to carry over to the next financial year appropriations not committed at 31 December.

The carry-over of such appropriations may be proposed only for exceptional reasons.

The Management Board shall act on such requests for carry-over by 1 March at the latest. It shall act unanimously.

3. Unused revenue and appropriations still available on 31 December, arising out of the donations and work carried out on behalf of third parties shall be carried over automatically.

4. Appropriations carried over from one financial year to the following lapse if still uncommitted at the end of the financial year to which they were carried over.
5. A list of the appropriations to be carried forward automatically shall be forwarded to the Management Board for information before 1 March.
6. For the purpose of implementing the budget, the utilisation of appropriations carried forward shall be shown separately, for each budget item, in the accounts for the current financial year.

Article 7

Current expenditure chargeable to the next financial year and which, by its nature, arises at the beginning of that financial year may, as from 15 November of each year, be charged as an expected commitment against the appropriations provided for in respect of the next financial year up to a maximum of one quarter of the total corresponding appropriations for the current year. However, such commitments may only apply to new expenditure of a kind not yet approved in principle in the budget of the current financial year if the budget for the next financial year has already been adopted.

Expenditure relating to rents or certain associated expenditure which is payable in advance in accordance with provisions laid down by law or contracts may give rise to payments from 20 December onwards being charged to the appropriations for the next financial year.

Article 8

1. If the budget is not adopted at the beginning of the financial year, expenditure already approved in principle in the last budget duly adopted may be effected under the conditions laid down in this Article. An item of expenditure shall be considered as having been approved in principle in the last budget duly adopted if it could have been charged to a specific budget heading under the financial year concerned.

2. Payments may be made monthly in respect of any chapter up to one-twelfth of the total appropriations entered in the chapter in question for the preceding financial year insofar as this is required to meet Europol's legal obligations.
3. At the request of the Director, the Management Board may, in the light of administrative needs, authorise two or more provisional twelfths at the same time or, in exceptional cases, payments not required to meet Europol's legal obligations. In doing so it shall act unanimously.
4. Under the circumstances referred to in paragraph 1, Member States' contributions amounting to three twelfths of the contributions called up according to the last budget duly adopted may be called up.
5. At the request of the Director, and after obtaining the opinion of the Management Board, the Council may, in the light of financial needs, authorise further Member States' contributions to be called up. In doing so it shall act unanimously.

Article 9

The budget and any supplementary or amending budgets, as adopted, shall be published in the Official Journal of the European Communities, at the behest of the President of the Council. Publication shall normally take place within one month from the date of the adoption.

Article 10

1. The budget and the financing plan shall be drawn up in euro. The euro shall be the single currency as laid down in Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro¹.

Any future amendment to that Regulation shall apply to this provision.

¹ OJ L 139, 11.5.1998, p. 1.

2. Any operations involving conversion of euro into a currency of a Member State not participating in the monetary union and currencies of third countries shall, in principle, be effected on the basis of the exchange rate applicable on the day of operation; derogations from this principle may be permitted in exceptional cases, in accordance with the implementing rules provided for in Article 57(2).

Article 11

1. On the basis of a review of the existing business plan, the Director shall each year draw up a draft business plan setting out the planned activities and developments for Europol for the following five years. As an integral part of the business plan, the financing plan shall describe the financial and human resources deemed necessary for the proposed yearly activities.

2. The draft business plan shall be submitted to the Management Board which, after obtaining the opinion of the Financial Committee, shall take a decision on it. The Management Board shall act unanimously.

Article 12

1. A Financial Committee is hereby established.

2. The composition of the Financial Committee shall be as defined in Article 35(8) of the Europol Convention. The Committee shall be chaired by a representative of the Member State holding the Presidency of the Council.

3. The tasks of the Financial Committee shall be as defined in Article 35 of the Europol Convention and in this Regulation.

Furthermore, the Committee shall undertake such tasks concerning budgetary and financial matters which the Management Board or the Council refer to it.

In carrying out its tasks, the Committee shall in particular examine whether the principles set out in Article 2 are being duly adhered to.

4. The Committee may require the Director to furnish it with any information or evidence it considers necessary concerning budgetary and financial matters for the supervision of which it is responsible.

TITLE II

Establishment and structure of the budget

SECTION I

Establishment of the budget

Article 13

The director shall forward to the Management Board and the Financial Committee, by 15 February at the latest, a draft estimate of Europol's revenue and expenditure for the coming year. The budget shall be adopted, and the financing plan decided on, in accordance with Article 35 of the Europol Convention.

Article 14

1. The draft budget and the draft financing plan shall be accompanied by explanatory notes containing in particular:

- (a) a general policy declaration on the objectives to be achieved with the budget;
- (b) a description of the activities for which the appropriations are requested, taking account of the principles set out in Article 2 and the business plan as provided for in Article 11;

- (c) a description of the assumptions and the rate for conversion between the euro and the various national currencies of the non-participating Member States and currencies of third countries on which the drafts are based;
 - (d) an explanation of the changes in appropriations from one financial year to the next
2. In respect of staff, the draft budget shall further be accompanied by a working document containing the following information:
- (a) for each category of staff, a detailed list of budgetary posts and numbers of persons in post on the date of the submission of the draft budget, indicating their distribution by grade and administrative unit;
 - (b) where a change in the number of persons is proposed, a statement justifying such changes.

SECTION II

Structure of the budget

Article 15

The budget shall be subdivided into titles, chapters, Articles and items according to the nature of the revenue or expenditure or the intended purpose thereof, following a decimal classification system.

The budget shall contain separate headings for activities financed by third parties. It shall show:

(a) as regards the statement of revenue:

- the revenue for the financial year in question;
- the revenue entered for the preceding financial year and the revenue established for the last financial year for which accounts have been closed;
- appropriate remarks on each revenue heading;

(b) as regards the statement of expenditure:

- the appropriations made available for the financial year in question, divided into titles, chapters, Articles and items;
- the appropriations made available for the preceding financial year for which the accounts have been closed, increased by the amounts carried forward, using the same classification;
- appropriate remarks on each subdivision; such remarks may include financial information in relation to projects within Europol's working programme, services provided for third parties, the participation of third parties in Europol's activities.

SECTION III

Changes to the budget

Article 16

1. In the event of unavoidable, exceptional or unforeseen circumstances, the Director may submit draft supplementary and/or amending budgets.
2. "Draft supplementary budget" means any proposal which would either increase the total amount of appropriations or finance one or more new activities without increasing the total amount of appropriations.

"Draft amending budget" means any proposal which would involve amendments to the budget of a financial or technical nature, without causing an increase in the total amount of appropriations and without providing for new activities.
3. Draft supplementary and/or amending budgets shall be submitted, examined and adopted in the same form and using the same procedure as the budget whose estimates they are amending.
4. Supplementary and/or amending budgets shall be adopted in accordance with the procedure laid down in Article 35 of the Europol Convention.

Article 17

1. During the last four months of the financial year the Director may transfer:
 - a maximum of 25% of the total appropriations within each chapter;

- appropriations between chapters within the same title in order to increase the total sum of appropriations within any chapter by no more than 25%.

The Director shall inform the Management Board three weeks before making such transfers.

2. The Director may propose transfers of appropriations other than those provided for in paragraph 1.

The Management Board shall take a decision on such proposals for transfers. It shall act unanimously.

3. Notwithstanding paragraph 2, no appropriations can be transferred to or from the title concerning personnel expenditure

TITLE III

Implementation of the budget

SECTION I

General provisions

Article 18

The budget shall be implemented in accordance with the principle that the Authorising Officers, Accounting Officers and Financial Controller are different individuals.

The appropriations shall be administered by the Authorising Officer who alone is empowered to enter into commitments regarding expenditure, establish entitlements to be collected and issue recovery orders and payment orders. The operations of collection and payment shall be carried out by the accounting officer.

The duties of Authorising Officer, Accounting Officer and Financial Controller shall be mutually incompatible.

Article 19

1. In accordance with Article 29(3) of the Europol Convention, the Director, being accountable to the Council, shall implement the budget on his own responsibility in accordance with this Regulation and within the limits of the appropriations allotted.

The Director may delegate his powers under conditions to be laid down by him and within the limits set by the act of delegation, which shall be communicated to the empowered person, the Accounting Officer, the Financial Controller, the Management Board and the Joint Audit Committee.

2. Every three months the Director shall report to the Management Board and the Financial Committee on the implementation of the budget.

3. With the prior concurrence of the Management Board, the Director may, if necessary, enter into commitments for future financial periods provided that such commitments relate to work authorised in the current budget and concern:

- (a) administrative requirements of a continuing nature;
- (b) contracts where longer lead times are required, or
- (c) purchases for which payment is to be made over several years.

Article 20

1. A Financial Controller shall be appointed in accordance with Article 35(7) of the Europol Convention.

The Financial Controller may be assisted in his duties or temporarily replaced by one or more Assistant Financial Controllers also to be appointed in accordance with Article 35(7) of the Europol Convention.

2. In carrying out his duties, the Financial Controller shall be accountable solely to the Management Board.

3. The Financial Controller shall be responsible for the monitoring of:

- the commitment of all expenditure;
- the disbursement of all expenditure;
- all revenue.

By way of derogation from Article 25(2), Article 26(2) and (4), Article 27(2), Article 29(3) and Article 34(2) of this Regulation, and in accordance with Article 35(7) of the Europol Convention, the implementing rules provided for in Article 57(2) of this Regulation may make provision for ex-post monitoring by the Financial Controller in the case of minor items of income or expenditure.

4. Furthermore, the Financial Controller shall review, evaluate and report on the soundness, adequacy and application of systems, procedures and related internal controls.

Reports on each separate inspection, evaluation and investigation shall be submitted to the Director and to the Management Board. The Director shall notify the Management Board of the measures to be taken following each report.

5. For each financial year the Financial Controller shall submit a report to the Management Board and the Joint Audit Committee on the internal supervision activities for that year.

Article 21

The receipt of revenue and the discharge of expenditure shall be carried out by an Accounting Officer appointed by and being responsible to the Director. Subject to Article 32(2), the Accounting Officer shall be the only person empowered to manage funds and assets. He shall be responsible for their safekeeping.

The Accounting Officer may be assisted in his tasks by one or more Assistant Accounting Officers appointed under the same conditions as the Accounting Officer.

Article 22

Notwithstanding Articles 3(1) and 4(1):

- (a) the following deductions may be made from all bills, invoices or statements, which shall then be passed for payment of the net amount:
 - fines imposed on a party to a contract on an accepted tender;

- adjustment of amounts paid in error, which may be achieved by means of deduction beforehand when another validation of the same type is being effected under the chapter, Article and financial year in respect of which the excess payment was made;
- the value of vehicles, apparatus, equipment and installations taken in part exchange in accordance with commercial usage upon purchase of new vehicles, apparatus, equipment and installation of the same kind.

Discounts, refunds and rebates on invoices and bills shall not be recorded as separate revenue;

(b) the following sums may be re-used under the heading to which the initial expenditure was charged:

- revenue arising from refund of amounts paid in error against appropriations entered in the budget;
- proceeds from supply of goods and services to other institutions or bodies, including refunds by such institutions of mission allowances paid on their behalf;
- insurance payments received;
- refund of taxes incorporated in the price of the products or services provided to Europol;
- proceeds from the sale of vehicles, apparatus, equipment and installations which are being replaced or scrapped.

Sums must be re-used before the end of the financial year following that in which the revenue was collected.

The chart of accounts as provided for in Article 48 shall include suspense accounts to record re-use operations for both revenue and expenditure;

- (c) adjustments may be made in respect of exchange differences occurring in budget operations, and in respect of debtor and creditor interest rates relating to cash operations. Only the final gain or loss shall be included in the balance for the year.

Article 23

The balance from each financial year shall be entered in the budget for the second financial year following the financial year from which it derives in accordance with Article 40(2).

Article 24

Where revenue and expenditure operations are managed by means of integrated computer systems, the provisions of Section II of this Title and Title IV shall apply with due allowance for the possibilities and requirements deriving from computerised management. To this end:

- the supporting documents may remain with the Authorising Officer or the Accounting Officer for the purposes of checking;
- signatures and approvals may be added in appropriate computerised form.

The conditions for implementing this Article shall be determined by implementing rules provided for in Article 57(2).

SECTION II

Handling of revenue and expenditure

Article 25

1. Any measure or situation which may give rise to, or modify, a debt due to Europol must be preceded by a debt forecast from the Authorising Officer. Such forecast shall mention, in particular, the type of revenue and the budget item to which it is to be booked and also, as far as possible, the estimated amount and the name and description of the debtor.
2. Debt forecasts shall be forwarded to the Accounting Officer who shall submit them to the Financial Controller for approval.

The purpose of this approval shall be to establish that:

- (a) the revenue is charged to the correct item;
 - (b) the forecast is in order and conforms to the relevant provisions, in particular of the budget and of the rules applying to Europol and also of all acts made in implementation of such rules, and to the principles of sound financial management referred to in Article 2.
3. The approved debt forecasts shall be registered provisionally by the Accounting Officer.

Article 26

1. For the collection of any amounts owing to Europol the issue of a recovery order by the Authorising Officer shall be required.

2. Recovery orders shall be forwarded to the Accounting Officer, who shall submit them to the Financial Controller for approval.

The purpose of this approval shall be to establish that:

- (a) the revenue has been charged to the correct item;
- (b) the recovery order is in order and conforms to the relevant provisions;
- (c) the supporting documents are in order;
- (d) the debtor is correctly described;
- (e) the due date is indicated;
- (f) the principles of sound financial management referred to in Article 2 have been applied;
- (g) the amount and currency of the sum to be recovered are correct.

3. The Accounting Officer shall assume responsibility for the recovery orders duly drawn up.

He shall exercise all due diligence to ensure that payment of the revenue of Europol is made at the proper time and that the rights of Europol are preserved.

4. If the Authorising Officer waives the right to recover an established debt, he shall first forward a proposal for cancellation to the Accounting Officer, who shall submit it to the Financial Controller for approval.

The Financial Controller's approval shall serve to certify that the waiver is in order and conforms with the principles of sound financial management referred to in Article 2.

Article 27

1. Any measure likely to involve expenditure against the current or any subsequent budget must first be the subject of a proposal for a commitment of expenditure from the Authorising Officer. Without prejudice to Article 20(3) he may not enter into legal commitments vis-à-vis third parties until the Financial Controller has given his approval.

Proposals shall show the purpose of the expenditure, the estimated amount involved, the budget item to which the expense is to be charged and the creditor.

A provisional commitment may be entered into for current expenditure.

2. Proposals for commitment shall be forwarded to the Accounting Officer, who shall submit them to the Financial Controller for approval.

The purpose of this approval shall be to establish that:

- (a) the proposal for commitment has been presented in accordance with paragraph 1;
- (b) the expenditure has been correctly charged;
- (c) the appropriations are available;

- (d) the expenditure is in order and conforms to the relevant provisions, in particular of the budget and the rules applying to Europol, and of all acts made in implementation of these rules;
 - (e) the principles of sound financial management referred to in Article 2 have been applied.
3. Approval may not be conditional.
4. The Accounting Officer shall register the approved proposal for commitment.

Article 28

1. The purpose of validation of expenditure by the Authorising Officer shall be:
- (a) to verify the creditor's claim;
 - (b) to determine or verify the existence and the amount of the sum due;
 - (c) to verify the conditions under which the payment falls due;
 - (d) to verify that goods have been delivered or services rendered as ordered.
2. Validation of any expenditure shall be subject to the submission of supporting documents showing the creditor's rights.

The Authorising Officer and another member of staff shall carry out and sign for the verification referred to in paragraph 1(d).

The Authorising Officer may have the verifications carried out under his responsibility

3. Salaries, wages, emoluments and allowances shall be validated in accordance with a collective statement drawn up by the Personnel Department, except where individual validation is necessary.

Article 29

1. Authorisation shall be the act whereby the Authorising Officer, by the issue of a payment order, authorises the Accounting Officer to pay an item of expenditure which has been validated.

2. Payment orders shall state:

- the financial year against which the payment shall be charged;
- the budget Article and any other subdivision that may apply;
- the amount of the sum to be paid (in figures and words) and the currency;
- the name and address of the payee;
- the purpose of the expenditure;
- the method of payment, wherever possible;
- the numbers and dates of the relevant approvals of commitment.

Payment orders shall be accompanied by the original supporting documents or, in exceptional circumstances, by certified true copies. The documents shall bear or be accompanied by a statement certifying the correctness of the amounts to be paid, the receipt of the supplies and the performance of the service and, if appropriate, the entry of the goods in the inventory referred to in Article 45.

The payment order shall be dated and signed by the Authorising Officer.

3. Payment orders shall be forwarded to the Accounting Officer, who shall submit them to the Financial Controller for approval.

The purpose of this approval shall be to establish that:

- (a) the payment order was properly issued;
- (b) the payment order agrees with the commitment of expenditure and that the amount thereof is correct, taking account of the principles of sound financial management referred to in Article 2;
- (c) the expenditure is charged to the correct item;
- (d) the appropriations are available;
- (e) the supporting documents are in order;
- (f) the payee is correctly named and described.

2. After approval, the original of the payment order, together with the supporting documents, shall be forwarded to the Accounting Officers.

Article 30

For payment by instalments, the first payment order shall be accompanied by documents establishing the creditor's claim to payment of the instalment in question. Subsequent payment orders shall refer to the supporting documents already furnished and repeat the reference number of the first payment order.

Article 31

1. Payment shall be the final act whereby Europol is discharged of its obligations towards its creditors.

Payment shall be made by the Accounting Officer within the limits of the funds available.

In the event of a substantive error or of the validity of the discharge being contested or of failure to observe the formalities prescribed by this Regulation, the Accounting Officer shall suspend payment.

2. If payment is suspended, the Accounting Officer shall give the reasons therefor in a written statement which he shall forward to the Authorising Officer and, for information, to the Financial Controller.

Article 32

1. Payments shall be effected as a general rule through a bank account or post office giro account.

The Director shall establish such bank accounts and post office giro accounts in Europol's name. In designating such banks or other financial institutions, the Director shall have regard for the security of Europol's cash assets. In particular, the Director shall select only banks or institutions that have a high credit rating in the financial community. The procedure for opening, administering and using these accounts shall be laid down in the implementing rules provided for in Article 57(2).

2. Cheques and post office giro or bank transfer orders shall require the joint signature of two officials authorised by the Director, one signature necessarily being that of the Accounting Officer, an Assistant Accounting Officer or an Administrator of an imprest account.

Article 33

For payment of certain categories of expenditure, imprest accounts may be set up in accordance with the implementing rules provided for in Article 57(2).

Only the Accounting Officer may replenish the imprest accounts, save in exceptional cases defined in the implementing rules provided for in Article 57(2).

These rules shall contain specific provisions concerning in particular:

- the appointment of Administrators of imprest accounts,
- the nature and maximum amount of each item of expenditure to be incurred,
- the maximum amount of the imprest which may be advanced,
- the time within which supporting documents must be produced,
- the responsibility of the Administrators of imprest accounts.

Article 34

1. The Accounting Officer may grant advances to staff if a provision laid down by regulation or in the implementing rules, provided for in Article 57(2), provides therefor.

The Accounting Officer may grant advances to cover disbursements to be effected by a member of staff on behalf of Europol.

2. Apart from the imprest accounts referred to in Article 33, no advance may be paid unless it has been approved beforehand by the Financial Controller.

Article 35

1. Should the Financial Controller withhold his approval as provided for in Article 25(2), Article 26(2), Article 26(4), Article 27(2), Article 29(3) or Article 34(2), he shall give his reasons therefor in a written statement which shall be forwarded to the Accounting Officer, who shall inform the Authorising Officer of the refusal.

2. In the event of a refusal to approve, except for cases where the availability of appropriations is in doubt, the Director may confirm the debt forecast, recovery order, proposal for cancellation, commitment of expenditure, payment order or advance in a reasoned decision.

The debt forecast, recovery order, proposal for cancellation, commitment of expenditure, payment order or advance shall then be considered to have been validly made.

The Management Board and the Joint Audit Committee shall be informed immediately whenever this provision is applied.

Article 36

In accordance with Article 5(9) of the Europol Convention, costs relating to the activities of liaison officers shall, as a general rule, be borne by the seconding Member States.

However, costs in relation to activities undertaken by liaison officers on behalf of Europol and in agreement with the seconding Member States or requested by Europol or which otherwise fall within the general competence of Europol, shall be borne by the Europol budget. Expenditure which is not attributable shall also be borne by the Europol budget.

SECTION III

Member States' contributions

Article 37

1. Each Member State's contribution to the budget for the financial year t shall, in accordance with Article 35(2) of the Europol Convention, be calculated on the basis of that State's gross national product (hereinafter called "GNP") for the year $t-2$.

The contribution shall be expressed in euro.

2. The calculation of the contributions used when drawing up the budget shall be based on the GNP forecasts, in euro or in national currencies for the non-participating Member States, used when drawing up the preliminary draft budget of the European Union for the financial year $t-2$. These forecasts shall be converted into euro applying the average exchange rate of the year $t-2$.

Article 38

1. Before 1 December of the year $t-1$ or no later than one month after the budget is adopted, whichever date is the later, the Director shall call up the contributions for the financial year t .
2. Subject to Article 8, payment of the Member States' contributions shall be made in full before 31 March of the year t or no later than one month after the contributions are called up, whichever date is the later.

Payment shall be made in euro or in national currency by the non-participating Member States.

3. Interest shall be charged on basis of EURIBOR (Euro Interbank Offered Rate) to be specified in the implementing rules provided for in Article 57(2), on that part of a Member State's contribution which has not been paid within one month of the time limit specified in paragraph 2.

The Management Board shall be informed whenever this provision is applied.

Article 39

Articles 37 and 38 shall apply likewise in the event of a supplementary budget.

Article 40

1. On the basis of the revenue and expenditure account for the financial year t drawn up in accordance with Article 53, the Director shall, by applying the actual GNP figures for $t-2$ as established in national currencies by the Commission of the European Communities and the average exchange rate for the same year, recalculate the Member States' contributions necessary for the financial year t in order to finance the actual expenditure for this year and the carry-overs to the following financial year.

2. To take account of the surplus from the financial year t and the differences between the provisional and the actual GNP figures for $t-2$, the following procedure shall be applied:

- (a) for those Member States whose contributions actually paid for the financial year t exceed the contributions necessary according to paragraph 1, the amount paid in excess shall be deducted from the contributions called up for the financial year $t+2$;
- (b) for those Member States whose contributions actually paid for the financial year t are smaller than the contributions necessary according to paragraph 1, the outstanding amount shall be called up together with the contributions called up for the financial year $t+2$.

SECTION IV

Conclusion of contracts and inventory

Article 41

1. Contracts for the purchase and hiring of buildings or goods, for the provision of services or for the performance of construction work shall be in writing.
2. Apart from contracts relating to the purchase of a building already constructed or the leasing of a building, all such contracts shall be concluded after an invitation to tender has been issued.

However, contracts may be made by private treaty in the following circumstances:

- (a) within the limit laid down by the implementing rules provided for in Article 57(2);
- (b) where the purchase or hiring of goods, the provision of services or building works are so urgently needed that it is not possible to wait for a tendering procedure to be carried out;

- (c) where the tendering procedures do not give any result or where the prices quoted are not acceptable;
- (d) where for technical, practical, security or legal reasons the supply of goods and services can be carried out only by a particular contractor or supplier;
- (e) for contracts for the supply of additional goods and services or for ancillary building works which, technically, cannot be separated from their main contract.

In the cases referred to under (a), (b) and (c), Europol shall nonetheless be bound, as far as possible and by all appropriate means, to enable suppliers who are likely to be able to supply the goods and services in question to compete.

3. Invitations to tender shall, as a general rule, be published in all the Member States and, where appropriate, in third countries insofar as this is compatible with the development of relevant industries within the European Union. However, their publication may be restricted where the scale or nature of the goods or services is such that they are not appropriate for a general invitation to tender.

4. The tendering procedures, award criteria and price adjustment procedures occurring after the conclusion of contracts shall be determined and governed by the implementing rules provided for in Article 57(2), given that the award criteria shall be defined by analogy with the provisions of the directives referred to in Article 44.

5. Contracts exceeding the limit laid down by the implementing rules provided for in Article 57(2) shall be subject to the authorisation of the Management Board.

Article 42

No discrimination shall be practised between nationals of Member States on grounds of nationality in respect of contracts entered into by Europol.

Article 43

1. Contracts may be made against invoice or bill of costs where the expected value of the goods, services or works does not exceed the amounts laid down by the implementing rules provided for in Article 57(2).

2. By way of guarantee of the performance of contracts, suppliers or contractors may be required by a warranty clause to make a preliminary deposit.

The amount of the deposit shall be fixed according to the usual trade terms and conditions.

Where a contract has not been performed or completion has been late, Europol shall ensure that it is adequately compensated in respect of all damages, interests and costs by the deduction of the amount from the deposit, whether this has been lodged directly by the supplier or contractor or by a third party.

Article 44

When concluding contracts in respect of which the amounts involved are equal to or greater than the thresholds laid down by the Council directives coordinating the procedures for the conclusion of contracts covering public works, supplies and services, Europol shall be subject to the same obligations which are incumbent on parties in the Member States pursuant to the directives.

Article 45

1. A permanent inventory showing the quantity and value of all movable and immovable property belonging to Europol shall be kept. Only movable property exceeding a specific value laid down in the implementing rules provided for in Article 57(2) shall be entered in this inventory.

2. All acquisitions of such movable or immovable property shall be entered in the permanent inventory before payment can be made.

The entry shall be recorded in the corresponding invoice or attached document drawn up with a view to payment of the expenditure.

3. Europol shall carry out its own inspection to ascertain that entries in the inventory correspond to the facts.

Article 46

1. The sale of movable property shall be suitably advertised.
2. A statement or record shall be drawn up by the Authorising Officer whenever any property in the inventory is sold, given away free of charge, scrapped, hired out, or missing on account of loss, theft or other reason. The statement or record shall be forwarded to the Accounting Officer, who shall submit it to the Financial Controller for authentication.

The statement or record shall refer in particular to any obligation that may devolve on a member of the staff of Europol or any other person to replace the item in question.

3. Apart from sales by public auction, members of staff may not acquire any movable property sold by Europol.
4. If immovable property or large installations are made available free of charge, they must be covered by contracts approved by the Financial Controller. Such immovable property or large installations can only be accepted after prior approval by the Management Board. The Management Board shall act unanimously.

SECTION V

Accountancy

Article 47

1. The accounts shall be kept in euro by the double-entry method, on the basis of the financial year. They shall show all revenue and expenditure for the financial year; they shall be authenticated by supporting documents.

The accounts shall be closed at the end of the financial year to enable the balance sheet and the revenue and expenditure account referred to in Article 50 to be drawn up by the Accounting Officer on behalf of the Director. The revenue and expenditure account shall be submitted to the Financial Controller. The Director shall sign and approve the financial statements.

2. The revenue and expenditure account and the balance sheet shall be drawn up in euro.

Article 48

1. The chart of accounts shall make a clear distinction between budgetary accounts and cash accounts.

It shall comprise of two parts:

- (a) accounts of budgetary expenditure and revenue which show the detailed implementation of the budget;
- (b) the balance sheet accounts which disclose the assets and liabilities of Europol.

These accounts shall show the expected effect of Europol's legal obligations and shall make it possible to draw up an annual balance of assets and liabilities and a monthly statement of revenue and expenditure by chapter and article.

These statements shall be forwarded to the Financial Controller, the Authorising Officer and the Joint Audit Committee.

2. Any advance, other than regular advances which are periodically re-examined, shall be entered in a suspense account and settled at the latest during the financial year which follows the payment of this advance.

However, the advances referred to in Article 34 shall be settled as a general rule within six weeks following completion of the project for which they were granted.

3. The detailed conditions for the establishment and operation of the chart of accounts for transactions, relating both to assets and liabilities and to the implementation of the budget, including the accounting standards, shall be determined by the implementing rules provided for in Article 57(2).

4. Supporting documents pertaining to the accounts and the preparation of the revenue and expenditure account and the balance sheet shall be kept for a period of five years following the date of the decision provided for in Article 55(2) giving discharge in respect of the implementation of the budget.

However, the documents relating to transactions not finally closed shall be kept for longer than the said period until the end of the year following the year in which such transactions are finally closed.

SECTION VI
Responsibilities of Authorising Officers,
the Accounting Officer, Administrators of imprest accounts
and the Financial Controller

Article 49

1. An Authorising Officer shall render himself liable to disciplinary action and, where appropriate, to payment of compensation if he enters into a commitment of expenditure or signs a payment order without complying with this Regulation.

The same shall apply if the Authorising Officer omits to draw up a document establishing a debt or if he neglects to issue a recovery order or is, without justification, late in issuing it.

2. The Accounting Officer and Assistant Accounting Officers shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation in the following cases:

- (a) if they fail to comply with Article 31(1);
- (b) if the payments made by them do not agree with the amounts and currencies of the payment orders;
- (c) if they effect payment to a party other than the entitled payee.

3. The Accounting Officer and Assistant Accounting Officers shall insure themselves against the risk arising under paragraph 2.

Europol shall cover the insurance costs relating thereto.

4. Administrators of imprest accounts shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation in the following cases:

- (a) where they cannot show due warrant with proper documents for payments made by them;
- (b) where they effect payment to parties other than entitled payees.

5. The Financial Controller and Assistant Financial Controllers shall render themselves liable to disciplinary action and, where appropriate, to payment of compensation for any action taken during their term of office; in particular, by granting their approval in excess of the budgetary appropriations.

6. The liability of Authorising Officers, the Accounting Officer, Assistant Accounting Officers and Administrators of imprest accounts to payment of compensation and disciplinary action shall be determined in accordance with the relevant provisions of the Staff Regulations of officials of Europol.

These provisions shall also apply, *mutatis mutandis*, in case of liability of the Financial Controller and Assistant Financial Controllers to payment of compensation and disciplinary.

TITLE IV

Presenting and auditing the accounts

SECTION I

Presenting the accounts

Article 50

In accordance with Article 36 of the Europol Convention, the Director shall each year draw up and present the financial statements of Europol including:

- a revenue and expenditure account, and
- a balance sheet of assets and liabilities as at 31 December of the preceding financial year and such explanatory notes as are required for a proper understanding of Europol's financial position, including a statement of significant accounting policies.

The revenue and expenditure account shall cover all revenue and expenditure transactions relating to the preceding financial year. It shall be submitted in the same form and following the same subdivisions as the budget and shall show:

- the original budget appropriations;
- the appropriations as modified by any transfers of funds;
- the amounts charged against the appropriations, and
- the uncommitted balance of appropriations.

The balance sheet shall include, on the asset side, the amount of revenue to be collected and, on the liabilities side, the amount of expenditure chargeable to the financial year, which have not yet been entered in the accounts.

A statement showing the movements and balances of the accounts at 31 December of the preceding financial year shall be attached to the balance sheet.

Article 51

1. The Director shall send the financial statements, including the revenue and expenditure account, the balance sheet, explanatory notes and the report on the annual accounts, as provided for in Article 36(1) of the Europol Convention, to the Council and the Joint Audit Committee and, for information, to the Management Board and the Financial Committee by 31 May of the following year at the latest.

2. The annual report shall in particular describe:

- (a) the commitments entered into and payments made chargeable to the financial year;
- (b) the total revenue and expenditure booked under each Article of the budget;
- (c) the appropriations unused at the end of the financial year and not carried over to the following financial year;
- (d) the appropriations carried over to the following financial year pursuant to Article 6;

- (e) the use of appropriations carried over from the preceding financial year;
- (f) an explanation where revenue or expenditure has been higher or lower than anticipated in the budget;
- (g) the assets and liabilities of Europol;
- (h) the capital investments made during the financial year;
- (i) such further explanations as may be necessary for a proper understanding of the annual accounts including an assessment of Europol's future financial situation.

SECTION II

Auditing the accounts

Article 52

The purpose of the audit, carried out by the Joint Audit Committee in accordance with generally accepted international auditing standards, based on records and performed on the spot, shall be to establish that the financial statements present fairly the financial position of Europol at 31 December, that all revenue has been received and all expenditure incurred in a lawful and regular manner, in accordance with the terms of the Europol Convention, the budget and this Regulation, in particular Article 2, and that the financial management has been sound.

Article 53

1. The Director shall provide the Members of the Joint Audit Committee and anybody assisting them in carrying out their tasks with all information and every assistance which they require in order to perform their task.

In particular, the Director shall place all cash and goods accounts and all vouchers, supporting documents and stock registers which the Members of the Committee consider necessary for auditing the revenue and expenditure account at their disposal.

The Members of the Joint Audit Committee and anybody assisting them in carrying out their tasks shall have personal access to the premises of Europol and shall have the right to interview the Director, the Deputy Directors and any other employee of Europol responsible for transactions involving revenue or expenditure.

2. Notwithstanding paragraph 1, the Director may, in exceptional cases, deny the Members of the Joint Audit Committee access to information, in whatever form, covered by provisions of the Europol Convention or acts adopted in accordance therewith concerning confidentiality.

The Director shall inform the Management Board immediately when this provision is applied. The Management Board may by unanimous decision grant the Members of the Joint Audit Committee access to the information in question.

3. The Members of the Joint Audit Committee and anybody assisting them in carrying out their tasks shall treat all information acquired about Europol and its activities as confidential.

Article 54

1. In addition to its responsibility for auditing the accounts, the Joint Audit Committee shall make any appropriate comments on the accounting methods used, the sound financial management and, in general, on the financial implications of the administrative practices followed.
2. Any comments which in the opinion of the Joint Audit Committee should be contained in the audit report provided for in Article 36(3) of the Europol Convention shall be brought to the attention of the Director and the Financial Controller. The Director and the Financial Controller shall send the Joint Audit Committee their replies to any such comments.

Article 55

1. The Joint Audit Committee shall, by 31 October at the latest, produce its report on the accounts of the preceding financial year. The report shall be transmitted to the Management Board, the Director and the Financial Controller.

In its report, the Committee shall indicate the extent and nature of the audit performed and give its comments on the accounts and the balance sheet and a brief assessment of the financial management of Europol.

The Director and the Financial Controller may, by 30 November at the latest, transmit their respective opinions on the audit report to the Management Board and to the Joint Audit Committee.

2. On the basis of an opinion of the Financial Committee, the Management Board shall discuss the report and draw up a recommendation to the Council concerning discharge to be given to the Director in respect of the implementation of the budget.

As soon as the Management Board has drawn up its recommendation, the Joint Audit Committee shall, in accordance with Article 36(3) of the Europol Convention, submit its report to the Council.

Before 30 April of the following year and in accordance with Article 36(5) of the Europol Convention, the Council shall take a decision on the discharge.

3. The timetable for the discharge procedure shall be further specified in the implementing rules provided for in Article 57(2).

4. The Director shall take all appropriate steps to act on the comments appearing in the decision giving discharge.

5. The Financial Controller shall take account of the comments appearing in the decision giving discharge.

TITLE V

Final provisions

Article 56

The Management Board shall inform the Joint Audit Committee, as soon as possible, of all decisions and measures taken in implementation of Articles 6, 8, 17 and 20.

The Joint Audit Committee and the Financial Controller shall be informed of the appointment of Authorising Officers, the Accounting Officer, Assistant Accounting Officers and Administrators of imprest accounts, and of the acts of delegation or appointment pursuant to Articles 19(1) and 21.

The Management Board shall forward to the Joint Audit Committee any rules of procedure which it adopts in respect of financial matters.

Article 57

1. Amendments to this Regulation shall be adopted in accordance with Article 35(9) of the Europol Convention and after consultation of the Joint Audit Committee.
2. Acting upon a proposal from the Director, and after consultation of the Financial Controller and the Financial Committee, the Management Board shall adopt the rules required for implementing this Regulation. It shall act unanimously.

Article 58

1. When Europol takes up its activities, it shall automatically succeed to all financial rights and obligations recorded in the accounts of the Europol Drugs Unit.
2. In accordance with Article 45(5) of the Europol Convention, Europol shall become the owner of all equipment financed from the Europol Drugs Unit joint budget, developed or produced by the Europol Drugs Unit or placed at its disposal free of charge by the Netherlands Government for its permanent use.

3. When Europol takes up its activities, the coordinator of the Europol Drugs Unit shall present to the Council a report on the statement of accounts of that Unit, as well as an inventory list of all the equipment of which Europol becomes owner in accordance with paragraph 2.

This report shall also be sent to the auditor of the Europol Drugs Unit and to the Joint Audit Committee.

Article 59

Council Act 1999/C 25/01 is hereby repealed.

Article 60

1. This Financial Regulation shall enter into force on 1 January 2000.
2. This Financial Regulation shall be published in the Official Journal of the European Communities.

Done at Brussels,

For the Council
The President
