Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (Codified version)

REGULATION (EC) No 401/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 April 2009

on the European Environment Agency and the European Environment Information and Observation Network

(Codified version)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(2)],

Whereas:

(1) Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network[(3)] has been substantially amended several times[(4)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) The Treaty provides for the development and implementation of a Community policy on the environment, and lays down the objectives and principles which should govern such policy.

(3) Environmental protection requirements are to be a component of the Community's other policies.

(4) According to Article 174 of the Treaty, in preparing its action relating to the environment the Community is to take account, inter alia, of the available scientific and technical data.

(5) Collection, processing and analysis of environmental data at European level are necessary in order to provide objective, reliable and comparable information which will enable the Community and the Member States to take the requisite measures to protect the environment, to assess the results of such measures and to ensure that the public is properly informed about the state of the environment.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EC) No 401/2009 of the European Parliament and of the Council. (See end of Document for details)*

(6) There already exist in the Community and the Member States facilities providing such information and services.

(7) They should form the basis for the European Environment Information and Observation Network to be coordinated at Community level by the European Environment Agency.

(8) The general principles and limits governing the exercise of the right of access to documents, provided for in Article 255 of the Treaty, have been laid down by Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents[(5)].

(9) The Agency should cooperate with existing structures at Community level to enable the Commission to ensure full application of Community legislation on the environment.

(10) The status and structure of the Agency should correspond to the objective character of the results it is intended to produce and allow it to carry out its functions in close cooperation with the existing national and international facilities.

(11) The Agency should be granted legal autonomy while maintaining close links with the Community institutions and the Member States.

(12) It is desirable to provide for the Agency to be open to other countries which share the concern of the Community and the Member States for the objectives of the Agency under agreements to be concluded between them and the Community,

HAVE ADOPTED THIS REGULATION:

Article 1

1 This Regulation provides for the European Environment Agency, hereinafter referred to as ‘the Agency’, and aims at the setting up of a European Environment Information and Observation Network.

2 To achieve the aims of environmental protection and improvement laid down by the Treaty and by successive Community action programmes on the environment, as well as of sustainable development, the objective of the Agency and of the European Environment Information and Observation Network shall be to provide the Community and the Member States with:

a objective, reliable and comparable information at European level enabling them to take the requisite measures to protect the environment, to assess the results of such measures and to ensure that the public is properly informed about the state of the environment, and to that end;

b the necessary technical and scientific support.

Article 2

For the purposes of achieving the objective set out in Article 1, the tasks of the Agency shall be:

(a) to establish, in cooperation with the Member States, and coordinate the Network referred to in Article 4; in this context, the Agency shall be responsible for the collection, processing and analysis of data, in particular in the fields referred to in Article 3;

(b) to provide the Community and the Member States with the objective information necessary for framing and implementing sound and effective environmental policies; to that end, in particular to provide the Commission with the information that it needs to be able to carry out successfully its tasks of identifying, preparing and evaluating measures and legislation in the field of the environment;

(c) to assist the monitoring of environmental measures through appropriate support for reporting requirements (including through involvement in the development of questionnaires, the processing of reports from Member States and the distribution of results), in accordance with its multiannual work programme and with the aim of coordinating reporting;

(d) to advise individual Member States, upon their request and where this is consistent with the Agency's annual work programme, on the development, establishment and expansion of their systems for the monitoring of environmental measures, provided such activities do not endanger the fulfilment of the other tasks established by this Article; such advice may also include peer reviews by experts at the specific request of Member States;

(e) to record, collate and assess data on the state of the environment, to draw up expert reports on the quality, sensitivity and pressures on the environment within the territory of the Community, to provide uniform assessment criteria for environmental data to be applied in all Member States, to develop further and maintain a reference centre of information on the environment; the Commission shall use this information in its task of ensuring the implementation of Community legislation on the environment;

(f) to help ensure that environmental data at European level are comparable and, if necessary, to encourage by appropriate means improved harmonisation of methods of measurement;

(g) to promote the incorporation of European environmental information into international environment monitoring programmes such as those established by the United Nations and its specialised agencies;

(h) to publish a report on the state of, trends in and prospects for the environment every five years, supplemented by indicator reports focusing upon specific issues;

(i) to stimulate the development and application of environmental forecasting techniques so that adequate preventive measures can be taken in good time;

(j) to stimulate the development of methods of assessing the cost of damage to the environment and the costs of environmental preventive, protection and restoration policies;

(k) to stimulate the exchange of information on the best technologies available for preventing or reducing damage to the environment;

(l) to cooperate with the bodies and programmes referred to in Article 15;

(m) to ensure the broad dissemination of reliable and comparable environmental information, in particular on the state of the environment, to the general public and, to this end, to promote the use of new telematics technology for this purpose;

(n) to support the Commission in the process of exchange of information on the development of environmental assessment methodologies and best practice;

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(o) to assist the Commission in the diffusion of information on the results of relevant environmental research and in a form which can best assist policy development.

Article 3

1 The principal areas of activity of the Agency shall, as far as possible, include all elements enabling it to gather the information making it possible to describe the present and foreseeable state of the environment from the following points of view:

a the quality of the environment;
b the pressures on the environment;
c the sensitivity of the environment;

including placing these in the context of sustainable development.

2 The Agency shall furnish information which can be directly used in the implementation of Community environmental policy.

Priority shall be given to the following areas of work:

a air quality and atmospheric emissions;
b water quality, pollutants and water resources;
c the state of the soil, of the fauna and flora, and of biotopes;
d land use and natural resources;
e waste management;
f noise emissions;
g chemical substances which are hazardous for the environment;
h coastal and marine protection.

In particular, transfrontier, plurinational and global phenomena shall be covered.

The socioeconomic dimension shall also be taken into account.

3 The Agency may also cooperate in the exchange of information with other bodies, including with the European Network for the Implementation and Enforcement of Environmental Law (IMPEL Network).

In its activities the Agency shall avoid duplicating the existing activities of other institutions and bodies.

Article 4

1 The Network shall comprise:

a the main component elements of the national information networks;
b the national focal points;
c the topic centres.

2 Member States shall keep the Agency informed of the main component elements of their national environment information networks, especially in the priority areas referred to in Article 3(2), including any institution which in their judgment could contribute to the work of the Agency, taking into account the need to ensure the fullest possible geographical coverage of their territory.

Member States shall, as appropriate, cooperate with the Agency and contribute to the work of the European Environment Information and Observation Network in accordance with the work programme of the Agency by collecting, collating and analysing data nationwide.

Member States may also join to cooperate in these activities at a transnational level.

3 Member States may in particular designate from among the institutions referred to in paragraph 2 or other organisations established in their territory a 'national focal point' for coordinating and/or transmitting the information to be supplied at national level to the Agency and to the institutions or bodies forming part of the Network, including the topic centres referred to in paragraph 4.

4 Member States may also, by 30 April 1994, identify the institutions or other organisations established in their territory which could be specifically entrusted with the task of cooperating with the Agency as regards certain topics of particular interest.

An institution thus identified should be in a position to conclude an agreement with the Agency to act as a topic centre of the Network for specific tasks.

These centres shall cooperate with other institutions which form part of the Network.

5 The topic centres shall be designated by the Management Board as defined in Article 8(1), for a period not exceeding the duration of each multiannual work programme as referred to in Article 8(4). Each designation may, however, be renewed.

6 The allocation of specific tasks to the topic centres shall appear in the Agency's multiannual work programme mentioned in Article 8(4).

7 In the light in particular of the multiannual work programme, the Agency shall periodically re-examine the component elements of the Network as referred to in paragraph 2 and shall make such changes as may be decided on by the Management Board, taking account of any new designations made by the Member States.

Article 5

The Agency may agree with the institutions or bodies which form part of the Network, as referred to in Article 4, upon the necessary arrangements, in particular contracts, for successfully carrying out the tasks which it may entrust to them.

A Member State may provide, as regards the national institutions or organisations in its territory, that such arrangements with the Agency shall be made in agreement with the national focal point.

Article 6

1 Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.

2 Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the European Ombudsman or of an action before the Court of Justice of the European Communities, under the conditions laid down in Articles 195 and 230 of the Treaty respectively.

Article 7

The Agency shall have legal personality. It shall enjoy in all the Member States the most extensive legal capacity accorded to legal persons under their laws.

Article 8

1 The Agency shall have a Management Board consisting of one representative of each Member State and two representatives of the Commission. In addition, there may be one representative of each other country which participates in the Agency, in accordance with the relevant provisions.