# Regulation (EC) No 1339/2008 of the European Parliament and of the Council of 16 December 2008 establishing a European Training Foundation (recast)

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(recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 150 thereof,

Having regard to the proposal from the Commission,

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

Having consulted the Committee of the Regions,

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

Whereas:

(1) The European Council meeting at Strasbourg on 8 and 9 December 1989 called upon the Council to adopt, at the beginning of 1990, the necessary decisions for the establishment of a European Training Foundation for Central and Eastern Europe, acting on a proposal from the Commission. To this end on 7 May 1990 the Council adopted Regulation (EEC) No 1360/90.

(2) Council Regulation (EEC) No 1360/90 of 7 May 1990 establishing a European Training Foundation[(3)] has been substantially amended several times. Since further amendments are to be made, it should be recast in the interests of clarity.

(3) On 18 December 1989 the Council adopted Regulation (EEC) No 3906/89 on economic aid to the Republic of Hungary and the Polish People's Republic[(4)] which provided for aid in areas including training to support the process of economic and social reform in Hungary and Poland.

(4) The Council subsequently extended such aid to other countries of Central and Eastern Europe under relevant legal acts.

(5) On 27 July 1994 the Council adopted Regulation (EC) No 2063/94[(5)] amending Regulation (EEC) No 1360/90, with a view to including in the activities of the European Training Foundation the States receiving assistance under Regulation (Euratom, EEC) No 2053/93 of 19 July 1993 concerning the provision of technical assistance to economic reform and recovery in the independent States of the former Soviet Union and Mongolia[(6)] (the TACIS Programme).

(6) On 17 July 1998 the Council adopted Regulation (EC) No 1572/98[7] amending Regulation (EEC) No 1360/90 with a view to including in the activities of the European Training Foundation the Mediterranean non-member countries and territories which are beneficiaries of the financial and technical measures to accompany the reform of their economic and social structures pursuant to Council Regulation (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership[8].

(7) On 5 December 2000 the Council adopted Regulation (EC) No 2666/2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia[9] amending Regulation (EEC) No 1360/90 with a view to including in the activities of the European Training Foundation the Western Balkan States covered by Regulation (EC) No 2666/2000.

(8) External assistance programmes relating to the countries covered by the activities of the European Training Foundation are to be replaced by new external relations policy instruments, mainly the instrument established by Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)[10] and the instrument established by Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument[11].

(9) By supporting human capital development in the context of its external relations policy, the European Union contributes to economic development in these countries by providing the skills necessary to foster productivity and employment and supports social cohesion by promoting civic participation.

(10) In the context of the efforts of these countries to reform their economic and social structures, the development of human capital is essential for attaining long-term stability and prosperity and in particular for achieving socio-economic equilibrium.

(11) The European Training Foundation could make an important contribution, in the context of EU external relations policies, to improving human capital development, in particular education and training in a lifelong learning perspective.

(12) In order to make its contribution, the European Training Foundation will need to call upon the experience gained within the EU in relation to education and training in a lifelong learning perspective and upon those of its institutions which are involved in this activity.

(13) There exist in the Community and in third countries, including the countries covered by the activities of the European Training Foundation, regional and/or national, public and/or private facilities which can be called upon to collaborate in the effective provision of aid in the area of human capital development, in particular education and training in a lifelong learning perspective.

(14) The status and structure of the European Training Foundation should facilitate a flexible response to the specific and differing requirements of the individual countries to be

assisted, and enable it to carry out its functions in close cooperation with existing national and international bodies.

(15) The European Training Foundation should be endowed with legal personality, while maintaining a close corporate relationship with the Commission and respecting the overall political and operational responsibilities of the Community and its institutions.

(16) The European Training Foundation should have close links with the European Centre for the Development of Vocational Training (Cedefop), with the Trans-European Mobility Scheme for University Studies (Tempus) and any other schemes instituted by the Council to provide aid in the area of training to the countries covered by its activities.

(17) The European Training Foundation should be open to the participation of countries which are not Member States of the Community and which share the commitment of the Community and the Member States to the provision of aid to the countries covered by the activities of the European Training Foundation in the field of human capital development, in particular education and training in a lifelong learning perspective, under arrangements to be laid down in agreements between the Community and themselves.

(18) All Member States, the European Parliament and the Commission should be represented on a Governing Board in order to oversee effectively the functions of the Foundation.

(19) In order to guarantee the full autonomy and independence of the Foundation, it should be granted an autonomous budget the revenues of which come primarily from a Community contribution. The Community budgetary procedure should be applicable as far as the Community contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.

(20) The Foundation is a body set up by the Communities within the meaning of Article 185(1) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[(12)] (hereinafter referred to as the 'Financial Regulation') and should adopt its financial rules accordingly.

(21) Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002[(13)] (hereinafter referred to as the 'Framework Financial Regulation') should apply to the Foundation.

(22) In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)[(14)] should apply without restriction to the Foundation.

(23) 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[(15)] should apply to the Foundation.

**Changes to legislation:** *There are currently no known outstanding effects for the Regulation (EC) No 1339/2008 of the European Parliament and of the Council. (See end of Document for details)*

(24) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data[16] should apply to the processing of personal data by the Foundation.

(25) Pursuant to a Decision of 29 October 1993, taken by common agreement between the representatives of the Governments of the Member States, meeting at Head of State and Government level, on the location of the seats of certain bodies and departments of the European Communities and of Europol[17], the Foundation is to have its seat in Turin, Italy.

(26) Since the objective of this Regulation, namely assisting third countries in the field of human capital development, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(27) This Regulation respects the fundamental rights recognised by the Charter of Fundamental Rights of the European Union, in particular Article 43 thereof,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Objective and scope**

1 The European Training Foundation (hereinafter referred to as the 'Foundation') is hereby established. The objective of the Foundation shall be to contribute, in the context of EU external relations policies, to improving human capital development, in the following countries:

a the countries eligible for support under Regulation (EC) No 1085/2006 and subsequent related legal acts;

b the countries eligible for support under Regulation (EC) No 1638/2006 and subsequent related legal acts;

c other countries designated by decision of the Governing Board on the basis of a proposal supported by two-thirds of its members and a Commission opinion, and covered by a Community instrument or international agreement that includes an element of human capital development, and as far as available resources allow.

The countries referred to in points (a), (b) and (c) shall be designated as the 'partner countries'.

2 For the purpose of this Regulation, 'human capital development' shall be defined as work which contributes to the lifelong development of individuals' skills and competences through the improvement of vocational education and training systems.

3 In order to achieve its objective, the Foundation may provide assistance to partner countries in:

a facilitating adaptation to industrial changes, in particular through vocational training and retraining,

b improving initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market,

c facilitating access to vocational training and encouraging the mobility of instructors and trainees and particularly young people,

d stimulating cooperation on training between educational establishments and firms,

e developing exchanges of information about and experience in issues common to the training systems of the Member States,

f increasing the adaptability of workers, particularly through increased participation in education and training in a lifelong learning perspective,

g designing, introducing and implementing reforms in education and training systems, in order to develop employability and labour market relevance.

*Article 2*

**Functions**

For the purpose of achieving the objective set out in Article 1(1), the Foundation, within the limits of the powers conferred on the Governing Board and following the general guidelines established at Community level, shall have the following functions:

(a) to provide information, policy analyses and advice on human capital development issues in the partner countries;

(b) to promote knowledge and analysis of skills needs in national and local labour markets;

(c) to support relevant stakeholders in partner countries in building capacity in human capital development;

(d) to facilitate the exchange of information and experience among donors engaged in human capital development reform in partner countries;

(e) to support the delivery of Community assistance to partner countries in the field of human capital development;

(f) to disseminate information and encourage networking and the exchange of experience and good practice between the EU and partner countries and amongst partner countries in human capital development issues;

(g) to contribute, at the Commission's request, to the analysis of the overall effectiveness of training assistance to the partner countries;

(h) to undertake such other tasks as may be agreed between the Governing Board and the Commission, within the general framework of this Regulation.

*Article 3*

**General provisions**

1 The Foundation shall have legal personality and shall enjoy in each of the Member States the most extensive legal capacity accorded to legal persons under its laws. The Foundation may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. The Foundation shall be non-profit making.

2 The Foundation shall have its seat in Turin, Italy.