

Official Gazette of the Autonomous Government of Catalonia

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Department of Universities, Research and the Information Society

- DECREE 168/2002, of June 11, which approves the Statutes of the Agency for Administration of University and Research Grants. *(Page 11157)*

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DECREE

168/2002, of June 11, which approves the Statutes of the Agency for Administration of University and Research Grants.

Law 7/2001, of May 31, created the Agency for Administration of University and Research Grants, whose core mission is to exercise the functions granted by this Law with regard to the promotion of activities in matters pertaining to universities, research and technological innovation which are the competence of the Autonomous Government of Catalonia.

In accordance with article 4.2 of Law 7/2001, of May 31, the Autonomous Government of Catalonia has the competence for approving the Agency's Statutes, which should determine the functions of its organs of government, its organic structure, its operating procedures, as well as the minimum contents of the programme-contract to be formalised with the Department of Universities, Research and the Information Society.

By virtue of which, at the proposal of the Autonomous Minister for Universities, Research and the Information Society, and with the prior approval of the Autonomous Government,

I decree:

Single article

To approve the Statutes of the Agency for Administration of University and Research Grants, which are annexed to this Decree.

Transitory provision

The civil servants of the Department of Universities, Research and the Information Society who, on the date this Decree takes effect, are assigned to the Agency for Administration of University and Research Grants, may choose, in accordance with the applicable legislation, to:

a) Join the Agency as contract personnel by means of public examination, with acknowledgement, to all intents and purposes, of their seniority in the Autonomous Government of Catalonia, and remain in this Administration in a situation of voluntary leave due to incompatibility.

b) Maintain the condition of civil servant in the Agency and hold a job that will eventually cease to exist. This position will cease to exist when the civil servant obtains another definitive position or when the post becomes vacant for any reason which does not entail its reservation.

Final dispositions

—1 The person in charge of the Department of Universities, Research and the Information Society is authorised to take the necessary measures for the Agency for Administration of University and Research Grants to become operational.

—2 This Decree takes effect as of the day following its publication in the Official Gazette of the Autonomous Government of Catalonia (DOGC).

Barcelona, June 11, 2002

Jordi Pujol

President of the Autonomous Government of Catalonia

Andreu Mas-Colell

Autonomous Minister for Universities, Research and the Information Society

Annex

Statutes of the Agency for Administration of University and Research Grants

Chapter 1

Nature and functions

Article 1

Nature

1.1 The Agency for Administration of University and Research Grants, created by Law 7/2001, of May 31, is a public body of the Autonomous Government of Catalonia governed by private law, with its own legal personality, full capacity to act and its own assets in order to implement its functions.

1.2 The Agency is governed by Law 7/2001 of May 31; by Law 4/1985, of March 29, of the Statute of the Catalan Public Company; by private legal ordinance, with the sole exceptions established by the Law creating it, by these Statutes, and by any other laws and provisions that may be applicable to it.

1.3 The Agency may acquire as beneficiary, even by compulsory purchase, and can hold, claim, trade, encumber or alienate all kinds of goods; it can also arrange credits, enter into contracts, formalise agreements, execute, hire and operate works and services, award grants and subsidies, bind itself, lodge appeals and exercise any actions that may be necessary for the development of its functions.

Article 2

Address

The Agency has its head offices in the city of Barcelona, without prejudice to the setting-up of any facilities in the territorial areas determined by the Board of Management.

Article 3

Linkage

The Agency acts according to the guidelines of the Department of Universities, Research and the Information Society, to which it is linked, and which controls the efficacy and efficiency of its activity.

Article 4

Principles of management

In the management of its activities, the Agency must act according to the following principles:

- a) With efficacy, efficiency and quality.
- b) With functional autonomy and with an integrated system of management to implement control of results.
- c) With an approach based on decentralisation vis-à-vis universities and research institutions in order to bring its management as close as possible to the end user.
- d) With full responsibility for the outcomes of its management.
- e) For the evaluation of results and the constant adaptation to the needs of the beneficiaries of its services and activities.
- f) Providing information and attention to the public by means of a catalogue of services that presents the programmes and activities of the Agency.
- g) With management based on the use of the most advanced technologies.

Article 5

Functions and activity programme

5.1 The Agency is commissioned with the implementation of actions established in the Research Plan of Catalonia and programmes of grants and scholarships, loans, subsidies and other activities for the promotion of and support to university education, scientific and technical research and technological innovation in Catalonia. More specifically, it is responsible for the tasks pertaining to:

- a) Calls for application, management, resolution and the payment of programmes of grants, scholarships and subsidies.
- b) The formalisation of agreements, pacts and contracts with public or private organisations and with other departments of the Autonomous Government of Catalonia for the award of subsidies, as well as their monitoring.
- c) The implementation of agreements and contracts commissioned to it.
- d) The powers of inspection, verification and control, and formalities involved in modification and reimbursement proceedings, as well as their resolution.
- e) The formalities of appeals lodged against the Agency in matters of grants and subsidies, and the resolution thereof.
- f) The formalisation of agreements and contracts with financial organisations or with other organisations and institutions for the implementation of programmes of loans for study and training, or scientific and technical research and technological innovation.
- g) The promotion of relationships with other institutions with university and research grants management functions.
- h) The implementation of programmes and activities for support to university education, scientific and technical research and technological innovation in Catalonia.
- i) Assessment to the organs of the Administration of the Autonomous Government of Catalonia in matters related to the management of grants and subsidies.
- j) Technical and professional support to organisations in the scientific and technological area.
- k) Any other function linked to the management attributed to the Agency assigned by the programme-contract entered into with the Department of Universities, Research and the Information Society or with other departments or organisations of the Autonomous Government of Catalonia.

5.2 Every year, the Board of Management of the Agency should approve a programme of activities that must define the Agency's activities and their funding. The program of activities should refer, at least, to all the aspects envisaged in section 2 of article 6 of these Statutes.

5.3 Evaluation

If the calls for applications for grants, scholarships, subsidies or other activities carried out by the organisation require, prior to their award, a scientific and technical evaluation, the Agency will apply the general criteria established by the Research Plan of Catalonia, as well as the guidelines established by the Department of Universities, Research and the Information Society, without prejudice to other specific criteria being stipulated in the programme-contract with this Department or in other programme-contracts.

The Agency may create its own mechanisms of evaluation or use other existing external ones, in accordance with the guidelines and/or the programme-agreements with the Department of Universities, Research and the Information Society.

Article 6

Programme-contract

6.1 The Agency's activities with the Department of Universities, Research and the Information Society are articulated by means of a programme-contract approved by the Board of Management and formalised by the Autonomous Minister of the Department and by the Executive Director of the Agency. The programme-contract

will have to be authorised by the Department of Economy and Finance, in accordance with article 3.2 of Law 7/2001, of May 31.

6.2 The programme-contract must provide for at least the following:

- a) The strategic objectives to be reached.
- b) The promotion programmes to be implemented by the Agency.
- c) The results expected and the programme implementation methodology.
- d) The efficacy, efficiency and quality indicators in the fulfilment of its goals.
- e) The available resources allocated to the funding of activities and investments, detailing the contributions by the Autonomous Government of Catalonia, as well as other sources of funding, as applicable.
- f) The system of exchange of information, observing the applicable legislation in matters of personal data protection.
- g) The instruments for the monitoring and control of the results of the implementation of the scheduled activities.
- h) Any other aspect that is necessary to accomplish its goals.

6.3 The programme-contract may have multiannual applicability, with the limits provided for in the rewritten text of the Law of Public Finances of Catalonia. The control of the results of the Agency's management must be performed yearly.

6.4 The Department of Universities, Research and the Information Society should have permanent access to the Agency's information systems, observing the applicable legislation in matters of personal data protection.

6.5 If the Agency manages activities for the promotion of other departments of the Autonomous Government of Catalonia, a programme-contract approved by the Board of Management between the Executive Director of the Agency and the Autonomous Minister of the department involved, or the person delegated by the latter, will be necessary, and which should determine, at least, the objectives, criteria, specific activities to be managed, their funding and the costs associated with the management.

Article 7

Collaboration

The Agency, in the exercise of its functions, may receive and give support to and collaborate with the Interdepartmental Commission of Research and Technological Innovation, the Catalan universities, the Agency for the Quality of the University System in Catalonia, as well as other public and private organisations, in the framework of the collaboration agreements entered into for this purpose.

Chapter 2

Organs of government

Article 8

Organs of government

The Agency has the following organs of government:

- a) The President of the Agency.
- b) The Board of Management.
- c) The executive commissions.
- d) The Executive Director.

Article 9

The President of the Agency

9.1 The President of the Agency, who is also that of the Board of Management, is the Autonomous Minister of the Department of Universities, Research and the Information Society.

9.2 The President of the Agency has the following functions:

- a) To represent the Agency institutionally.
- b) To ensure fulfilment of these Statutes and the agreements taken by the Board of Management.

- c) Convene, chair, interrupt and close the sessions of the Board of Management and set its agenda, as well as lead the deliberations and use their casting vote in the event of a draw.
- d) Approve the minutes and certifications of the agreements taken by the Board of Management.
- e) Any others that may be delegated to them by the Board of Management.
- f) To appoint a member of the Board of Management to stand in for them.

Article 10

Composition of the Board of Management

10.1 The Board of Management is the Agency's highest organ of government; it is comprised of:

- a) The President of the Agency.
- b) A maximum of five voting members appointed by the Autonomous Minister of the Department of Universities, Research and the Information Society.
- c) One voting member representing the Department of Economy and Finance, appointed by its Autonomous Minister.
- d) The Executive Director of the Agency.

10.2 The members of the Board of Management, except the Executive Director, are appointed and dismissed by the Autonomous Government of Catalonia at the proposal of the Autonomous Minister of the Department of Universities, Research and the Information Society for a period of four years, and may be re-elected for a further two mandates of the same term. The members of the Board of Management that hold this position due to the post they occupy, cease to be members only when they leave the position.

10.3 The Board of Management will appoint a secretary to attend the meetings with the right to be heard but not to vote, unless they are a Board member.

10.4 The members of the Board of Management are subject to the applicable legislation in matters of incompatibility.

10.5 The members of the Board of Management who are high-ranking members or civil servants of the Autonomous Government of Catalonia have no entitlement to remuneration, barring any attendance allowance that may correspond, in accordance with the legislation and the amounts applicable to personnel employed by the Administration of the Autonomous Government of Catalonia.

Article 11

Functions of the Board of Management

11.1 The Board of Management has the following functions:

- a) To draw up and approve any amendments to these Statutes and send them to the Department of Universities, Research and the Information Society for it to refer them to the Autonomous Government of Catalonia for approval.
- b) To approve the Agency's criteria for action in accordance with the guidelines set by the Department of Universities, Research and the Information Society and the objectives provided for in the programme-contract.
- c) To approve the programme-contracts to be formalised with the Department of Universities, Research and the Information Society and, as applicable, with the departments that implement promotion activities through the Agency.
- d) To approve the program of activities, the catalogue of services and the annual report of the Agency.
- e) To approve the Agency's preliminary draft budget, which will be reported by the Department of Universities, Research and the Information Society, before the draft is forwarded to the Autonomous Government for approval, in accordance with the applicable legislation.
- f) To approve the balance sheet and the economic report that has to be sent to the Department of Universities, Research and the Information Society, and have knowledge of the audit report on the annual accounts.

- g) To evaluate the Agency's activities periodically and report on it to the Department of Universities, Research and the Information Society.
- h) To recruit the Executive Director of the Agency.
- e) To approve the deployment of the organisational structure of the Agency and the general working conditions for its personnel, at the proposal of the Executive Management, in accordance with the applicable legislation.
- J) To propose the public prices of the Agency, when applicable, to the Autonomous Minister of the Department of Universities, Research and the Information Society.
- k) To propose to the Department of Universities, Research and the Information Society, as applicable, any borrowing operations, provision of guarantees and any treasury credit and financing operations, for them to be put to the Autonomous Government of Catalonia for its approval, as provided for by the legislation in force.
- l) To approve the Investment Plan of the Agency, which will be attached to the Agency's draft budget.
- m) To approve any contracts and agreements to be entered into by the Agency.
- n) To authorise expenses on the basis of the limits that have not been delegated to the Executive Management.
- o) To exercise all kinds of legal and administrative actions, appeals and claims to defend its rights and interests.
- p) To approve, if necessary, the regulation of its internal operations.
- q) To approve the regulations of grants and subsidies, as well as the calls for applications and their resolution.
- r) Any other functions that are not expressly attributed to another Agency organ.

11.2 The Board of Management may delegate its functions to executive commissions and/or the Executive Director, except those described in letters a), b), d), e), f), h), y), k), l), o) and p) of the previous paragraph. The functions described in letter q) of the previous paragraph may only be delegated to executive commissions and their presidents.

Article 12

Executive commissions

12.1 In the framework of the Board of Management, two permanent executive commissions should be set up in the area of university scholarships and another in the area of aid to scientific and technological research and innovation. The commissions exercise the functions assigned to them by the Board of Management.

12.2 The executive commissions will be comprised of the members of the Board of Management appointed by the President of the Agency, who must include the Executive Director of the Agency.

The presidents of the executive commissions will be appointed from among their members by the President of the Agency. This function may not be assigned to the Executive Director.

12.3 The presidents of the executive commissions may invite management personnel of the Department of Universities, Research and the Information Society and external experts to attend their meetings, with the right to be heard but not to vote.

12.4 The executive commissions will meet with the frequency determined by the Board of Management and will report to it periodically on its activity. Minutes of all its agreements will be taken.

Article 13

Sessions

13.1 The Board of Management will hold an ordinary session every six months and an extraordinary meeting when convened by the presidency or if requested to do so by one third of its members.

13.2 The call to meeting of the Board of Management and of the executive commissions will be carried out by means of a letter to each member, with minimum notice of forty-eight hours before the date of the meeting. The call will contain the date, time and location of the meeting, as well as the agenda and the relevant

documentation. If this procedure is not observed, valid agreements may not be taken, unless all the members are in attendance at the meeting and give their express authorisation.

13.3 In emergencies, the call to the meeting will be issued at least twenty-four hours in advance, by means of any procedure which guarantees acknowledgement of receipt. In such cases, and once the agenda has been addressed, the Board of Management or the executive commissions must unanimously recognise the existence of an emergency. If this is not the case, the Board meeting will be convened as provided for in the previous paragraph.

13.4 The members of the Board of Management and of the executive commissions may delegate their representation and vote to other members for certain sessions. Delegation of representation or vote must be conferred in writing and/or by any other electronic format that renders it possible to certificate authenticity, and will be notified to the President at the beginning of the session in question and will be recorded in the minutes.

Article 14

Agreements and minutes

14.1 The agreements of the Board of Management and of the executive commissions will be taken by majority vote of those present at the time of voting, provided that they represent at least half plus one of the fully-fledged members and that they have all been duly convened. The President will have the casting vote.

14.2 The favourable vote of two thirds of the legal number of members of the Board of Management will be necessary for agreements taken on the amendment of the Statutes to be valid.

14.3 Minutes will be taken of all the meetings of the Board of Management or of the executive commissions, and must indicate where the meeting was held; the day, month, year and time it began; the participants, a concise description of the issues debated, incidents, conclusions; the agreements taken and the time the session was closed. The minutes should be approved at the same plenary session or at the following, they must be signed by the secretary and authorised with the approval of the President of the Board or of the executive commissions.

14.4 The members of the Board of Management and of the executive commissions who vote against the agreement in question and ask to have their dissent placed on record will be released from any responsibility which may eventually arise from the agreement taken. If the agreements consist of making proposals, petitions or claims to an organ of the Administration, the specific votes of the members must be recorded expressly in the documentation to be presented.

14.5 The procedures applicable to the operation of collegiate bodies of the Administration of the Autonomous Government of Catalonia will also be applicable to those contained in these Statutes.

Article 15

The Executive Director

15.1 The Executive Director takes on the Executive Management of the Agency and the full representation of the Board of Management in the execution of the agreements taken by this organ.

15.2 The Executive Director is hired by the Board of Management for the period and in the conditions determined by the corresponding labour contract. They must be selected from among people with acknowledged experience in the management of public or private organisations.

15.3 The Executive Director is subject to the applicable legislation in matters of incompatibilities.

Article 16

Functions of the Executive Director

The Executive Director of the Agency has the following functions:

- a) To direct, organise and manage the Agency's activities, in accordance with the guidelines established by the Board of Management and with the objectives established in the programme-contract.
- b) To execute and enforce the agreements of the Board of Management and of the executive commissions.
- c) To draw up the proposal for the personnel and exercise the functions of recruitment and management of the personnel employed by the Agency.
- d) To authorise expenses within the limits set by the Board of Management, order payments, perform the economic management of the Agency and draw up the preliminary draft budget.
- e) To draw up the proposal for the catalogue of services and submit to the Board of Management the proposals for the organisation and operation of the different activities and programmes promoted by the Agency.
- f) To implement the Investment Plan of the Agency.
- g) To administer the Agency's assets, in accordance with the guidelines set by the Board of Management, and ensure the maintenance of its facilities and equipment.
- h) To enter into contracts and collaboration agreements in the Agency's name.
- e) To ensure the improvement and the quality of working procedures and methods through the introduction of technological innovations.
- j) To approve administrative clauses and the specific technical specifications of agreements.
- k) To be the legal representative of the Agency.
- l) To enforce the firm decisions and resolutions that impose economic obligations or responsibilities on the Agency.
- m) To report to the Board of Management on the development of the Agency's activities and programmes and exercise the functions entrusted to it by the latter.
- n) To resolve claims before civil and labour court actions, and claims for property liability of the Administration.
- o) Any others delegated to it by the Board of Management and by the President of the Agency.

Article 17

Secretary

17.1 The secretary has the following functions:

- a) To draw up the proposals for the minutes of the Board of Management and the executive commissions and handle them along with the organisation's books.
- b) To issue the calls to meetings and the certificates of the agreements, submitting them to the approval of the President, and reporting them to the organs and people involved.
- c) To notify the agreements of the Board of Management and of the executive commissions.
- d) The functions specific to secretaries of collegiate bodies.

17.2 The Board of Management may appoint a vice-secretary, who will stand in for the secretary in case of absence or illness, and will support the secretary in the latter's functions.

Article 18

Advisory commissions

18.1 The Agency may set up other specific advisory commissions to promote the participation of institutions and organisations, as well as natural or legal persons that may help it to fulfil its functions better. The creation of these commissions will correspond to the Board of Management, which will have to determine the composition, functions and, as applicable, attendance allowance and professional fees.

18.2 The Executive Director may set up technical commissions for advice in specific areas of the management of the Agency. The Executive Director will determine the

composition and functions of these commissions and will report to the Board of Management with the frequency established by the latter.

Chapter 3

Organisational structure and human resources

Article 19

Organisational structure

19.1 The principles that will determine the organisational structure of the Agency will be those of flexibility, versatility and rotation of functions and permanent adaptation by the organisation to the requirements generated by its activity. One pivotal element of these principles will be the permanent orientation of the organisational structure towards serving the different users of the organisation, as well as an efficient use of resources.

19.2 In order to fulfil these organisational principles, the Agency will be structured around organisational areas that will report directly to the Agency's Executive Management. These areas will be: the direction area, the technical and management area and the administrative and logistics support area.

The direction area will be comprised of top-executive personnel responsible for the Agency's different projects and for the economic and legal functional areas.

The technical and management area will be comprised of technical and management personnel, who will be assigned to the different Agency's projects depending on the time and functional needs of these projects.

The administrative support area will be comprised of personnel rendering auxiliary and administrative and logistics support to the Agency's overall programmes and functional areas.

19.3 At the proposal of the Executive Management, the Board of Management will be responsible for the development of these organisational areas to adapt them permanently to the needs generated as a result of the Agency's activity.

19.4 The Agency will have its own legal service to guarantee the legality of all its actions.

Article 20

Human resources

Barring the civil servants assigned to it as provided for by article 7.a) and the first transitory disposition of Law 7/2001, of May 31, on the Creation of the Agency for Administration of University and Research Grants, the Agency's personnel will be subject to labour law. The public process of covering new vacancies will guarantee the principles of merit, capacity and publicity, in accordance with the applicable legislation.

Chapter 4

Economic system and assets

Article 21

Procurement

21.1 The procurement organ is the Executive Director of the Agency.

21.2 The procurement committees will be comprised of:

- a) The Executive Director of the Agency, who presides them.
- b) A lawyer of the Agency who will act as secretary, appointed by the Executive Director of the Agency.
- c) The person in charge of exercising the economic and financial control functions of the Agency.

21.3 The Executive Director may delegate the presidency of the procurement committee in the terms established by the applicable legislation on administrative organisation and procedure.

Article 22

Assets

22.1 The Agency's assets are governed by the provisions of article 8 of Law 7/2001, of May 31; Law 4/1985, of March 29, on the Statutes of the Catalan Public Company,

and by the legislation governing the assets of the Autonomous Government of Catalonia.

22.2 The assets assigned to the Agency maintain their original legal rating, without such assignment entailing the transmission of ownership or release. The assets and rights assigned to it must be returned in the same conditions that they had on assignment if the Agency became extinguished or the nature of its functions changed, provided that any such change affected the aforementioned assets and rights.

22.3 The Agency will draw up an inventory of its assets and rights and will keep it updated, barring expendable goods. The inventory will be carried out annually with December 31 as reference, and will be submitted to the approval of the Board of Management in the first quarter of the following year.

Article 23

Budget, accounting and financial control

23.1 The Agency's budget is governed by the provisions of the Legislative Decree 9/1994 of July 13, approving the rewritten text of the Law of Public Finances of Catalonia; Law 4/1985, of March 29, regulating the Statute of the Catalan Public Company, and the successive budget laws of the Autonomous Government of Catalonia.

23.2 The Agency must draw up an annual operating and capital budget, in accordance with Law 4/1985, of March 29, of the Statute of the Catalan Public Company.

23.3 The Agency's accounting system corresponds to the public sector and must fulfil the special plan approved by the General Comptroller of the Autonomous Government of Catalonia.

23.4 The aim of the financial control of the Agency is to verify its economic and financial operations, and will be performed by an audit procedure, which supersedes the prior implementation of the corresponding operations. The audit has to be performed either at the request of the President of the Agency or directly by the General Comptroller of the Autonomous Government of Catalonia or under the latter's management.

Chapter 5

Legal system

Article 24

System governing the actions

The Agency's activities, in external relationships, and generally speaking, are subject to the applicable civil, mercantile and labour law, barring actions that entail the exercise of public powers, which are subject to public law. Public law will be applicable to its internal relationships with the Department of Universities, Research and the Information Society and the other organisations of the Administration of the Autonomous Government of Catalonia. The system for taking agreements and the operation of the Board of Management is governed by the general legislation on collegiate organs applicable to the Autonomous Government of Catalonia.

Article 25

Legal system

Any activities carried out by the Agency which are charged to public funds are governed by public law, particularly the following areas:

- a) Agreements and pacts entered into with public organisations for the implementation of programmes of grants and subsidies.
- b) The call for applications, resolution and payment of the programmes of public-funded grants and subsidies.
- c) Any actions derived from the inspection, verification and control of the grants and subsidies awarded.

d) Any actions derived from the formalities involved in proceedings for the modification and reimbursement of grants and subsidies and penalty proceedings, and the resolution thereof.

e) The system for appealing against actions in the terms provided for in article 27 of these Statutes.

f) The system of administrative silence.

g) Any action involving the use of public powers.

Article 26

Grants and subsidies

The public-funded grants and subsidies managed by the Agency are governed by the provisions of chapter 9 of the Law of Public Finances of Catalonia and the complementary provisions adapted to the nature and organisation of the Agency.

Article 27

System for appealing against actions

27.1 The actions taken by the organs of the Agency in the exercise of its administrative powers are regarded as administrative actions.

27.2 The administrative actions taken by the Board of Management of the Agency and by the President of the Agency exhaust the administrative procedure.

27.3 An appeal for review may be lodged against the administrative actions taken by the Board of Management of the Agency and by the President of the Agency in the terms provided for by the applicable legislation in matters of administrative procedure. The resolution taken exhausts the administrative procedure.

27.4 Claims lodged before civil and labour court actions, and claims for property liability of the Administration should be made to the Executive Director of the Agency, who is responsible for solving them.

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