

LAW

7/2001, of May 31, on the Creation of the Agency for Administration of University and Research Grants. (Correction of printing errors in DOGC no. 3449, page 12504, of 9.8.2001).

The President of the Autonomous Government of Catalonia

Let it be known to all citizens that the Parliament of Catalonia has approved, and I, in the name of the King, and in accordance with the provisions of article 33.2 of the Statute of Autonomy of Catalonia, enact the following

LAW

Preamble

This law creates, with the legal form of a public body subject to private law and reporting to the Department of Universities, Research and the Information Society, the Agency for Administration of University and Research Grants, with the characteristics inherent in an agency that administers and distributes economic resources, and with the explicit objective of managing university and research grants and scholarships, as well as other programmes and actions which, in the area of the competences pertaining to this Department, are conferred upon it.

This initiative is in consonance with the objectives of the Autonomous Government of Catalonia in its policy targeting a more modern and flexible organisation of the Administration, and is driven, more specifically, to the desire for the globalisation and streamlining of infrastructures and the coordination of the personal and material resources allocated to the promotion of research and university studies in order to leverage public-funded investments. It should be mentioned that the references taken are the organisational models used by other governments with longstanding experience in the use of executive agencies as an instrument for the management of this type of activities, such as Sweden, Quebec or Japan.

The Agency must manage, in a decentralised fashion, the administration of grants and scholarships to university students with a view to achieving equal opportunities, as well as activities for the promotion of research and technological innovation, and the implementation of programmes and actions commissioned to it by the Department. In its activity, it must have a sufficient degree of independence to exercise the functions assigned to it with efficacy and efficiency, so as to bring the services closer to citizens. Therefore, the creation of the Agency is linked to the establishment of clear commitments to service improvement and quality.

This Law establishes the nature and the objectives of the Agency, and the Department to which it is linked, which will establish its guidelines and will control it by means of the programme-contract on relationships. It also regulates the essential aspects of the Agency's organisation, determining the organs of government and how they should be appointed, the human and economic resources it should have and other matters pertaining to its system of assets, contracts and budget.

This law is enacted pursuant to articles 9.7 and 15 of the Statute of Autonomy, which attribute, respectively, to the Autonomous Government of Catalonia, exclusive

competence in matters of research and full powers in education, and article 54, which empowers the Autonomous Government to set up public companies as a form of implementation of the functions in which it has competence.

Article 1

Creation and nature

1. The Agency for Administration of University and Research Grants is created as a public body of the Autonomous Government of Catalonia, whose activity is governed by private law, linked to the Department of Universities, Research and the Information Society, with its own legal personality, full capacity to act and its own assets in order to implement its functions.

2. The Agency is governed by this Law; 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 this Law and by its developing legislation; by its statutes, and by any other laws and provisions that may be applicable to it.

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

Article 2

Objective

The Agency's objective is to exercise the functions established by this Law with regard to the promotion of activities in matters pertaining to the universities, research and technological innovation which are the competence of the Autonomous Government of Catalonia.

Article 3

Functions and legal system

1. The Agency is commissioned with the implementation of programmes of grants, loans, subsidies and other activities for the promotion of university education, scientific and technical research and technological innovation in Catalonia.

2. The Agency's relationships with the Department of Universities, Research and the Information Society are articulated by means of a programme-contract, which must be previously authorised by the Department of Economy and Finance in terms of the economic and financial activities it contains.

3. The Agency's activities, in external dealings, 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. More specifically, the grants and subsidies managed by the Agency are governed by the provisions of chapter 9 of the Legislative Decree 9/1994, of July 13, approving the rewritten text of the Law of Public Finances of Catalonia.

4. Public law will be applicable to its internal dealings 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 4

Organs of government

1. The Agency is structured into the following organs of government:

a) The President, who is the Autonomous Minister of the Department of Universities, Research and the Information Society.

b) The Board of Management.

c) The Executive Director.

2. The Government of the Autonomous Government of Catalonia will approve the statutes of the Agency, at the proposal of the Autonomous Minister of the Department of Universities, Research and the Information Society. The Agency's statutes must establish the functions of its organs of government, organic structure and operating procedures. They must also define the minimum contents of the programme-contract established by article 3.2, which must include, in any event, the definition of the Agency's objectives, the forecast of results to be obtained in its management, as well as the monitoring and control instruments to which its activity is subject.

3. The Agency can create specific advisory commissions to promote the participation of the universities and other natural or legal persons that may further the fulfilment of the functions entrusted to it.

Article 5

Board of Management

1. The Board of Management is the Agency's highest organ of government. It is comprised of:

a) The President of the Agency, who also holds the same post on the Board of Management.

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.

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.

3. The members of the Board of Management that hold this position due to the post they occupy, cease as members only when they leave the position.

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

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

6. 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 6

The Executive Director

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.

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.

Article 7

Human resources

The Agency personnel is comprised of:

a) Civil servants of the Administration of the Autonomous Government of Catalonia assigned to it and, as the case may be, from other public administrations, in accordance with the applicable legislation.

b) Personnel hired on the basis of a contract of employment, observing the principles of publicity, equality, merit and capacity. They are regarded as being in the employment of the Administration of the Autonomous Government of Catalonia.

Article 8

Assets

1. The Agency's assets are comprised of the goods and the rights conferred upon it, and any goods and rights it acquires through any title.

2. The assets used by the Agency in the exercise of its functions are regarded as being of public domain as assets assigned to a public service, and as such enjoy the tax exemptions corresponding to this type of assets.

3. Any property expropriation in the course of the Agency's work and services is implicitly regarded as being of public utility.

4. The management of the Agency's assets must fulfil the provisions of Law 4/1985, of 29 March, of the Statute of the Catalan Public Company, and the legislation pertaining to the assets of the Autonomous Government of Catalonia.

Article 9

Economic resources

The Agency's economic resources are comprised of:

a) Those allocated from the budgets of the Autonomous Government of Catalonia, including any derived from the programme-contracts.

b) Income from own goods and rights or those assigned to it.

c) Income derived from its activity.

d) Subsidies, donations and any other voluntary contributions from public and private organisations or from private parties.

e) The credits and the loans granted to it, as applicable, in accordance with the applicable legislation.

f) Any others that may correspond to it.

Article 10

Budget and hiring

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

2. The contracts entered into by the Agency must observe the provisions of the regulations governing contracts of the public administrations, with the particularities derived from the organisation and the operation of the actual Agency.

Article 11

System for appealing against actions

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

2. The Agency's statutes must determine the system for appealing against its organs' actions.

Article 12

Accounting and economic control

1. The Agency's accounting system is subject to the special plan approved by the General Comptroller of the Autonomous Government of Catalonia.

2. 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 intervention of the corresponding operations. The audit should be performed either directly by the General Comptroller of the Autonomous Government of Catalonia or else under the latter's management.

Article 13

Dissolution and modification

1. The dissolution of the Agency is produced by law, which will establish the dissolution procedure and how the Agency's organs will continue to exercise their functions until dissolution is complete.

2. The Agency's legal nature can only be changed by a law enacted by Parliament.

First transitory provision

The civil servants of the bodies of the general administration and the special bodies of the Autonomous Government of Catalonia assigned to the Department of Universities, Research and the Information Society, and the organisations reporting to the latter, that fulfil functions attributed to the Agency, as well as administration and management functions and other related auxiliary functions, may be assigned to the Agency by means of a resolution by the general secretary of the Department as its organic structure is constituted, in the same conditions applicable to them when this Law takes effect.

Second transitory provision

Until the Agency fully assumes the functions attributed to it, these functions may continue to be exercised by the corresponding organs and services of the Department of Universities, Research and the Information Society.

Third Transitory provision

As the Agency gradually takes on its functions, it must be novated in the contracts and agreements that affect the functions attributed to it, and which are formalised by the Department of Universities, Research and the Information Society and the latter's reporting organisations.

Final provision

This Law takes effect on the day following its publication in the Official Gazette of the Autonomous Government of Catalonia (DOGC).

I therefore order all the citizens to whom this Law applies to cooperate in its fulfilment and the competent courts and authorities to enforce it.

Palace of the Autonomous Government of Catalonia, May 31, 2001

Jordi Pujol

President of the Autonomous Government of Catalonia

Andreu Mas-Colell

Autonomous Minister for Universities, Research
and the Information Society

(01.150.120)