

Decrees, orders, circulars

GENERAL TEXTS

MINISTRY FOR NATIONAL EDUCATION, HIGHER EDUCATION AND RESEARCH

Decree 2006-963 of 1 August 2006 concerning the organisation and working of the National Research Agency (Agence nationale de la recherche)

NOR : MENX0600086D

The President of the Republic,

On receipt of the report from the Prime Minister and the Minister for National Education, Higher Education and Research,

Having regard to the Civil Code, particularly its article 2045;

Having regard to the Research Code, particularly chapter IX of part II of book III;

Having regard to law 83-634 of 13 July 1983 as amended, concerning the rights and obligations of civil servants, plus law 84-16 of 11 January 1984 as amended, concerning statutory requirements regarding the State civil service;

Having regard to law 2005-843 of 26 July 2005 concerning various measures to transpose community law to the civil service, particularly article 20;

Having regard to ordinance 2005-722 of 29 June 2005 concerning the creation of the OSEO public establishment and transformation of the *Agence nationale de valorisation de la recherche* establishment into a limited company;

Having regard to decree 53-1227 of 10 December 1953 concerning the accounting regulations applicable to national public administrative establishments;

Having regard to decree 62-1587 of 29 December 1962 as amended concerning the general regulations applicable to public accounting;

Having regard to decree 79-153 of 26 February 1979 concerning the duration of the functions of the Chairmen and certain heads of State public establishments, nationalised and national companies and certain public organisations;

Having regard to decree 82-452 of 28 May 1982 as amended concerning joint technical committees;

Having regard to decree 86-83 of 17 January 1986 as amended concerning the general provisions applicable to non-incumbent State officers, implementing article 7 of law 84-16 of 11 January 1984 containing statutory provisions concerning the State civil service;

Having regard to decree 92-681 of 20 July 1992 as amended, concerning the conditions applicable to the imprest and revenue accounts of public organisations;

Having regard to decree 99-575 of 8 July 1999 concerning procedures for approval of certain financial decisions by State public establishments;

Having regard to decree 2005-757 of 4 July 2005 concerning financial supervision within State public administrative establishments;

Having regard to decree 2005-1021 of 25 August 2005 concerning the Agence de l'innovation industrielle (Industrial Innovation Agency);

Having regard to decree 2006-698 of 15 June 2006 concerning the Haut Conseil de la science et de la technologie (High Council for Science and Technology);

Having regard to the opinion of the Ministerial joint technical committee of the Ministry for Higher Education and Research dated 12 July 2006;

Having heard the Council of State (interior section);

Having heard the Council of Ministers,

Decrees:

PART I GENERAL PROVISIONS

Art. 1. – The National Research Agency, created by article L. 329-1 of the Research Code, is a State administrative public establishment under the supervision of the Minister for Research.

Art. 2. – As part of the research policy defined by the Government, the role of the National Research Agency is to finance and promote the development of fundamental, applied and targeted research, innovation and technological transfer, as well as public/private partnerships.

It implements the programmes defined by its supervisory ministry on the advice of the Ministries supervising research organisations or public higher education and research institutions, relying in particular on the proposals from specially created sectorial committees. It keeps the ministries concerned informed of the implementation of these programmes.

Art. 3. – To perform its duties, the National Research Agency may in particular and as part of the technological research and development programmes it implements:

1° Allocate aid to technological research and development projects selected through invitation to tender, on the basis of scientific and technical quality criteria, taking account of their social, economic and cultural objectives;

2° Make capital grants to research foundations recognised as being in the public interest and in particular, scientific cooperation foundations mentioned in section 3 of chapter IV of part IV of book III of the Research Code;

3° Contribute to drafting and implementing international scientific cooperation agreements;

4° Take part in action conducted jointly with State services, local authorities or other public or private, French or foreign organisations.

PART II ORGANISATION ADMINISTRATIVE

Art. 4. – The National Research Agency is administered by a Board and managed by a Director General.

Art. 5. – The Board of the National Research Agency comprises:

1° The Chairman of the High Council for Science and Technology;

2° Six State representatives, including:

a) Two on proposals of the Minister for Research;

b) One on proposals of the Minister for Higher Education;

c) Two on proposals of the Minister for Industry;

d) One on proposals of the Minister for the Budget,

appointed, as are their deputies, by order of the Minister for Research;

3° Five qualified personalities chosen for their competence in the field of technological research and development, appointed by order of the Minister for Research.

Their mandate is for three years, renewable once only.

In the event of a vacancy owing to death, resignation or any other cause, on the part of one of the members of the Board, he or she will be replaced. Members are appointed in accordance with point 2° for the remaining duration of the mandate of their predecessor.

Art. 6. – The Chairman of the Board of the Agency is chosen from among the personalities mentioned in point 3° of article 5. He/she is appointed by order of the Minister for Research, for a period of three years. He/she may not hold more than two consecutive mandates.

Should the Chair become vacant during the course of a mandate, the new Chairman is appointed for the remainder of the mandate. When this duration does not exceed one year, appointment for two further consecutive mandates is then possible.

The Chairman acts on behalf of the establishment for all legal matters and, subject to the powers devolved to the Director General pursuant to article 14, for all civil activities. He/she may delegate his/her signature to the Director General for the corresponding decisions.

Art. 7. – The members of the Board exercise their duties without remuneration. However their travel and living expenses may be refunded in the conditions stipulated by the regulations applicable to State civil servants.

Art. 8. – The members of the Board declare the functions they occupy and the mandates or interests they hold in the organisations which benefit from or are liable to benefit from the financial assistance granted by the Agency. These declarations are submitted to the Chairman of the Board.
The members of the Board may not take part in any proceedings when they have a direct or indirect personal interest in the subject thereof.

Art. 9. – The Board meets at least three times per year when convened by the Chairman, who sets the agenda. It may also be convened by the Chairman when requested by the Minister for Research or by a majority of its members, for a specific agenda.

In the event of absence or impediment on the part of the Chairman, the Board may be convened by the Director General. The Board is then chaired by the representative of the Minister for Research.

Art. 10. – The proceedings of the Board will only be valid if at least half of its members or their representatives or deputies are present. If the quorum is not reached, a meeting of the Board is again called with the same agenda within ten days. It will then deliberate with no quorum conditions.

Decisions are taken on a majority of the members present or represented, except with respect to the rules of procedure of the establishment, which are adopted on an absolute majority of the members of the Board. Should the vote be split, the Chairman shall have a casting vote.

A member of the Board who has not sent a replacement may, in writing, give another member proxy to represent him or her at a session. No person may hold more than one proxy.

The Director General of the establishment, the authority in charge of financial control and the Board's accountant attend the Board meeting in an advisory capacity.

The same applies to the Chairman of the supervisory council of the *Agence de l'innovation industrielle* (industrial innovation agency) or his/her representative and the Chairman of the Board of the OSEO public establishment, or his/her representative.

The Chairman of the Board may invite any other person he/she deems fit to attend a session.

Art. 11. – The Board discusses and rules on the establishment's business. It in particular takes decisions concerning:

1° The multi-year contract with the State, provided for in article L. 329-2 of the Research Code and the annual report on the extent to which its undertakings within this context have been met;

2° The orientations of the establishment's scientific programme and its policy concerning funding of research programs and the allocation and management of subsidies and grants;

3° The establishment's programme of activities, which in particular comprises implementation of the provisions of articles L. 329-4 and L. 329-5 of the Research Code and the general procedures governing its interventions;

4° The general organisation of the departments and rules of procedure of the establishment, which in particular set the conditions for application of article 8;

5° The general conditions of employment and remuneration of contractual staff;

6° The budget and any modifying decisions;

7° The financial accounts, allocation of results and use of reserve funds;

8° The general conditions concerning the conclusion of agreements and contracts, in particular agreements concluded by the establishment with the organisations chosen to carry out scientific, administrative and financial management of certain invitations to tender;

9° The pricing principles for the services of whatsoever nature rendered by the establishment;

10° Leasing, acquisition and disposal of real estate;

11° Loans;

12° Participation by the establishment in public interest groups and any other structure with a specific legal identity;

13° Acceptance of donations and bequests;

14° Legal action and transactions; in conditions to be determined by itself, it may delegate these powers to the Chairman;

15° The annual report on the activity and administrative and financial working of the establishment;

16° Creation of any internal committees required for performance of its duties, including an audit committee;
17° The ethical rules applying to the entities of the establishment, its staff and the organisations mentioned in point 8°, in order to guarantee their independence and their impartiality.

The board also rules on questions submitted to it by its Chairman or the Minister for Research.

With regard to the subjects listed in points 10°, 12° and 13°, the board may delegate its powers to the Director General, within limits determined by itself. The Director General reports to it at the next session with regard to the decisions he or she has taken under this delegation of powers.

Art. 12. – The decisions of the Board, other than those mentioned in the following sections, become immediately and automatically enforceable fifteen days after their receipt by the Minister for Research, if he or she has issued no observations by that time. The same applies to the decisions taken by the Director General to whom powers have been delegated by the Board. In an emergency, the Minister for Research may authorise immediate execution.

Decisions concerning the budget or its modifications and those concerning the financial accounts mentioned in points 6° and 7° respectively of article 11, are approved by the Minister for Research and the Minister for the Budget in the conditions stipulated in the above-mentioned decree of 8 July 1999.

In order to be enforceable, the decisions concerning acquisition, disposal and exchange of property mentioned in point 10° of the same article must be expressly approved by joint order of the Minister for the Budget and the Minister for Research.

Art. 13. – The Director General of the National Research Agency is chosen from among personalities with scientific competence in the establishment's fields of activity. He or she is appointed by decree of the Council of Ministers for a five-year period, on proposals from the Minister for Research. He or she may not hold more than two consecutive mandates.

Art. 14. – The Director General:

1° Prepares the proceedings of the Board and ensures that they are carried out;

2° Prepares and implements the budget and its modifications;

3° Acts as the authorising officer for income and expenditure decisions;

4° Has authority over the establishment's departments and ensures compliance with the rules of procedure;

5° Hires contractual staff, manages and assigns all establishment staff to the various departments;

6° Concludes agreements and contracts in the conditions defined by the Board, in accordance with point 8° of article 11; is responsible for contracts;

7° Sets the prices for services rendered by the establishment;

8° Takes decisions to grant State subsidies in the conditions defined by the Board, on the basis of point 2° of article 11.

In the interval between Board meetings, the Director General may, on the advice of the authority in charge of financial control and after notification of the Minister for Research, make modifications which do not vary the amount of income or expenditure, nor affect transfer of credits between the working section and the capital transactions section. He or she submits said modifications to the Board for ratification at its next session.

He or she draws up an annual activity report, submitted to the Board for approval and transmitted to the supervisory authority.

For the actions performed in his/her capacity as person responsible for contracts, he/she may delegate his/her signature to the department heads placed under his/her authority. For all other actions, he/she may delegate his/her signature to any person placed under his/her authority.

Art. 15. – Notwithstanding the provisions of article 7 of the above-mentioned decree of 28 May 1982, the administration's representatives on the establishment's central joint technical committee may be designated from among the non-incumbent staff of a level equivalent to that of category A or comparable level, or specifically qualified to deal with questions within the remit of the technical committees.

PART III FINANCIAL ORGANISATION

Art. 16. – The establishment is subject to the financial and accounting conditions defined by the decree of 10 December 1953 and the above-mentioned articles 151 to 189 of the decree of 29 December 1962 as well as to the financial supervision specified in the above-mentioned decree of 4 July 2005.

The conditions in which the provisions of the latter are adapted to the establishment are those specified in the order of 1 December 2005 concerning how financial supervision is exercised over public establishments of a scientific and technological nature.

Art. 17. – The establishment's accountant is appointed by joint order of the Minister for Research and the Minister for the Budget.

Art. 18. – The establishment's resources comprise:

1° The subsidies, advances, contributions or participations allocated by the State, European institutions, local authorities and any other public and private persons;

2° The expert and other fees charged for services rendered;

3° Sums received for professional or continuous training services;

4° Revenue from research and engineering work performed on behalf of third parties;

5° Direct or indirect revenue from intellectual property rights or transfer thereof;

6° Revenue from the sale of publications;

7° Payments and contributions from French or international public or private organisations with which the establishment concludes agreements;

8° Income from various assets and revenue from disposal thereof;

9° Donations and bequests;

10° Income from loans;

11° Generally speaking, all resources originating from the exercise of its activities and which are legally at its disposal, plus the revenue authorised by all laws and regulations.

Art. 19. – The expenditure of the National Research Agency comprises:

1° Assistance with technological research and development projects and allocations to research foundations;

2° Personnel costs;

3° Operating, equipment and investment costs;

4° In general, all expenditure required by the establishment's activities.

Art. 20. – Imprest and revenue accounts may be created by the Director General of the establishment, with the approval of the accountant and the member of the general economic and financial supervisory body. They are subject to the provisions of the above-mentioned decree of 20 July 1992.

Art. 21. – The establishment is authorised to invest its available funds in the conditions set out by the Minister for the Economy and Finance.

PART IV INTERIM AND FINAL PROVISIONS

Art. 22. – The transfer of the goods, rights and obligations of the " National Research Agency " public interest grouping to the public establishment, as laid down in article L. 329-1 of the Research Code, will take place on the date this decree enters into force.

Art. 23. – As of the date of entry into force of this decree, the staff of the " National Research Agency " public interest grouping are hired by the public establishment with public law contracts subject to the provisions of the above-mentioned decree of 17 January 1986, in compliance with the conditions specified in article 20 of the above-mentioned law of 26 July 2005. The services formerly provided for the public interest group are comparable to public services carried out for the public establishment, in particular with regard to all seniority rights, which run from the first contract concluded with the public interest group.

Art. 24. – Until such time as the Board is in place and the Director General of the National Research Agency is appointed, the director of the " National Research Agency " public interest group shall be responsible for the day-to-day management of the establishment and for all measures required for its operation.

Art. 25. – As an interim measure and notwithstanding point 6° of article 11, the initial budget for the 2007 financial year is determined by joint decision of the Minister for Research and the Minister for the Budget.

Art. 26. – The provisions of this decree may be modified by decree of the Council of State, except for those of article 13 concerning the duration and renewal of the mandate of the Director General of the Agency.

Art. 27. – This decree will enter into force on 1 January 2007.

Art. 28. – The Prime Minister, the Minister for the Economy, Finance and Industry, the Minister for National Education, Higher Education and Research, the Minister delegate for the Budget and Reform of the State, Government spokesperson, the Minister delegate for Higher Education and Research and the Minister delegate for Industry are, each within their own field, responsible for implementation of this present decree, which is to be published in the *Official Gazette* of the French Republic.

Paris, 1 August 2006.

JACQUES CHIRAC
By the President of the Republic:

The Prime Minister,
DOMINIQUE DE VILLEPIN

*The Minister for the Economy,
Finance and Industry,*
THIERRY BRETON

*The Minister delegate
for Higher Education
and Research,*
FRANÇOIS GOULARD

*The Minister for National Education,
Higher Education
and Research,*
GILLES DE ROBIEN

*The Minister delegate for the Budget
and reform of the State,
Government spokesperson,*
JEAN-FRANÇOIS COPÉ

The Minister delegate for Industry,
FRANÇOIS LOOS