



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.01.1996
COM(96) 25 final

95/0093 (SYN)

Amended proposal for a

COUNCIL REGULATION (EC)

amending Council Regulation
(EEC) n° 1973/92 establishing a financial instrument for
the Environment
(Liffe)

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

Pursuant to Article 130s(1) of the EC Treaty, the Council consulted the European Parliament on the proposal for a Council Regulation amending Council Regulation (EEC) N°1973/92 establishing a financial instrument for the Environment (*Life*) (COM(95)135 final - 95/0093(SYN)).

During the November 1995 plenary session, Parliament approved 34 amendments, 28 of which were accepted by the Commission either fully or in part¹.

The various amendments and those not accepted and rejected are discussed below.

Amendments accepted by the Commission

Some amendments aim at clarifying *Life* objectives and are considered by the Commission as very useful. Amendment 4, first part (on article 1.1) recalls the actions financed by *Life* and the areas of activity eligible. Amendment 4, second part, can be accepted in principle but inserted in following amendment 6. Amendment 6 (on article 1.1) proposes definitions of preparatory measures, demonstration measures and technical assistance. Amendment 8 (on article 1.2) defines the scope of preparatory measures, and amendments 3 and 16 (adding a new recital 6a and concerning article 1.2) underline the need for accompanying measures to facilitate the *Life* mission. All these amendments were implicit in the Commission proposal, and will render the amended Regulation more explicit.

The amendments aiming at putting Central and Eastern European Countries (CEECs) on the same level as Member States for *Life* projects (amendments 7 and 28 on articles 1.2 and 1.7) and allowing non-CEECs third countries to share some fields of action (amendments 2,15 and 30, creating a new recital 6a and on articles 1.2 and 1.7) are acceptable, either completely or partly. Amendment 7, opening to CEECs the whole of the *Life* field of application, deserves support in principle, but "where appropriate" must be added to avoid problems with preparatory measures or the enforcement of the Habitats Directive; furthermore the origin of financial resources available for these projects needs clarification by appropriate redrafting.

¹ PV PE 195.172 pp. 9-21 of 17.11.95

The amendments concerning water treatment or management (amendments 10 and 11, both on article 1.2), coastal zones (amendment 9 on article 1.2), air pollution (amendments 12 and 13, both on article 1.2) or industrial activities (amendments 14 on article 1.2) generally correspond with the Commission's thinking, but need the redrafting.

The amendments on financial matters (amendments 19, 20, 21 on articles 1.5 and 35 deleting article 1.12) generally correspond to the Commission's desire for equity in the sharing out of subsidies between priorities and between beneficiaries. The maximum financial support proposed by amendments 19, 20 and 21 fit with current practice, and the principle of 50/50 sharing between nature and non-nature sectors is accepted (part of amendment 18 on article 1.5). The deletion of article 1.12 (amendment 35), which proposed an intermediate phase in 1996 implying a reserve of 1995 proposals, is justified considering the poor quality of non-selected 1995 proposals.

The amendments detailing the procedure of proposal submission and reporting (amendments 22, 23, 24, 25, 26, 27 and 31 on articles 1.5, 1.6 and 1.8) are helpful to clarify procedures and make them more transparent to Member States and to beneficiaries, and therefore the Commission agrees with them. They generally correspond to current practice, except the amendment 22 which provides a useful tool through the introduction of a reference framework intended to orientate potential proposers in all non-nature sectors. This framework would take the place of the current Regulation "priorities", whose applicability varies from one year to the other.

Amendments not accepted by the commission

Amendment 17 (on articles 1.4) is not accepted for legal and technical reasons : the Commission is traditionally against showing indicative amounts and an amount of 800 MECU is inconsistent with the budgetary schedule.

Amendment 18, 1st part (on article 1.5), increasing to above 5% the share of funds allocated to non-CEECs third countries actions, cannot be accepted because 5% is already an increase for the countries concerned and resources are limited.

The additional criterion concerning the use of Best Available Technology, foreseen by amendment 29 (on article 1.7), is not implementable and cannot therefore be accepted.

Amendment 37 (on article 1.7) cannot be accepted because it would create confusion.

Amendment 32 on comitology (on articles 1.9) is not acceptable because of it runs counter to Council Decisions 87/373/EEC² on Comitology. *Life* Committee must remain a regulatory Committee (IIIa type).

Concerning amendment 33 (on article 1.11), the first part (in line with amendment 1 on recital 4) foresees formal annual reports to be addressed by the Commission to the Council and the Parliament, either evaluating each action undertaken (amendment 1) or evaluating results of *Life* 1 and *Life* 2 projects (amendment 33). Because of the great variety of projects financed by *Life*, this would be impractical, but the Commission agrees to supply Parliament with information documents on project monitoring in an *ad hoc* manner. As regards general evaluation of the financial instrument, the Commission is already committed to submitting a formal report in 1998. The second part of amendment 33 providing for the establishment of a legal base for *Life* after 1999, is contradictory to the Commissions right of initiative. The legal base will be chosen in accordance with Court of Justice case law which implies that the choice must be made taking into account, amongst other things, the specific content of any proposals.

² O.J. L 195 of 18.7.87 pp. 33-35

Amended proposal for a Council Regulation amending Council Regulation (EEC)
N°1973/92 establishing a financial instrument for the Environment (*Life*)

Original text

Recital 6

Whereas the additional protocols to the Europe agreements between the Community and certain Central and Eastern European countries provide for the participation of those countries in Community programmes, in particular concerning the environment;

Modified text

Recital 6

Whereas the additional protocols to the Europe agreements between the Community and certain Central and Eastern European countries provide for the participation of those countries in Community programmes, in particular those concerning the environment; whereas, therefore, access of these countries to *Life* must be ensured under conditions similar to those applicable to the activities to be carried out in the Community;

Recital 7 (new)

Whereas, given that the aforementioned Central and European countries will themselves meet the cost of their participation, the Community may decide, if appropriate for specific cases and in conformity with the rules applicable to the General Budget of the European Communities, to grant supplements to the countries' national contribution;

Recital 8 (new)

Whereas, for third countries of the Mediterranean or the Baltic other than the Central and Eastern European countries which have signed association agreements with the European Community, there is a need to implement technical assistance activities and demonstration activities for nature conservation and in other areas of the environment;

Recital 9 (new)

Whereas, during the various phases of implementation, evaluation of the results of the demonstration initiatives must be ensured by suitable and sufficient means;

whereas in particular these means must make it possible to monitor the initiatives to detect any administrative or technical problems in good time and to determine the possible synergy between projects; whereas this approach aims to promote a multiplier effect adding value to these activities;

Article 1

Regulation (EEC) No 1973/92 is hereby amended as follows:

(1) Article 1 is replaced by the following:

Article 1

A financial instrument for the environment, hereinafter referred to as "*Life*", is hereby established.

The general objective of *Life* shall be to contribute to the development and, where appropriate, to implementation of Community environment policy and legislation.

Article 1

Regulation (EEC) No 1973/92 is hereby amended as follows:

(1) Article 1 is replaced by the following:

Article 1

A financial instrument for the environment, hereinafter referred to as "*Life*", is hereby established.

The general objective of *Life* shall be to contribute to the development and, where appropriate, to implementation of Community environment policy and legislation by financing projects aimed at nature conservation, preparatory or demonstration activities, or technical assistance.

For the purposes of this Regulation, the following definitions shall apply:

- "Nature conservation" means measures required to maintain or to reestablish natural habitats and wild species of fauna and flora in a favourable state.
- "Preparatory activities" means projects concerning the promotion of joint initiatives, cooperation and the transfer of know-how between (local, regional or national)

government agencies and/or non-governmental organizations and/or socio-economic actors;

- "Demonstration activities" means the introduction of a new technical process and/or innovative or original approaches for the country concerned and the carrying out of exploratory projects designed to facilitate sustainable development.
- "Technical assistance" means projects to be promoted by local government or non-governmental organizations to encourage rational management of the environment through increased cooperation, in particular transnational cooperation, where cross-border or global problems are involved.

(2) Article 2 is replaced by the following:

Article 2

The areas of activity eligible for financial support from *Life* are:

1. In the Community

1.1 nature protection measures:

Measures needed to implement Council Directive 79/409/EEC, of 2 April 1979, on the conservation of wild birds and Council Directive 92/43/EEC, of 21 May 1992, on the conservation of natural habitats and of wild fauna and flora and, in particular, the Natura 2000 European Network

(2) Article 2 is replaced by the following:

Article 2

The areas of activity eligible for financial support from *Life* are:

1. In the Community and, where appropriate, in the Central and Eastern European countries which have signed association agreements with it.

1.1 nature conservation measures:

Measures needed to implement Council Directive 79/409/EEC, of 2 April 1979, on the conservation of wild birds and Council Directive 92/43/EEC, of 21 May 1992, on the conservation of natural habitats and of wild fauna and flora and, in particular, the Natura 2000 European Network or

equivalent activities outside the Community;

1.2 Other measures designed to implement Community environment policy:

(a) preparatory and support measures designed to help implement Community legislation by increasing the efficiency of structural aid for the environment in the priority sectors in which it is used, namely:

- protection of coastal areas and their rational management,
- reduction of industrial waste, in particular toxic and hazardous waste, including reclamation of contaminated sites,
- water protection, including waste water treatment;

(b) demonstration, promotion and technical assistance projects for local authorities with a view to incorporating environmental factors into regional planning and development;

(c) innovative and demonstration projects designed to promote sustainable development in industrial activities, such as projects to check the economic feasibility of clean technologies, to provide appropriate environmental training for the use of such technologies and to promote

1.2 Other measures designed to implement Community environment policy and to promote sustainable development:

(a) preparatory and support measures designed to help implement Community legislation or to help direct structural aid towards the environment, and namely:

- protection of coastal areas, including the coastal part of catchment areas and their rational management;
- prevention and reduction of industrial waste, especially toxic and dangerous waste;
- protection of water resources and management of water, including waste water and contaminated water treatment;
- prevention of atmospheric pollution, especially in urban areas;

(b) demonstration, promotion and technical assistance activities for local authorities with a view to incorporating environmental factors into regional planning and development;

(c) innovative and demonstration projects designed to promote sustainable development in industrial activities.

environmental audits and ecolabels, etc.

2.

3. Accompanying measures implemented at the initiative of the Commission needed to analyse, evaluate or promote the projects undertaken under paragraphs 1 and 2 above and dissemination of information on this subject.

(5) Article 8 is replaced by the following:

Article 8

1.(c) 5% for measures undertaken under Article 2(2);

2. The rate of Community financial support for the measures referred to in Article 2(1) shall normally be 50% of the eligible cost.

Nonetheless, this rate shall be:

- 30% of the cost for projects generating significant income,

2. (c) new

conservation or rehabilitation, from a nature conservation viewpoint, of important habitats sheltering endangered species of flora and fauna.

3. Accompanying measures needed for the monitoring, evaluation or the promotion of the activities undertaken during the first phase and/or within the framework defined by paragraphs 1 and 2 above, and dissemination of information concerning the experience gained during and the results of these activities.

(5) Article 8 is replaced by the following:

Article 8

1.(c) 5% for activities undertaken under Article 2(2) in equal shares, between nature conservation and other activities.

2. The rate of Community financial support for the measures referred to in Article 2(1) and 2b) shall be a maximum of 50% of the eligible cost.

However, this rate shall be:

- a maximum of 30% of the cost of activities which it is considered will generate a potentially significant income,

- by way of exception, a maximum of 75% of the cost of projects concerning, in the European Union, natural habitats or priority species as defined in Directive 92/43/EEC or populations of birds in danger of extinction.

- by way of exception, a maximum of 75% of the cost of activities concerning, in the European Community, natural habitats or priority species as defined in Directive 92/43/EEC or the bird species covered by Directive 79/409/EEC which are in danger of extinction,

- by way of exception, a maximum of 75% of the cost of activities to be carried out, in fields other than nature conservation, by non-governmental organizations in partnership with public authorities and, where appropriate, with private companies.

2.(a) (new)

Activities carried out in Central and Eastern European countries with which the Union has concluded association agreements are financed from the financial resources provided by these countries. Any financial contribution from the Community shall be decided on a case by case basis according to available resources, as provided for in the aforementioned association agreements. The financial allocation between nature conservation measures and other activities shall be made under the same conditions as for the Community.

Article 8(a) (new)

1. For activities covered by paragraph 1.2. (b) and (c) of Article 2, the Commission, in accordance with the Article 15 procedure and before 31 May 1996, shall establish a reference framework covering:

- the evaluation of the chief environmental needs with regard to regional planning, particularly for urban areas, with a view to providing guidelines for activities to be undertaken by local authorities;
- an analysis of the environmental situation in industry at sectoral level with a view to identifying suitable guidelines for sustainable development in this sector.

2. The reference framework referred to in paragraph 1, which is intended to provide information for parties concerned by financial support under *Life* in fields which are of particular Community interest, shall be adapted by the Commission every two years as necessary.

(6) In Article 9:

- Paragraph 1 is replaced by the following:
 1. Proposals for measures to be financed shall be submitted to the Commission by the Member States. Where measures involve more than one Member State, proposals shall be submitted by the coordinating authority or body."

2. Unchanged compared with Regulation EEC 1973/92 (see OJ L 206, 22.7.92) [However, the

(6) In Article 9:

- Paragraph 1 is replaced by the following:
 1. Proposals for measures to be financed shall be submitted to the Commission by the Member States. Where measures involve more than one Member State, proposals shall be submitted by the coordinating authority or body."

Proposals shall be forwarded to the Commission before 30 September. The Commission shall rule on these proposals by 30 April."

2. deleted.

Commission may ask any legal or natural persons established in the Community to submit applications for assistance in respect of measures of particular interest to the Community by means of a notice published in the *Official Journal of the European Communities*.]

- Paragraph 4 is replaced by the following:

"4. The Commission shall inform the Member States of the content of proposals received in the framework of expressions of interest and of applications submitted by third countries."

- Paragraph 5 is replaced by the following:

Measures provided for in Article 2(1)(1) shall be subject to the procedure set out in Article 21 of Directive 92/43/EEC; other LIFE measures shall be approved in accordance with the procedure provided for in Article 13.

The measures approved shall give rise:

- for projects to be undertaken in the European Community, to an outline decision from the Commission addressed to the Member States concerning proposals which have been accepted and to individual

- Paragraph 4 is replaced by the following:

"4. The Commission shall transmit to Member States a summary of the principal points and of the contents of the proposals received, including requests from third countries and the Central and Eastern European countries which have signed association agreements with the European Community."

- Paragraph 5 is replaced by the following:

Nature conservation measures provided for in paragraphs 1.1 and 2 of Article 2 and the corresponding accompanying measures shall be subject to the procedure set out in Article 21 of Directive 92/43/EEC; other LIFE measures shall be approved in accordance with the procedure provided for in Article 13.

The measures approved shall give rise:

- for activities to be undertaken in the European Community, to an outline decision from the Commission addressed to the Member States concerning

decisions addressed to the beneficiaries concerning specific projects;

- for projects to be undertaken in third countries, to a contract or an agreement setting out the rights and obligations of the partners, as drawn up with the beneficiaries responsible for implementation of the said projects."

6. deleted.

(7) A new Article 9a is added as follows:

Article 9a

1. Requests for financial support shall be for projects meeting the following criteria:

(a) be of Community interest, in particular as a result of:

- the habitats or species concerned, or
- the answers found to a problem frequently encountered in the Community;

proposals which have been accepted and to individual decisions addressed to the beneficiaries concerning specific projects, the financial conditions of which shall be agreed with the latter.

- for activities to be undertaken in third countries, to a contract or an agreement setting out the rights and obligations of the partners, as drawn up with the beneficiaries responsible for implementation of the said activities."

6. deleted.

(7) A new Article 9a is added as follows:

Article 9a

1. Requests for financial support concerning measures to be implemented in the Community and the countries of Central and Eastern Europe which have signed association agreements with it shall be for activities which meet the following criteria, where relevant:

(A) General criteria

(a) they must be of Community interest, in particular because of:

- the habitats or species concerned, or
- the answers found to a problem frequently encountered in the Community;

(B) Specific criteria

(b) make a significant contribution to the implementation of Community environment policy for promoting, in particular, a multinational or biogeographical region approach;

(c) as regards nature conservation projects be aimed at the sites proposed by a Member State under Article 4 of Directive 92/43/EEC or sites classified pursuant to Article 4 of Directive 79/409/EEC or species mentioned in Annexes II and I respectively to those Directives;

(d) as regards, in particular, demonstration, promotion and technical assistance projects:

- be innovative and example-setting and represent progress compared with the current situation or current available technology,
- be capable of promoting widespread application of practices and technologies conducive to environmental protection,
- aim at developing and transferring know-how which can be used in identical or similar situations,
- have a satisfactory cost-benefit ratio and, where appropriate, guarantees of economic viability,
- comply with the polluter pays principle.

(b) Unchanged

(c) as regards nature conservation measures, they must concern sites proposed by a Member State under Article 4 of Directive 92/43/EEC or sites classified pursuant to Article 4 of Directive 79/409/EEC or species as referred to in Annexes II and I, respectively, to those Directives;

(d) Unchanged

3(a) (new)

Requests for financial support from third countries of the Mediterranean or the Baltic other than the Central and Eastern European countries which have signed association agreements with the European Community shall be for activities which meet the following criteria:

- they must be of Community interest, and in particular contribute to the implementation of the regional and international agreements and guidelines;
- they must contribute to a policy encouraging sustainable development at all levels (national, regional or international);
- they must help to solve very serious environmental problems in the region or the field concerned;
- they must increase cross-border cooperation;
- they must guarantee the feasibility of the technical proposals, and their technical and financial management and provide a good cost-benefit ratio;

(8) In Article 12

2. For each multiannual action the beneficiary shall submit progress reports to the Commission within six months of the end each full year of implementation. Within six months of completion of the action a final report shall also be forwarded to the Commission. For each action lasting less than two years the beneficiary shall submit a report to the Commission within six months of completion of the action. The Commission shall determine the form and content of these reports.

(8) In Article 12

2. For each multiannual activities the beneficiary shall submit progress reports to the Commission within six months of the end of each full year of implementation. Within six months of completion of the action a final report shall also be forwarded to the Commission. For each action lasting less than two years the beneficiary shall submit a report to the Commission within six months of completion of the action. The Commission shall determine the form and content of these reports.

Reports are based on physical and financial indicators defined in the Commission Decision which approves the projects, or in the contract or

agreement concluded with the beneficiaries.

These indicators are structured so as to indicate the state of progress of the project and the objectives to be achieved within a given time.

(11) Article 14 is replaced by the following:

Article 14

No later than 31 December 1998, the Commission shall submit a report to the European Parliament and to the Council on the implementation of this Regulation and on the use of appropriations and shall make proposals for any adjustment to be made with a view to continuing the action beyond the second phase.

The Council, acting by a qualified majority on a proposal from the Commission, shall decide on the implementation of the second phase as from 1 January 2000.

12) A new Article 14a is added as follows:

Article 14a

Applications for financial support for measures which could not be granted such support because of the inadequacy of the financial resources available in 1995 may be taken into consideration in accordance with the conditions of this Regulation in the context of the 1996 budget year.'

(11) Article 14 is replaced by the following:

Article 14

Unchanged

The Council, acting in accordance with the Treaty, shall decide on the implementation of the third stage as from 1 January 2000.

Article 14a

Deleted

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