



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.11.2006
COM(2006)759 final

2004/0218 (COD)

OPINION OF THE COMMISSION

**pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the
proposal for a**

**REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL**

concerning the Financial Instrument for the Environment (Life+)

**AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 250 (2) of the EC Treaty**

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1. BACKGROUND

PROCEDURE

On 29 September 2004 the Commission adopted a proposal for a Regulation of the European Parliament and of the Council¹ concerning the Financial Instrument for the Environment (Life+) for adoption by the co-decision procedure as laid down in Article 251 of the EC Treaty.

The Committee of the Regions and the European Economic and Social Committee delivered their Opinions in April 2005.

The European Parliament gave its opinion in first reading on 7 July 2005.

The Council adopted a partial political agreement on 2 December 2005.

The Commission adopted a revised proposal on 24 May 2006².

The Council adopted its Common Position on 27 June 2006.

The Commission's Communication on the Common Position was adopted on 28 June 2006³.

The European Parliament adopted its position in second reading on 24 October 2006.

OBJECTIVE OF THE COMMISSION PROPOSAL

The proposed Regulation is one of several relating to the financial framework for 2007 to 2013, but the only proposal specific to the environment. Its objective is:

¹ COM(2004)621 final (2004/0218 (COD))

² COM(2006)239 final

³ COM(2006)355 final

- to provide specific support at Community level for measures and projects with European added value for the implementation, updating and development of Community environmental policy and legislation, in particular the implementation of the sixth Community Environment Action Programme (while funding for investments and management measures benefiting the environment would generally be available through other financial instruments); and
- to replace a number of existing programmes (while some elements of the current LIFE regime would be integrated into other financial instruments).

The aim of this "integrated approach" is to provide more scope for co-financing, to encourage joint policy making and enable funding to better reflect national and regional priorities.

2. COMMISSION COMMENTS

2.1. General comments

At its plenary session of 24 October 2006 the European Parliament adopted all 32 amendments tabled. Out of these 32 amendments, 4 were acceptable to the Commission in their entirety, as they clarified or improved the original proposal, 6 amendments were acceptable in principle and a further 2 amendments in part. The remaining 20 amendments adopted by the Parliament are not acceptable to the Commission.

2.2. Detailed comments

2.2.1. Amendments accepted in full

- Amendment **23** proposes to apply the regulatory procedure with scrutiny to the adoption of the multi-annual strategic programmes and to Annex I of the Regulation. The Commission agrees that this procedure would be appropriate in this case.
- Amendment **26** clarifies the criteria that must be met by NGOs for their operational activities to be eligible for LIFE+ funding. It is acceptable, since it reflects the wording of article 1(2) of the current NGO operational funding instrument.
- Amendment **27** further elaborates on the importance of disseminating information and raising awareness in connection with environmental matters.
- Amendment **32** expresses the Parliament's wish for a solution to be found regarding the funding gap that the late adoption of the LIFE+ may create. While the budget question will ultimately be solved by the Budgetary Authority, the Commission will do its utmost to facilitate agreement on this issue.

2.2.2. Amendments accepted in part

- Amendment **12** concerns the procedure surrounding the drafting and approval of the multi-annual strategic programmes to be elaborated by the Commission. While the Commission agrees with the idea of providing for public participation on the draft multi-annual strategic programmes, it cannot accept having LIFE+ implementation subject to a two-committee

procedure. Consultation of the Habitats Committee is unnecessary, since Member States may send to the LIFE+ Committee whichever representatives they wish.

- Amendment 17 concerns the complementarity between LIFE+ and other Community instruments. The Parliament introduces here 4 substantial changes to the Common Position text. First, it suggests replacing the words "eligibility criteria" by the words "main scope" in the first sentence of this article. This is acceptable to the Commission so long as an explanatory recital was also added. Second, the Parliament would have the references to the Competitiveness and Innovation Programme and to the 7th Research Framework Programme removed from the list of Community instruments with which complementarity should be sought. The Commission cannot accept this part of the amendment, since complementarity should also be sought with these two programmes. Third, the Parliament asks for the removal of the reference to centrally financed measures and delegated measures. The Commission cannot accept this part of the amendment, since having both centralised and decentralised management is an essential element of its proposal. Fourth, the Parliament wants the Commission to *ensure* coordination and complementarity between LIFE+ and other Community instruments. The Commission cannot accept the new text as proposed, since it cannot, on its own, ensure complementarity among instruments: Member States play a big role in this. Furthermore, "ensure" should be replaced by a less stringent verb.

2.2.3. Amendments accepted in principle

- Amendment 1 contains alternative wording on environmental protection, as "one of the key dimensions of sustainable development of the European Union". This alternative to the Common position text, which refers to the environment as a key objective for sustainable development, would be acceptable in principle.
- Amendment 5 concerns the regulatory procedure with scrutiny, which would apply to the adoption and possible amendment of the multi-annual strategic programmes and amendments to the Regulation annex. While the Commission agrees that the Regulatory procedure with scrutiny is appropriate in this case, it believes that the amendment should be redrafted to take account of the new Comitology Decision (2006/512/EC).
- Amendment 7 introduces a reference to climate change as one of the specific objectives of the LIFE+ Nature and Biodiversity component. While the Commission welcomes this reference to climate change, it considers the wording proposed by the Parliament may be shortened.
- Amendment 18 raises the financial envelope for the implementation of LIFE+ to € 1,911,000,000 (in 2004 prices) for the period from 1 January 2007 to 31 December 2013. This would be acceptable to the Commission provided it were consistent with the agreed financial framework for the same period.
- Amendment 21 concerns on-the-spot checks to be carried by Commission officials and other staff on projects financed under LIFE+, in particular to check compliance with the eligibility criteria set out in Article 3 of the draft Regulation. While the Commission can accept that an assessment of the contribution of such projects to EU policy objectives should be conducted, it believes the appropriate place for the wording suggested by the Parliament would be Article 16(3), which refers to the final evaluation of the implementation of the Regulation.

- Amendment **22** concerns the LIFE+ Committee. It introduces a reference to the regulatory procedure with scrutiny which should be redrafted to bring it into line with the standard text agreed by the three institutions.

2.2.4. Amendments not accepted

- Amendments **2, 9, 10, 11, 14, 15, 16, 20, 24, 25, 28** and **31** aim at deleting all references to the delegated management of the programme. The Commission maintains its view that decentralised management of at least 80% of the LIFE+ budget is preferable, and therefore rejects the Parliament's amendments on this issue. Should it however appear that a compromise is possible between the Council and the Parliament on this issue, the Commission stands ready to facilitate an agreement. Linked to the issue of delegated management, amendments **8** and **30** would make staff and civil servant's costs ineligible for Community co-financing. The Commission cannot accept these amendments, since most Member States have underlined that they need to keep these costs eligible (under certain criteria clearly set out in the draft Regulation) to afford setting up and running their national agencies.
- Amendment **4** concerns financing for the Natura 2000 Network. It calls for the Commission and Member States to *ensure* that sufficient funds are made available through other instruments for the management of the network, whose annual estimated cost for the EU is € 6.1 billion. Amendments **6** and the second part of amendment **11** would have the Commission and Member States, respectively, *ensuring* that transnational projects and measures are foreseen in the national annual work programmes. The Commission cannot accept amendments 4, 6 and the second part of amendment 11 in its present stringent form. Amendment **3** calls upon the Commission to produce a review of the contribution of the various complementary instruments on financing the Natura 2000 network (including LIFE+) in time for the 2008/9 review of the Financial Framework, with a view to adapting LIFE+ to the necessary changes. While the Commission will conduct such a review, the timing proposed by the Parliament cannot be accepted. This is so because the Commission will not have much of substance to say about the results of LIFE+ implementation and its complementarity with other instruments by 2008.
- Amendment **13** would introduce mandatory consultation of the Habitats Committee. This amendment cannot be accepted for the reasons explained above when referring to the second part of amendment 12.
- Amendment **19** concerns the allocation of "at least 55%" of LIFE+ budgetary resources to nature and biodiversity conservation. Both the Commission and most Member States prefer the Common position text "at least 40%", which does not prevent Member States from spending more if they wish. It should be recalled that LIFE+ is meant to support the implementation and development of Community environmental policy and legislation in general, and in particular the implementation of the sixth Community Environment Action Programme, which is much wider than nature and biodiversity.
- Amendment **29** concerns "capacity building assistance" as one of the measures eligible for funding under LIFE+. The Commission is of the opinion that adding "capacity building *and improvement* assistance" as suggested by the Parliament is redundant.

3. CONCLUSION

Pursuant to Article 250 (2) of the Treaty, the Commission amends its proposal as set out above.