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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1973/92

of 21 May 1992

establishing a financial instrument for the environment (LIFE)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130s thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the Treaty establishing the European Economic Community provides for the development and implementation of a Community environment policy and sets out the objectives and principles which should guide that policy;

Whereas, pursuant to Article 130r of the Treaty, action by the Community relating to the environment aims, in particular, to preserve, protect and improve the quality of the environment; whereas, in preparing its action, the Community is to take account, *inter alia*, of environmental conditions in the various regions of the Community;

Whereas Article 130r (4) of the Treaty provides that the Commission shall take action relating to the environment to the extent to which the objectives referred to can be attained better at Community level than at the level of the individual Member States; whereas, without prejudice to certain measures of a Community nature, the Member States shall finance and implement the other measures;

Whereas a unified financial instrument for the environment (LIFE) should be established to contribute to the development and implementation of Community policy and legislation regarding the environment;

Whereas it is important to define the eligible areas of action which LIFE might support while complying with the 'polluter pays' and subsidiarity principles;

Whereas priority actions for implementation in eligible fields of action should be established at the latest by 30 September of each year for the following year;

Whereas it is necessary to specify the detailed rules for LIFE assistance;

Whereas provision should be made for an instrument the first phase of which will end on 31 December 1995;

Whereas an amount of ECU 400 million is deemed necessary for the implementation of this instrument over the period 1991 to 1995; whereas for the period 1991 to 1992 under the current financial perspective, the amount deemed necessary is ECU 140 million;

Whereas mechanisms should be established so that Community assistance may be adapted to the particular features of the measures to be supported;

Whereas it is necessary to establish effective methods of monitoring, assessment and evaluation as well as to ensure adequate information for potential beneficiaries and for the public;

Whereas a Committee should be set up to assist the Commission in implementing the Regulation;

Whereas, in the light of the experience gained during the first three years of implementation, the Council should re-examine LIFE's provisions on the basis of a Commission proposal to be submitted no later than 31 December 1994,

HAS ADOPTED THIS REGULATION:

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 implementation of Community environmental policy and legislation by financing:

- (a) priority environmental actions in the Community;
- (b) (i) technical assistance actions with third countries from the Mediterranean region or bordering on the Baltic Sea;

⁽¹⁾ OJ No C 44, 20. 2. 1991, p. 4.

⁽²⁾ OJ No C 267, 14. 10. 1991, p. 211.

⁽³⁾ OJ No C 191, 22. 7. 1991, p. 7.

- (ii) in exceptional circumstances, actions concerning regional or global environmental problems provided for in international agreements. Financing of these actions from LIFE shall be the subject of a specific Decision by the Council, acting on a proposal from the Commission.

The maximum amount of resources which can be allocated to the actions referred to in (i) and (ii) shall be 5%.

Article 2

1. The fields of action eligible for Community financial assistance are defined in the Annex.
2. Community financial assistance may be provided for actions which are of Community interest, contribute significantly to the implementation of Community environmental policy and meet the conditions for implementing the 'polluter pays' principle.

This assistance will cover, in particular, preparatory measures, demonstration schemes, awareness campaigns and actions providing incentives or technical assistance.

In addition, for the protection of habitats and nature this assistance must in particular contribute to the co-financing of measures necessary for the maintenance or restoration, at a favourable conservation status, of priority natural habitat types and priority species on the sites concerned as listed in Annex I and Annex II respectively to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural and semi-natural habitats and of wild fauna and flora ⁽¹⁾.

Article 3

Without prejudice to the procedure laid down in Article 21 of Directive 92/43/EEC:

- by 30 September each year, the Commission shall establish, in accordance with the procedure laid down in Article 13, the priority actions to be implemented within the fields of action defined in the Annex and the corresponding allocation of resources,
- the Commission shall, in accordance with the procedure laid down in Article 13, specify the additional criteria to be used for selecting the actions to be financed.

Article 4

Financial assistance shall be provided in one of the following forms, depending on the nature of the operations to be carried out:

- (a) co-financing of actions;
- (b) interest rebates.

⁽¹⁾ See page 7 of this Official Journal.

Article 5

Actions receiving aid provided for under the structural funds or other Community budget instruments shall not be eligible for financial assistance under this Regulation.

Article 6

The Commission shall ensure that actions undertaken in the framework of this Regulation are consistent with those undertaken under the Structural Funds or other Community financial instruments.

Article 7

1. LIFE shall be implemented in phases. The first phase shall end on 31 December 1995.
2. The Community financial resources estimated as necessary for implementation of the first phase amount to ECU 400 million, of which ECU 140 million are available for the period 1991 to 1992 in the framework of the 1988 to 1992 financial perspective.

For the subsequent period of implementation of LIFE, the amount shall fall within the Community financial framework in force.

3. The budget authority shall determine the appropriations available for each financial year, taking into account the principles of sound financial management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.
4. The Annex contains an indication of the percentage of Community resources which may be allocated to each field of action.

Article 8

1. Except as provided for in paragraph 2, the rate of Community assistance shall be subject to the following ceilings:

- 30% of the cost in the case of actions involving the financing of income-generating investments.

The operator's contribution to the financing must be at least as much as the Community assistance,

- 100% of the cost of measures designed to provide the information necessary for the execution of an action and of technical assistance measures implemented on the Commission's initiative,
- 50% of the cost of other actions.

2. The rate of Community assistance for actions concerning the conservation of priority biotopes or habitats of Community interest may be:

- (i) normally, a maximum of 50% of the cost of the actions;
- (ii) by way of exception, a maximum of 75% of the cost provided the actions concern;
 - biotopes or habitats hosting species in danger of extinction in the Community, or
 - habitats at risk of disappearing from the Community, or
 - populations of species in danger of extinction in the Community.

Article 9

1. Proposals for actions to be financed shall be submitted to the Commission by the Member States. In the case of actions involving more than one Member State, consultation shall take place between the Commission and the interested parties prior to the submission of proposals.
2. However, the 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*.
3. Applications from third countries shall be submitted to the Commission by the relevant national authorities.
4. The Commission shall forward to the Member States proposals received in the framework of such expressions of interest and applications submitted by third countries.
5. Actions under LIFE shall be approved under the procedure in Article 13 and shall give rise:
 - (a) either to a Commission decision approving the action concerned, addressed to the Member States;
 - (b) or to a contract or agreement governing the rights and obligations of the parties, concluded with the beneficiaries responsible for implementation.
6. The amount of financial assistance, financial procedures and controls, as well as all the technical conditions necessary for giving the assistance shall be determined on the basis of the nature and form of the approved action and shall be laid down either in the Commission decision or in the contract or agreement concluded with the beneficiaries.

Article 10

1. In order to ensure the success of the actions carried out by those receiving Community financial assistance, the Commission shall take the necessary measures to:

- verify that actions financed by the Community have been carried out properly,
- prevent and take action against irregularities,
- recover sums improperly received owing to abuse or negligence.

2. Without prejudice to the audits carried out by the Court of Auditors in liaison with the national audit bodies or the competent national departments pursuant to Article 206a of the Treaty, or any inspection carried out pursuant to Article 209 (c) of the Treaty, officials and other staff of the Commission may carry out on-the-spot checks, including sample checks, on actions financed under LIFE.

The Commission shall inform the beneficiary in advance of an on-the-spot check unless there are good reasons to suspect fraud and/or improper use.

3. For a period of five years following the last payment in respect of any action, the beneficiary of financial assistance shall keep available for the Commission all the supporting documents regarding expenditure on the action.

Article 11

1. The Commission may reduce, suspend or recover the amount of financial assistance granted for an action if it finds irregularities or if it transpires that, without Commission approval having been sought, the action has been subjected to a major change which conflicts with the nature or implementing conditions of the action.
2. If the deadlines have not been observed or if only part of the allocated financial assistance is justified by the progress in implementation of an action, the Commission shall request the beneficiary to submit its observations within a specified period. If the beneficiary does not give a satisfactory answer, the Commission may cancel the remaining financial assistance and demand repayment of sums already paid.
3. Any undue payment must be repaid to the Commission. Interest may be added to any sums not repaid in good time. The Commission shall lay down detailed rules for the implementation of this paragraph.

Article 12

1. The Commission shall ensure effective monitoring of the implementation of Community-financed actions. This monitoring shall take place on the basis of reports drawn up

using the procedures agreed by the Commission and the beneficiary and shall also involve sample checks.

2. For each multiannual action 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.

3. On the basis of the monitoring procedures and reports referred to in paragraphs 1 and 2 the Commission shall, if necessary, adjust the scale or the conditions of allocation of the financial assistance originally approved and also the timetable for payments.

4. A list of actions financed by LIFE shall be published each year in the *Official Journal of the European Communities*. Every two years, after consulting the Committee referred to in Article 13, the Commission shall submit a progress report to the European Parliament and the Council on the implementation of LIFE, and in particular on the use of appropriations.

Article 13

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

Without prejudice to Article 8 of Directive 92/43/EEC, the representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 May 1992.

For the Council

The President

Arlindo MARQUES CUNHA

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of one month from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 14

No later than 31 December 1994, the Commission shall submit a report to the European Parliament and the Council on the implementation of this Regulation and shall make proposals for any adjustment to be made with a view to continuing the action beyond the first 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 1996.

Article 15

This Regulation shall not affect the continuation of actions decided on and coming into operation on the basis of the Regulations referred to in Article 16 before the entry into force of this Regulation.

Article 16

Regulation (EEC) No 563/91 (Medspa)⁽¹⁾, (EEC) No 3907/91 (Acnat)⁽²⁾ and (EEC) No 3908/91 (Norspa)⁽³⁾ are hereby repealed.

Article 17

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*.

⁽¹⁾ OJ No L 63, 9. 3. 1991, p. 1.

⁽²⁾ OJ No L 370, 31. 12. 1991, p. 17.

⁽³⁾ OJ No C 370, 31. 12. 1991, p. 28.

ANNEX

FIELDS OF ACTION REFERRED TO IN ARTICLE 2 (1) AND INDICATIVE ALLOCATION OF RESOURCES REFERRED TO IN ARTICLE 7 (4)

Field of action	Indicative allocation of resources
A. ACTIONS IN THE COMMUNITY	
1. Promotion of sustainable development and the quality of the environment	40 %
<p>Actions:</p> <ul style="list-style-type: none"> — to establish and develop new techniques and methods of measuring and monitoring the quality of the environment; — to establish and develop new clean technologies, i.e. which create little or no pollution and make fewer demands on resources; — to establish and develop techniques for the collection, storage, recycling and disposal of waste, particularly toxic and dangerous waste and waste water; — to establish and develop techniques for locating and restoring sites contaminated by hazardous waste and/or hazardous substances; — to establish and develop models to integrate environmental actors into land use planning and management and socio-economic activities; — to reduce the discharge into the aquatic environment of nutritive substances and potentially bio-accumulative toxic, persistent pollutants; — to improve the quality of the urban environment both in central and peripheral areas. 	
2. Protection of habitats and of nature	45 %
<p>Actions:</p> <ul style="list-style-type: none"> — taken pursuant to Directive 79/409/EEC ⁽¹⁾ to maintain or re-establish biotopes which are the habitat of endangered species or seriously threatened habitats which are of particular importance to the Community, or to implement measures to conserve or re-establish endangered species; — to maintain or re-establish types of natural habitats of Community interest and the animal and plant species of Community interest referred to in the third subparagraph of Article 2 (2); — to protect soil threatened or damaged by fire, desertification, coastal erosion or the disappearance of the dune belt; — to promote the conservation of marine life; — to protect and conserve areas of fresh ground water and fresh surface water. 	
3. Administrative structures and environment services	5 %
<p>Actions:</p> <ul style="list-style-type: none"> — to foster greater cooperation between the authorities of the Member States particularly with regard to the control of transboundary and global environmental problems; — to equip, modernize or develop monitoring networks in the context of a strengthening of environmental legislation. 	

Field of action	Indicative allocation of resources
<p>4. Education, training and information</p> <p>Actions:</p> <ul style="list-style-type: none">— to promote environmental training in administrative and professional circles;— to promote environmental education, in particular through the provision of information, exchanges of experience, training and educational research;— to foster better understanding of problems and hence encourage behaviour models consistent with environmental objectives;— to disseminate knowledge concerning sound management of the environment.	5 %
<p>B. ACTIONS OUTSIDE COMMUNITY TERRITORY</p> <p>Actions:</p> <ul style="list-style-type: none">— to promote the establishment of the necessary administrative structures in the environmental field;— to provide the technical assistance needed for the establishment of environment policies and action programmes;— to promote the transfer of appropriate environment-friendly technologies and to foster sustainable development;— to provide assistance for third countries faced with ecological emergencies.	5 %

(¹) OJ No L 103, 25. 4. 1979, p. 1. Directive as last amended by Directive 91/244/EEC (OJ No L 115, 8. 5. 1991, p. 41).