

Proposal for a Decision of the European Parliament and of the Council laying down a Community Action Programme promoting non-governmental organisations primarily active in the field of environmental protection

(2001/C 270 E/18)

(Text with EEA relevance)

COM(2001) 337 final — 2001/0139(COD)

(Submitted by the Commission on 22 June 2001)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) The Treaty provides for the development and the implementation of a Community environment policy and sets out the objectives and principles, which guide that policy.

(2) [The Proposal for a Sixth Environment Action Programme] ⁽¹⁾ recognises the need for empowering citizens and the measures proposed include extensive and wide-ranging dialogue with stakeholders in environmental policy-making. In order to enable their participation in such a dialogue the [Proposal for a Sixth Environment Action Programme] makes provisions for continuous funding to non-governmental organisations (NGOs).

(3) The Action Programme introduced by Council Decision 97/872/EC of 16 December 1997 on a Community Action Programme promoting non-governmental organisations primarily active in the field of environmental protection ⁽²⁾ comes to an end on 31 December 2001. That Decision should therefore be repealed. The Programme has been evaluated by the Commission and present and previous beneficiaries, revealing a strong support for its renewal/revision.

(4) NGOs active in the field of environmental protection have already demonstrated that they can contribute to the environment policy of the Community, as laid down in Article 174 of the Treaty, by active involvement in concrete environmental protection measures and in activities to increase the general awareness of the need for the protection of the environment.

(5) NGOs are essential to co-ordinate and channel to the Commission information and views on the new and emerging perspectives, such as on nature protection and transboundary environmental problems, which cannot be, or are not being, fully dealt with at the Member State or subordinate level. Through their contacts with the public at large down to the very grassroots level, NGOs are believed to know well the concerns and opinions of 'the man in the street' and can thus promote these views and channel them back to the Commission.

(6) Environmental NGOs participate in experts groups, in preparatory and implementation committees of the Community institutions, providing important input to Community policies, programmes and initiatives and necessary balance in relation to the interests of other actors in the environment, including industry/business, trade unions and consumer groups.

(7) NGOs with a capacity to stimulate exchange of perspectives, problems and possible solutions related to environmental problems with a Community dimension, involving stakeholders at national, regional and local level, should be promoted. For this purpose only NGOs active at a European level will be targeted. Their structure and activities should cover at least three European countries.

(8) The geographical expansion of the Programme is necessary in order to include Candidate Countries' NGOs in light of their importance in gaining public acceptance for the environmental 'acquis' and strengthening its implementation and for furthering the democratisation process. The changes in the Balkans have also revealed a tremendous need for direct support towards citizens' organisations and initiatives in order to support democracy and the building of an environmentally sustainable future.

(9) In light of the experience gained in the first three years of implementation of this Decision, an assessment of the operation of the Programme should be undertaken in order to decide on its continuation.

⁽¹⁾ COM(2001) 31 final.

⁽²⁾ OJ L 354, 30.12.1997, p. 25.

(10) This Decision establishes a financial framework for the entire duration of the Programme which is to be the principal point of reference for the budgetary authority, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽¹⁾,

HAVE DECIDED AS FOLLOWS:

Article 1

1. A Community Action Programme promoting environmental non-governmental organisations (NGOs) is hereby established.

2. The general objective of this Programme shall be to promote NGOs, which are primarily active in the field of environmental protection at a European level and which contribute, or have the ability to contribute, to the development and implementation of Community environmental policy and legislation in all regions of Europe. The Programme shall also promote the systematic involvement of NGOs at all stages of the Community environmental policy-making process, by ensuring relevant representation in stakeholder consultation meetings and public hearings.

Article 2

In order to qualify for a grant, an NGO shall have the following characteristics:

- (a) it must be an independent and non-profit-making legal person primarily active in the field of environmental protection, with an environmental objective aimed at the public good;
- (b) it must be active at a European level, with a structure (membership base) and activities covering at least three European countries;
- (c) its activities must meet the principles underlying [the proposal for a Sixth Environment Action Programme] and be in line with the priority areas identified in part I of the Annex to this Decision;
- (d) it must have been legally constituted for more than two years and have had its annual statement of accounts for the two preceding years certified by a registered auditor.

Article 3

The Programme shall be open to the participation of NGOs established in either:

- (a) the Member States;

⁽¹⁾ OJ C 172, 18.6.1999, p. 1.

(b) the Associated Countries ⁽²⁾ in accordance with the conditions established in the Europe Agreements, in their additional protocols and in the decisions of the respective Association Councils;

(c) Cyprus, Malta and Turkey in accordance with conditions and procedures to be agreed with those countries;

(d) the Balkan countries forming part of the Stabilisation and Association process for countries of South Eastern Europe ⁽³⁾ in accordance with conditions and procedures to be agreed with those countries.

Article 4

1. The Commission shall publish a Call for Proposals in the *Official Journal of the European Communities* by 30 September each year at the latest, for grants in the following calendar year.

2. The Call for Proposals shall set out the eligibility, selection and award criteria and the application, assessment and approval procedure.

3. After assessing the proposals, the Commission shall decide which organisations are to receive financing in the following year, by 31 December each year, save for a delay in the adoption of the Community budget. The decision shall give rise to an agreement between the Commission and the beneficiary, fixing the maximum amount of the grant, the modalities of payment, the control and monitoring measures and the objectives to be achieved by the grant.

Article 5

The selection and award process shall be carried out in four steps:

(a) elimination of applications, which do not comply with the technical/administrative requirements for submitting a request for funding under this Programme. In particular, incomplete or insufficiently detailed applications, or applications which have not been filled in according to the instructions given on the application form or which have been submitted after the publicised deadline, shall be ineligible under this Programme;

(b) elimination of applications, which do not comply with the eligibility criteria as outlined in Articles 2 and 3;

⁽²⁾ Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic and Slovenia.

⁽³⁾ Former Yugoslav Republic of Macedonia, Albania, Federal Republic of Yugoslavia, Bosnia-Herzegovina, and Croatia.

(c) comparative assessment of the remaining eligible applications evaluated against the following criteria, which are further specified in point 2 of the Annex:

- (i) extent to which the application and more specifically the proposed work programme meets the objectives of the Programme as described in Article 1;
- (ii) management and product quality;
- (iii) outreach, effectiveness and efficiency.

Comparative score values will be assigned to each retained applicant.

(d) fixing the set of applications, which will enter into the award procedure by retaining only those who have received score values above thresholds defined by the Commission.

Article 6

1. A grant shall not exceed 70 % of the applicant's average audited annual eligible expenses during the preceding two years, in the case of NGOs based in the Community, or 80 % in the case of NGOs based in the Candidate Countries and the Balkans, nor 80 % of the applicant's eligible expenses for the current year.

The amount shall be determined annually according to a fixed weighting system, which takes into account the score values resulting from the assessment described in Article 5 and the relative size of the NGOs as outlined in part 3 of the Annex.

2. A beneficiary under this Programme shall be free to use the grant to cover eligible expenses of the organisation, as it deems appropriate, over the grant year. All expenses incurred by the beneficiary during the grant year shall be considered eligible, except for those specified in point 4 of the Annex.

3. The amount of the grant shall not become final until after the audited financial statement has been accepted by the Commission.

The final payment shall be reduced accordingly if the total of Community grants exceeds 80 % of the audited eligible expenses of the beneficiary for the year.

4. Moreover, if the audited financial statement of the grant year shows that the total revenues of the beneficiary, save revenues regularly earmarked for ineligible expenses, exceed

the eligible expenses, the final payment shall be reduced or, if necessary, the excess amount shall be recovered accordingly. Pursuant to Article 256 of the Treaty, recovery orders shall be enforceable.

5. In order to ensure the effectiveness of the grants to environmental NGOs, the Commission shall take the necessary measures to verify that a selected organisation still satisfies the requirements for being awarded the grant throughout the grant year. Notably, a systematic reporting scheme in order to monitor the beneficiaries' performance during the grant year, as well as an ex-post performance evaluation, shall be put in place.

Article 7

1. This Programme shall start on 1 January 2002 and shall end on 31 December 2006.

2. The financial reference amount for the implementation of this Programme for the period 2002 to 2006 shall be EUR 32 million.

3. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 8

1. In order to protect the European Communities' financial interests against fraud and other irregularities, the Commission may carry out on-the-spot checks and inspections under this Programme in accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996. In addition, investigations conducted by the European Anti-Fraud Office (OLAF) are governed by Regulation (EC) No 1073/1999 of the European Parliament and of the Council.

2. The beneficiary of a grant shall keep available for the Commission all the supporting documents, including the audited financial statement, regarding expenditure incurred during the grant year for a period of five years following the last payment.

Article 9

1. Failure to meet expected results, as evidenced by obligatory reports, may lead to ineligibility for funding under this Programme in the following year.

2. If an NGO becomes the subject of a recovery order due to intentional irregularities, irregularities caused by negligence or fraud, it will automatically be excluded from funding under the remaining years of the Programme.

3. If the Commission discovers irregularities, mismanagement or fraud in relation to a grant, either by audits or on-the-spot checks, the beneficiary will be subject to one or several of the following administrative measures and penalties in proportion to the severity of the case:

- annulment of the grant agreement;
- payment of a fine of up to 50 % of the amount of the recovery order;
- exclusion from other Community funding opportunities;
- exclusion from the relevant dialogue mechanisms of the Commission.

Article 10

A list of the beneficiaries to be financed under this Programme, together with the amount allocated, shall be published each year in the *Official Journal of the European Communities*.

Article 11

By 31 December 2004 at the latest, the Commission shall submit a report to the European Parliament and the Council on the achievement of the objectives of this Programme during the first three years and shall, if appropriate, make proposals for any adjustment to be made with a view to continuing or not continuing the Programme. This Report shall be based on the reports concerning beneficiaries' performance and assess, in particular, their effectiveness in contributing to the objectives stated in Article 1 and the Annex.

The European Parliament and the Council, in accordance with the Treaty, shall decide on the continuation of the Programme as from 1 January 2007. Before putting forward proposals to this end, the Commission shall conduct an external evaluation of the results achieved by the Programme.

Article 12

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

ANNEX

1. Priority areas identified in the Proposal for a Sixth Environment Action Programme

Given the importance for sustainable development and for the health and quality of life of European citizens, the proposed Programme targets selected priority issues that have been grouped under four main headings

- Limiting climate change
- Nature and bio-diversity — protecting a unique resource
- Health and environment
- Ensuring the sustainable management of natural resources and wastes

If adopted, the [Sixth Environment Action Programme] will be subject to a review in 2005 and revised and updated, as necessary, to take account of new developments and information.

In addition to the above-mentioned areas, implementation and enforcement of Community environmental legislation shall also be priority.

2. Characteristics against which applicants will be assessed

Applicants having successfully passed the first two selection steps accounted for in Article 5 shall be measured against the following criteria.

- Extent to which the application meets the objectives of the Programme. Characteristics of the applicant, including his proposed work programme, which will be evaluated, shall include:
 - Political relevance (in relation to the Proposal for a Sixth Environment Action Programme, a new European Governance, Sustainable Development, Enlargement, the Stabilisation and Association process for countries of South Eastern Europe, the development of the Euro-Mediterranean Partnership, Integration, Gender Mainstreaming).
 - Relevance and size/potential impact of involvement in Community environmental policy shaping and implementation.
 - Representativity as to voicing the public's concerns in all regions of Europe and as to feeding in these ideas and proposals for the solution of environmental problems.
 - Relevance in environment awareness raising and knowledge enhancement activities both in general and in relation to Community environmental policies.

For each of the above characteristics, consideration shall be given to the strength of the applicant with regards to fulfilling the associated NGO roles indicated in points 5-7 of the preamble.

- Management and product quality. Characteristics to be assessed include:
 - Organisational structure, adequacy in staffing and management of human resources.
 - Internal decision-making process, relationship with members.
 - Strategic approach, goal orientation, planning practices.
 - Administration, budget control and financial management.
 - Reporting practices (internal and external).
 - Self-assessment and quality control, feedback of experience (learning).
 - Technical/scientific competence

- Outreach, effectiveness, efficiency. Characteristics to be assessed include:
 - General visibility of the organisation and its activities
 - External relations (with other actors in the field of the Environment, such as local and regional authorities, business and industry, consumer groups, trade unions, other non-governmental organisations, etc).
 - Appreciation as tracked in the public domain (including the media).

3. Determination of Grants

The grant is calculated on the applicant's forecasted total eligible expenses for the grant year, taking explicitly into account his average audited expenses over the preceding two years, according to the following principles:

1. When all other parameters are equal, larger NGOs (as measured by the average of their preceding two years' audited annual expenses and the forecasted total eligible expenses for the grant year) will receive higher amounts than smaller ones. However, the larger the NGO, the relatively smaller this size advantage will be;
2. When all other parameters are equal, NGOs getting higher comparative assessment scores will receive larger amounts than lower scoring applicants;
3. When an NGO has requested a specified amount, under no circumstances shall the grant awarded exceed that amount.

4. Ineligible expenses

Payments made by the beneficiary and contracts awarded to third parties, which comprise of elements of the categories below:

- Criminal/illegal activities
- Private costs/use
- Entertainment, hospitality, unnecessary or ill considered expenses
- Expenses clearly outside the agreed work programme of the beneficiary for the grant year
- Debt reimbursements, interests owed, carried over deficits
- Costs related to the capital employed, investments ⁽¹⁾ or reserves set aside to strengthen the assets of the beneficiary
- Contributions in kind

⁽¹⁾ Only the proportion of depreciation of the item corresponding to the duration of the agreement may be taken into account by the Commission.