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COUNCIL REGULATION (EEC) No 3528/86
of 17 November 1986
on the protection of the Community's forests against atmospheric pollution

(OJ L 326, 21.11.1986, p. 2)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EEC) No 1613/89 of 29 May 1989	L 165	8	15.6.1989
►**M2**	Council Regulation (EEC) No 2157/92 of 23 July 1992	L 217	1	31.7.1992

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COUNCIL REGULATION (EEC) No 3528/86

of 17 November 1986

on the protection of the Community's forests against atmospheric pollution

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 235 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 Commitee (3),

Whereas forests play an essential part in maintaining fundamental balances, particularly as regards soil, water, climate, fauna and flora; whereas they therefore contribute to the development of agriculture, a sector in which production conditions and, in some cases, the very existence of activity depend largely on the presence and health of neighbouring forests;

Whereas atmospheric pollution, through its directly and indirectly harmful effects on forest vegetation and soil, contribute to the deterioration and even death of forest trees; whereas the increase in damage suffered by forests is giving rise to concern in the Community;

Whereas the protection of forests against this damage is thus a matter of particular importance and urgency in the Community; whereas the Community must for its part contribute to the improvement of such protection;

Whereas the chief objective of the Community scheme must be to establish, on the basis of an appropriate observation network, a uniform periodic inventory of the damage caused to forests;

Whereas, in particular on the basis of the data thus obtained, periodic forest helath reports with refernce to atmospheric pollution must be scientifically drawn up in order to determine the extent of damage and monitor its progress in the different regions of the Community;

Whereas it is necessary to improve methods of observing and measuring damage to forests, as well as the understanding of atmospheric pollution in forests and the effects of such pollution on forests; whereas methods of maintaining and restoring damaged forests must be devised; whereas to that end the Community must encourage the carrying out of field experiments and pilot and demonstration projects;

Whereas the Commission should be responsible for coordinating and monitoring the Community scheme and to that end must be able to call on the services of research institutes and scientific advisers;

Whereas to facilitate implementation of the measures envisaged, provision should be made for a procedure establishing close cooperation between the Member States and the Commission;

Whereas before the end of a five-year period the measures taken must be reviewed in the light, *inter alia*, of the experience acquired and the progress of the damage observed;

Whereas the Community should help to finance Community schemes for the protection of forests against atmospheric pollution;

(1) OJ No C 187, 13. 7. 1983, p. 9.
(2) OJ No C 172, 2. 7. 1984, p. 87.
(3) OJ No C 358, 31. 12. 1983, p. 50.

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Whereas, given the innovatory nature of some of the measures provided for, it is appropriate to review the financial aspects of this Regulation after a period of two years, to enable any necessary budgetary adjustments to be made;

Whereas the Treaty has not provided for all the powers necessary for this purpose,

HAS ADOPTED THIS REGULATION:

Article 1

A Community scheme is hereby established to protect forests against atmospheric pollution, hereinafter referred to as 'scheme', in order to provide increased protection for forests in the Community and thereby contribute in particular to safeguarding the productive potential of agriculture.

▼M2

Article 2

1. The aim of the scheme shall be to help the Member States to:

— establish, on the basis of common methods, a periodic inventory of damage caused to forests, in particular by atmospheric pollution;

— establish or extend, in a coordinated and harmonious way, the network of observation plots required to draw up that inventory;

— conduct intensive, continuous surveillance of forestry ecosystems;

— establish or extend, in a coordinated and harmonious way, a network of permanent observation plots required for such intensive, continuous surveillance.

2. The Member States shall forward to the Commission the data gathered by the network of observation plots and by the network of observation plots for intensive, continuous surveillance referred to in paragraph 1.

3. The detailed rules for the implementation of this Article and in particular those relating to the gathering, type, comparability and transmission of the data collected shall be laid down in accordance with the procedure provided for in Article 7.

▼B

Article 3

1. Each Member State shall, using a uniform scientific method, draw up, in particular on the basis of the inventory data referred to in Article 2, a periodic forest health report with reference to atmospheric pollution. It shall forward it to the Commission.

2. The detailed rules for implementing this Article shall be laid down according to the procedure provided for in Article 7.

Article 4

1. The scheme shall aim at encouraging the carrymg out of:

— experiments in the field to improve understanding of atmospheric pollution in forests and its effects on forests and to devide methods of maintaining and restoring damaged forests,

— pilot and demonstration projects to improve methods of observing and measuring damage to forests,

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— pilot projects to maintain damaged forests.

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2. Before 1 November each year, Member States shall submit to the Commission, in respect of the following year, the experiments and projects to be carried out under this Regulation. For the first year, the experiments and projects shall be submitted within three months following the entry into force of this Regulation.

3. The Member States shall inform the Commission of:

(a) the geographical areas concerned;

(b) the existing situation and the objectives to be attained;

(c) an estimate of costs plus, where appropriate, an indication of the projected expenditure rate.

4. The detailed rules and criteria of implementation of this Article shall be adopted in accordance with the procedure laid down in Article 7.

▼M1

Article 4a

1. A programme is hereby introduced for the synoptic processing of information on knowledge of atmospheric pollution in woodland and its effects.

2. In drawing up and monitoring this programme the Commission may call on specialized institutes.

3. The programme shall be adopted by the Commission in accordance with the procedure laid down in Article 8.

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Article 5

The Commission shall be responsible for coordinating and monitoring the scheme. It may, in particular, call on the services of research institutes and scientific advisers.

▼M1

▼M2

Article 7

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the Standing Forestry Committee set up by Decision 89/367/EEC [1], by its Chairman, either on his own initiative or at the request of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. 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 provided for 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.

3. (a) The Commission shall adopt the intended measures when they are in accordance with the Committee's opinion.

(b) Where the intended measures are not in accordance with the opinion of the Committee, or in the absence of any opinion, the Commission shall forthwith 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 three months from the date on which the matter was referred to it, the Council has not adopted any measures, the Commission shall adopt the proposed measures and apply them immediately.

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[1] OJ No L 165, 15. 6. 1989, p. 14.

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Article 8

Where this Article is referred to, the Committee shall act as an Advisory Committee.

Article 9

1. The Committee shall be consulted, within the meaning of Article 8, on:

— the periodic reports referred to in Article 3,

— the experiments and projects referred to in Article 4, prior to any Commission decision on their financing,

— the development of the coordination and monitoring activities referred to in Article 5.

2. The Committee may examine within the meaning of Article 8 any other question within the scope of this Regulation raised by its Chairman, either on his own initiative or at the request of a representative of a Member State.

▼M1

▼M2

Article 11

1. The scheme is scheduled to run for 10 years from 1 January 1987.

2. The amount of Community financial resources deemed necessary for implementation of the scheme is ECU 29,4 million for the period 1992 to 1996, including ECU 4,2 million for 1992 in the context of the 1988 to 1992 financial perspective.

For the subsequent period of application of the programme, the amount will have to form part of the Community financial framework in force.

The budgetary authority shall determine the appropriations available for each financial year, taking into account the principles of sound management referred to in Article 2 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities. ([1])

3. Before expiry of the period referred to in paragraph 1, the Commission shall submit to the Council a report on the application of this Regulation accompanied, if appropriate, by a proposal for its extension.

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Article 12

The Conmmunity financial contribution to the measures involved in the scheme shall be as follows:

(1) Periodic inventory and network of observation points (Article 2):

Maximum of ►**M1** 50 % ◄ of the expenditure approved by the Commission.

(2) Experiments, pilot projects and demonstration (Article 4):

Maximum of ►**M1** 50 % ◄ of the expenditure approved by the Commission.

([1]) OJ No L 356, 31. 12. 1977, p. 1. Regulation as last amended by Regulation (EEC) No 610/90 (OJ No L 70, 16. 3. 1990, p. 1).

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Article 13

Member States shall designate the authorities and agencies empowered to carry out the measures adopted in accordance with this Regulation as well as the authorities and agencies to which the Commission will reimburse the sums corresponding to the Community's financial contribution.

Article 14

Member States shall adopt, in accordance with their national laws, regulations and administrative provisions, the measures necessary to:

— ensure that the operations financed by the Community are actually carried out and that they are carried out in the proper manner,

— prevent irregularities,

— recover sums lost as a result of any irregularity or negligence.

Member States shall provide the Commission with all the necessary information and shall make any arrangements which may facilitate the checks, including on-the-spot inspections, with the Commission considers appropriate for the purposes of managing Community financing. Member States shall inform the Commission of the arrangements made to this end.

Article 15

The Commission shall submit an annual report to the European Parliament and the Council on progress in the field covered by this Regulation.

Article 16

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

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