COUNCIL REGULATION (EEC) No 2242/87

of 23 July 1987

on action by the Community relating to the environment

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, pursuant to Article 2 of the Treaty, the Community has as its task *inter alia* to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion and an increase in stability;

Whereas action by the Community relating to the environment should have as its objective to preserve, protect and improve the quality of the environment, to contribute towards protecting human health, and to ensure a prudent and rational utilization of natural resources;

Whereas, in order to ensure the full realization of the objectives formulated in the 1973 (4) and 1977 (5) action programmes of the European Communities on the environment and in the 1983 action (6) of which the general guidelines were approved by the Council and the representatives of the Governments of the Member States, it is necessary that the Community should contribute financially towards the carrying out of certain specific measures under this Regulation;

Whereas the development of clean technologies is a particularly appropriate way of ensuring preventive reduction in pollution and a more economic use of natural resources in the most economically rational fashion;

Whereas the development of techniques for recycling and reusing waste, including waste water, is necessary for better management of waste and natural resources;

Whereas a contribution should be made to the development of techniques for locating and restoring sites contaminated by hazardous wastes and/or hazardous substances;

Whereas the development of clean technologies and of improved techniques for the recycling of waste, including waste water, and for the restoration of contaminated sites is likely to have a positive effect on innovation and employment and to be of particular importance for small and medium sized enterprises;

Whereas experience has shown that it is necessary to encourage the development of new techniques and methods for measuring and monitoring the quality of the natural environment;

Whereas more use should be made of certain results of the Community research and development programmes relating to the environment and raw materials;

Whereas it is important that the Community should be able to make a contribution towards the maintenance and re-establishment of seriously threatened biotopes which are the habitat of endangered species, pursuant to Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (7);

Whereas it is necessary for the Community to be able to make a contribution towards the protection and re-establishment of land threatened or damaged by fire, erosion and desertification;

Whereas it is necessary that the Community should, within the limits of the budget funds available for these purposes, grant financial support for projects relating to clean technologies, to techniques for recycling and reusing waste, including waste water, to techniques for locating and restoring sites contaminated by hazardous wastes and/or hazardous substances, to techniques and methods for measuring and monitoring the quality of the natural environment and to measures to conserve nature protection zones of Community importance, in the context of implementation of Directive 79/409/EEC, and to protect or re-establish land threatened or damaged by fire, erosion and desertification;

Whereas provision should be made for an amount deemed necessary for these projects to be carried out; whereas the Council, acting unanimously on a proposal from the Commission, should be able to review this amount;

Whereas an Advisory Committee should be set up to assist the Commission in implementing this Regulation and in particular in selecting the projects for which financial support may be granted;

(1) OJ No C 18, 24. 1. 1987, p. 5.
(2) OJ No C 156, 15. 6. 1987, p. 199.
(3) Opinion delivered on 2 July 1987 (not yet published in the Official Journal).
(4) OJ No C 112, 20. 12. 1973, p. 1.
(5) OJ No C 139, 13. 6. 1977, p. 1.
(6) OJ No C 46, 17. 2. 1983, p. 1.
(7) OJ No L 103, 25. 4. 1979, p. 1.

Whereas application of Council Regulation (EEC) No 1872/84 of 28 June 1984 on action by the Community relating to the environment (1) has demonstrated the benefits of a Community system to support action relating to the environment and the practicability of the procedures introduced under that Regulation;

Whereas the said Regulation should therefore be replaced, taking account of new requirements,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Community may grant financial support for:

(a) demonstration projects aimed at developing new clean technologies, i.e. technologies which cause little or no pollution and which may also be more economical in the use of natural resources;

(b) demonstration projects aimed at deveoping techniques for recycling and reusing waste, including waste water;

(c) demonstration projects aimed at developing techniques for locating and restoring sites contaminated by hazardous wastes and/or hazardous substances;

(d) demonstration projects aimed at developing techniques and methods for measuring and monitoring the quality of the natural environment;

(e) projects providing an incentive and aimed at contributing towards the maintenance or re-establishment of seriously threatened biotopes which are the habitat of endangered species and are of particular importance to the Community under Directive 79/409/EEC;

(f) projects providing an incentive and aimed at contributing towards the protection or re-establishment of land threatened or damaged by fire, erosion and desertification.

Projects covered by (a), (b), (c) and (d) which are eligible for financial support under other Community instruments shall be excluded.

2. The amount estimated necessary for the implementation of the planned projects shall be 24 million ECU.

In the light of the first annual report provided for in Article 12, the Council, acting unanimously on a Commission proposal, may decide to review the amount estimated necessary.

The appropriations shall be entered in the general budget of the European Communities.

(1) OJ No L 176, 3. 7. 1984, p. 1.

3. The financial support may be:

(i) not more than 30 % of the cost of the projects referred to in paragraph 1 (a), (b) and (c), not more than 50 % of the cost of the projects referred to in (d) and (f) and normally not more than 50 % of the cost of the projects referred to in (e);

(ii) not more than 75 % in the exceptional case of projects referred to in paragraph 1 (e), provided that they concern biotopes which are the habitat of species threatened with extinction in the Community.

Article 2

1. To be eligible for financial support, a project shall be of interest to the Community and in terms of protection of the environment and/or the management of natural resources.

The level of the Community's contribution shall be determined in accordance with the extent to which it is shown that the project concerned corresponds to such interest.

2. The projects referred to in Article 1 (1) (a), (b) and (c) shall:

— implement innovatory technologies or processes for which the research phase may be considered completed but which are still untested or not yet in existence in the Community;

— by their demonstration value, be such as to encourage the creation of other installations or the application of processes of the same type which are capable of notificably reducing adverse effects on the environment or of improving the management of natural resources;

— first and foremost concen installations or processes which:

  — because of the large amounts or the particularly dangerous nature of their emissions seriously harm the environment, or

  — make it possible to recycle or re-use waste, including waste water, of a nature posing serious environmental problems, or

  — make it possible to locate and/or restore sites contaminated by wastes and/or substances hazardous to human beings and the environment.

3. The projects referred to in Article 1 (1) (d) shall cover first and foremost the major air, water and soil pollutants and contribute towards harmonization of methods of measurement and the compatibility of measurement results obtained within the Community.

4. Financial support for the projects referred to in Article 1 (1) (e) shall be commensurate with the importance of the area to the Community and with the urgency of the need for the financial support in question.

5. Financial support for the projects referred to in Aticle 1 (1) (f) shall be comensurate with the urgency of the need to implement the measures and of the need for Community financial support and shall take particular account of their incentive effect in the Community.

Article 3

1. Applications for financial support for projects covered by Article 1 (1) (a), (b), (c) and (d) that have been drawn up in response to invitations to submit projects prepared by the Commission and published in the *Official Journal of the European Communities* shall be sent to the Commission, with copies to the competent authorities of the Member State concerned.

2. Applications for financial support for the projects referred to in Article 1 (1) (e) shall be sent to the Commission by the Member States and shall contain the information specified in the Annex.

3. Applications for financial support for the projects referredt referred to in Article 1 (1) (f) shall be sent to the Commission by the Member States and shall contain the information needed to justify action at Community level.

Article 4

1. An Advisory Committee consisting of representatives of the Member States and chaired by a Commisison representative is hereby set up. The Committee shall draw up its rules of procedure.

2. The Commission shall consult the Advisory Committee on, *inter alia:*

(i) the general conditions governing submission of the applications for financial support referred to in Article 3;

(ii) preparation of the invitations to submit projects referred to in Article 3 (1);

(iii) any additional critria to be applied in selecting projects form which applications for financial support have been submitted;

(iv) the choice of projects for which financial support is to be granted in accordance with Article 5;

(v) the levels of financial support to be granted to projects;

(vi) the priorities to be adopted within the scope as defined in Article 1;

(vii) the need to take into account a balanced allocation as between demontration projects and incentive projects;

(viii) the prepartion of a framework contract;

(ix) the arrangements for disseminating the results.

3. The Committee shall deliberate on requests for its opinion from the Commission. When making requests the Commission may set a time limit by which the opinion is to be given. No vote shall be taken at the end of the Committee's deliberations. However, each Committee member may ask for his opinion to be recorded in the minutes.

Article 5

1. The Commission shall decide whether to grant or refuse financial support for projects after consulting the Advisory Committee referred to in Article 4 and on the basis of the opinions delivered by that Committee.

2. The Commission's decision shall be communicated forthwith to the Europan Parliament, the Council and its Member States. It shall apply upon expiry of a period of 20 working days, if no Member State has referred the matter to the Council within that period.

3. Where the matter is referred to the Council, the latter shall take a decision on the Commission's decision by a qualified majority in accordance with Article 148 of the Treaty within 40 working days following such referral.

Article 6

The Commission shall negotiate and conclude the necessary contracts.

Article 7

Financial support may be granted to the natural persons, or the legal persons constituted in accordance with the law of the Member States, who are responsible for the project.

If the creation of a legal entity for the purpose of carrying out a project involves additional costs for the participating undertakings, the project may be carried out simply by cooperation between natural or legal persons. In that case, responsiiblity for complying with the obligations resulting from Community support must be specified in the contract to be concluded with the Commission.

Article 8

Recipients of Community financial support shall send the Commission, each year or in accordance with the provisions of the contract, a report on the fulfilment of the obligations towards the Commission, and in particular on th eprogress of work on the project and the expenditure incurred in carrying it out.

Article 9

The benefits granted by the Community must not affect conditions of competition in a manner incompatible with the principles embodied in the relevant provisions of the Treaty.

Article 10

In the event of commercial exploitation of the results of a project, the Community may request repayment of its financial contribution in accordance with arrangements to be laid down in the contract.

Article 11

A list of the measures for which Community financial support has been granted shall be published annually in the *Official Journal of the European Communities.*

Article 12

The Commission shall submit an annual report on the implementation of this Regulation to the European Parliament, the Council and the Economic and Social Committee.

Article 13

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

It shall apply for four years.

2. Before the end of the third year of the application period laid down in paragraph 1, the Council, acting unanimously on a proposal from the Commission, shall decide whether to amend this Regulation.

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

Done at Brussels, 23 July 1987.

For the Council

The President

K.E. TYGESEN

ANNEX

List of particulars to be provided under Article 3 (2)

— The location of the site in question and, where necessary, a map showing the boundaries of the area covered by the project.

— The importance of the site to the Community for the conservation of nature and, in appropriate cases, the degree of the risk to the biotopes and species concerned.

— The nature and extent of the problems which the project is intended to solve, and in particular the nature and gravity of the threat.

— A detailed description of the project, and in particular of the organization of its management and of the results expected.

— The timetable for carrying out the project.

— The cost of theproject, its viability and the financing arrangements proposed.

— The extent to which Community financial support is urgently needed in order to implement the project.

— Any other evidence in support of the application.

— The protection provided for the site in question at present and the protection planned.

— The proposed method of disseminating the results of the project.