



COMMISSION OF THE EUROPEAN COMMUNITIES

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2003/0148 (COD)

Proposal for a

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

**amending Regulation (EC) No 1655/2000  
concerning the Financial Instrument for the Environment (LIFE)**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

At the time of the adoption of Regulation (EC) No 1655/2000 concerning the Financial Instrument for the Environment (LIFE)<sup>1</sup>, the Commission had proposed a management committee to oversee its implementation: approval of LIFE-nature projects (Article 3(7)), LIFE-environment (Article 4(10)), LIFE-third countries (Article 5(7)), and projects from accession candidate countries (Article 6(5)). The Commission had taken the view that as the choice of projects was a measure with substantial budgetary implications, the procedure to be followed was that of a management committee. In support of its standpoint, the Commission had insisted on the importance of applying the criteria of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>2</sup> and had made a statement to that effect at the time of the adoption of the Common Position of the Council.

However, the Council had unanimously rejected the Commission proposal regarding the committee procedure to be applied. Therefore, as regards the adoption of measures for the implementation of Regulation (EC) No 1655/2000, the Council, in drafting Article 11(2), opted for the regulatory procedure provided for in Article 5 of Decision 1999/468/EC.

At the time of the adoption of Regulation (EC) No 1655/2000, the Commission had made a statement<sup>3</sup>. In particular, the Commission had maintained that “to ignore the terms of Article 2 of Council Decision 1999/468/EC in a case as clear as this is contrary to both the spirit and the letter of the Council Decision”. For this reason the Commission had stated that it had to “reserve its position in this matter, including its right to take appropriate future action before the Court”. Accordingly, the Commission brought an action before the Court for the annulment of the provision in question.

In its judgment of 21 January 2003<sup>4</sup>, the Court of Justice annulled Article 11(2) of Regulation (EC) No 1655/2000. Under Article 233 of the Treaty establishing the European Community, the institution or institutions whose act has been declared void are required to take the necessary measures to comply with the judgment of the Court of Justice.

The Court ruled that the measures which the Commission is empowered to adopt under the implementing powers conferred on it by Regulation (EC) No 1655/2000 are of two kinds<sup>5</sup>. The first are measures relating to the granting of financial assistance to various projects and accompanying measures referred to in Articles 3-6 of Regulation (EC) No 1655/2000, and the second guidelines for the selection of demonstration projects proposed under the LIFE-environment component (Article 4(4) of the Regulation).

Observing that the measures which the Commission is empowered to adopt under the implementing powers conferred on it by Regulation (EC) No 1655/2000 are management measures relating to the implementation of a programme with substantial budgetary implications within the meaning of Article 2(a) of Decision 1999/468/EC, the Court ruled that those implementing measures therefore fall in principle under the management procedure

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<sup>1</sup> OJ L 192, 28.7.2000, p. 1.

<sup>2</sup> OJ L 184, 17.7.1999, p. 23.

<sup>3</sup> OJ L 192, 28.7.2000, p. 10.

<sup>4</sup> Judgment of the Court of 21.1.2003, *Commission v European Parliament and Council*, Case C-378/00, not yet published in the Court Reports.

<sup>5</sup> See in particular points 18 to 20 and 60 to 61 of the judgment.

defined in Article 4 of Decision 1999/468/EC or, in some circumstances, in accordance with Article 2(c) of that Decision, under the advisory procedure defined in Article 3 thereof.

Following its statement made at the time of the adoption of the Regulation and the judgment of the Court of Justice of 21 January 2003, which annulled Article 11(2) of Regulation (EC) No 1655/2000, and on the basis of the indicative criteria defined in Article 2 of Decision 1999/468/EC, it is necessary to propose a Regulation amending Regulation (EC) No 1655/2000 as regards the committee procedure to be followed, the effect of which is to replace the regulatory committee by a management committee for the adoption of the measures for the implementation of that Regulation.

Proposal for a

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

**amending Regulation (EC) No 1655/2000  
concerning the Financial Instrument for the Environment (LIFE)**

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<sup>6</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>7</sup>,

Having regard to the opinion of the Committee of the Regions<sup>8</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>9</sup>,

Whereas:

- (1) In its judgment of 21 January 2003<sup>10</sup> the Court of Justice of the European Communities annulled Article 11(2) of Regulation (EC) No 1655/2000 of the European Parliament and of the Council of 17 July 2000 concerning the Financial Instrument for the Environment (LIFE)<sup>11</sup>. In that judgment, the Court declared that “the effects of Article 11(2) of Regulation (EC) No 1655/2000 are to be fully maintained until the Parliament and the Council adopt new provisions concerning the committee procedure to which the measures for the implementation of that Regulation are subject”.
- (2) In accordance with Article 233 of the Treaty, the institutions whose act has been declared void are required to take the necessary measures to comply with the judgment of the Court of Justice.
- (3) The measures that the Commission is empowered to adopt under the implementing powers conferred on it by Regulation (EC) No 1655/2000 are management measures relating to the implementation of a programme with substantial budgetary implications within the meaning of Article 2, point (a), of Council Decision 1999/468/EC of

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<sup>6</sup> OJ C

<sup>7</sup> OJ C

<sup>8</sup> OJ C

<sup>9</sup> OJ C

<sup>10</sup> *Commission v European Parliament and Council*, Case C-378/00, not yet published in the Court Reports.

<sup>11</sup> OJ L 192, 28.7.2000, p. 1.

28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>12</sup>. Those measures should therefore be adopted in accordance with the management procedure provided for in Article 4 of that Decision.

(4) Regulation (EC) No 1655/2000 should therefore be amended,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Article 11(2) of Regulation (EC) No 1655/2000 is replaced by the following:

“2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period referred to in Article 4(3) of Decision 1999/468/EC shall be set at three months.”

*Article 2*

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

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>12</sup> OJ L 184, 17.7.1999, p. 23.