



Council of the
European Union

001307/EU XXVI. GP
Eingelangt am 17/11/17

Brussels, 17 November 2017
(OR. en)

14509/17

ENV 952
CLIMA 313
ENER 454
BUDGET 33
CADREFIN 117
DELECT 224

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	16 November 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2017) 7538 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 16.11.2017 on the increase of the percentage of the budgetary resources allocated to projects supported by way of action grants under the sub- programme for Environment dedicated to projects supporting the conservation of nature and biodiversity according to Article 9 paragraph 4 of the Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007

Delegations will find attached document C(2017) 7538 final.

Encl.: C(2017) 7538 final



Brussels, 16.11.2017
C(2017) 7538 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 16.11.2017

on the increase of the percentage of the budgetary resources allocated to projects supported by way of action grants under the sub- programme for Environment dedicated to projects supporting the conservation of nature and biodiversity according to Article 9 paragraph 4 of the Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The Fitness Check of Nature legislation¹ showed a clear need for stepping up the funding for nature conservation in the EU. As the only financial instrument of the EU exclusively dedicated to environmental protection and climate action, in the past 25 years, LIFE-funded conservation actions have played a crucial role for nature conservation throughout the EU. LIFE also has acted as a catalyst for further nature conservation funding, including by facilitating the mainstreaming of nature and biodiversity policy into other EU policies. Action 8 (b) of the Action Plan for Nature, People and the Economy² therefore calls for an increase of the budgetary resources allocated to action grants dedicated to projects supporting the conservation of nature and biodiversity under the LIFE Programme.

Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007³ (hereinafter referred to as ‘the LIFE Regulation’), stipulates in its Article 9 paragraph 3 that a minimum of 55 % of budgetary resources allocated to action grants shall be dedicated to projects supporting the conservation of nature and biodiversity. According to Article 9 paragraph 4, the Commission is empowered to adopt a delegated act to increase this percentage by a maximum of 10 %, resulting in a new minimum of 60.5 % of the budgetary resources to be dedicated to projects supporting the conservation of nature and biodiversity. The condition for such an increase is that the total funds requested over two consecutive years by way of proposals that fall under the priority area Nature and Biodiversity and that meet minimum quality requirements exceed by more than 20 % the corresponding amount calculated for the two years preceding those years.

This condition is fulfilled, as the funds requested by project proposals under priority area Nature and Biodiversity fulfilling the minimum quality requirements in 2014 and 2015 exceed by more than 63 % the total funds requested by Nature and Biodiversity project proposals fulfilling the minimum quality requirements in 2012 and 2013.

The calculation takes into account all pilot, demonstration, best practice, preparatory, technical assistance and integrated project proposals under the priority area Nature and Biodiversity of the calls in the years 2014 and 2015 with passing scores which reached the minimum overall pass score of 55 points, as this was the minimum quality requirement applicable. For the two preceding years 2012 and 2013, all Nature and Biodiversity projects with a passing score on all criteria fulfilled the minimum quality requirements⁴.

In budgetary terms, the increase is neutral on programme level, as it is a mere shift between priority areas. For the period 2018-2020, the increase of the minimum resources to be dedicated to projects supporting the conservation of nature and biodiversity would correspond

¹ Commission Staff Working Document SWD(2016) 472 final of 16 December 2016 ‘Fitness-check of the EU Nature Legislation (Birds and Habitats Directives) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora’ (hereinafter referred to as the Fitness Check SWD, p. 39).

² COM(2017) 198 final of 27 April 2017 - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘An Action Plan for nature, people and the economy’, p. 7, http://ec.europa.eu/environment/nature/legislation/fitness_check/action_plan/communication_en.pdf

³ OJ L347 of 20.12.2013, p. 185

⁴ For the calculation see Table I.

to around EUR 46.7 million and approximately EUR 55.4 million for all activities dedicated to nature and biodiversity combined.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

(1) Preparatory work including stakeholder consultations

The need to increase funding through LIFE projects focussing on nature and biodiversity has been confirmed by the documents listed below, which underwent extensive consultation processes.

(a) Fitness check of the Birds and Habitats Directives

The Fitness check of the Birds and Habitats Directives involved extensive evidence gathering and consultation with many stakeholders at Member State and EU levels, including a 12-week public consultation that attracted unprecedented interest with more than 552,000 responses. One of the major findings resulting from the Fitness check was that the limited availability of funding is consistently perceived as a strong (negative) influence on implementation, as all of the required activities take time and require appropriate funding⁵. Throughout the Fitness check the importance of LIFE for the implementation of Natura 2000 is highlighted underlining that, apart from the allocation under the LIFE programme, there is no earmarking of funds dedicated to nature and biodiversity under the various other EU funds and national co-funding seems unable to cover the remaining gap. The Fitness check of the Birds and Habitats Directives led to the adoption of the above-mentioned Action Plan for nature, people and the economy.

(b) Mid-term review of the EU Biodiversity strategy to 2020⁶

Most of the factual information used in this mid-term review is drawn from the consultation process that took place within this context (e.g. meetings of the Nature Directors and the Coordination Group for Biodiversity and Nature, involving Member States and key stakeholder groups)⁷.

The fact that LIFE projects dedicated to nature and biodiversity conservation are effective tools for improving the conservation of nature and biodiversity is confirmed in the mid-term review.

(c) External and independent study supporting the LIFE Mid-Term Evaluation⁸

The external and independent mid-term evaluation conducted between March 2016 and January 2017 relied on

⁵ The Fitness check SWD, pp. 19-20, Annex 2 of the Fitness check SWD, pp. 101-113.

⁶ Report from the Commission to the European Parliament and the Council COM(2015) 478 final of 2.10.2015 'The Mid-term review of the EU Biodiversity Strategy to 2020'.

⁷ The Mid-term review of the EU Biodiversity Strategy to 2020, paragraph 94.

⁸ Support for an external and independent LIFE Mid Term Evaluation Report, Final Report, Ecorys, March 2017 (hereinafter referred to as 'the external and independent mid-term evaluation'), <https://publications.europa.eu/en/publication-detail/-/publication/7861fb60-1e7a-11e7-aeb3-01aa75ed71a1/language-en/format-PDF>.

- qualitative assessment tools, including desk research based on available documents, interviews, stakeholder surveys and a public consultation which ran for 12 weeks⁹ and
- quantitative assessment tools, based on the indicator database and the LIFE projects database, which mostly include LIFE+ projects, as well as the data processing tools designed to manage of the LIFE proposals and projects.

It underlines that, within the LIFE Programme, the EU value added is most prominent in Nature projects¹⁰ and in Integrated Projects covering the two sub-programmes for environment and for climate. It is recommended to take this aspect into account if changes are to be made to the financial allocations within the Programme.

(d) Specific preparatory work

As a 10% increase in the LIFE budget dedicated to projects supporting the conservation of nature and biodiversity, while keeping the overall budgetary envelope of the LIFE programme unchanged, has been announced under Action 8 (b) of the ‘Action Plan for Nature, people, and the Economy’, which is based on the Fitness check of the Birds and Habitats Directives.

The condition for the empowerment stipulated in Article 9 paragraph 4 of the LIFE Regulation for the adoption of a delegated act to increase the allocation of budgetary resources for action grants dedicated to projects supporting the conservation of nature and biodiversity by a maximum of 10%, is related to an actual increase observed in the demand for funds by qualitatively satisfactory project proposals. The condition as such thus presupposes a demand analysis¹¹. In view of the above mentioned consultations and clear increase of funding demanded for projects under the priority area nature and biodiversity, the demand for an increase of funding opportunities by the relevant stakeholders is thus confirmed.

(e) Use of expertise

As regards the Fitness check of the Birds and Habitats Directives¹² and the external and independent LIFE Mid-Term Evaluation Report, these were carried out with the support of independent external experts.

The final draft of the present Delegated Act has been shared with the Member State experts through the Joint Expert Group - DG Environment and DG Climate Action - LIFE 2014-2020¹³ in the period from 4 October 2017 to 18 October 2017.

(2) Regulatory fitness and simplification

The proposal is neutral as regards simplification, as it merely increases the budget for projects under one priority area and decreases it under another one.

⁹ http://ec.europa.eu/environment/consultations/life_2016.htm

¹⁰ pp. 38f., 50-53, 350f.

¹¹ See Table I.

¹²

http://ec.europa.eu/environment/nature/legislation/fitness_check/docs/study_evaluation_support_fitness_check_nature_directives.pdf.

¹³

<http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3546&NewSearch=1&NewSearch=1>

3. LEGAL ELEMENTS OF THE DELEGATED ACT

(1) Legal basis

The legal basis for the present Delegated Act is Article 9 paragraph 4 in conjunction with paragraph 3 of the LIFE Regulation. Article 9 paragraph 4 of the LIFE Regulation stipulates: ‘The Commission shall be empowered to adopt delegated acts in accordance with Article 29 in order to increase the percentage referred to in paragraph 3 of this Article by a maximum of 10 %, provided that the total funds requested over two consecutive years by way of proposals that fall under the priority area of Nature and Biodiversity and that meet minimum quality requirements exceed by more than 20 % the corresponding amount calculated for the two years preceding those years.’ In view of the fulfilment of the conditions stipulated in this provision, the clear need for additional funding for nature and biodiversity highlighted in the recent Fitness check of nature legislation, and the particularly prominent EU value added of Nature projects underlined in the External and independent study supporting the LIFE Mid-Term Evaluation, an increase is proposed.

(2) Other legal aspects

In view of the unequivocal fulfilment of the explicit and clear requirements in the legal basis, no further legal aspects need to be taken into consideration.

4. BUDGETARY IMPLICATIONS

The financial programming for the sub- programme for Environment is modified. The modifications are budgetary neutral. The financing of biodiversity and nature conservation (budget article 07 02 02) increases by an amount of approximately EUR 55.4 million for the period 2018-2020. Corresponding decreases affect budget articles 07 02 01 Environment and Resource Efficiency (ENV) and 07 02 03 Environmental governance and information (GIE)¹⁴.

Despite the decreases affecting the budget articles for ENV and GIE, it is not expected that the funding opportunities for projects corresponding to these budget articles will diminish. This is due to two mitigating factors:

- The total budget for LIFE projects is increasing annually throughout the period 2018-2020;
- According to Article 20 paragraph 1 letter (c) of the LIFE Regulation, the co-financing rate for most ENV and environmental GIE projects will be reduced from 60 % to 55 % for the period 2018-2020. Thus, while the total EU contribution to LIFE projects diminishes, the total amount invested in LIFE projects is expected to remain stable or increase.

¹⁴ For further details see Table II.

Table I

Calculation of the increased demand for Nature and Biodiversity in the years 2014 and 2015 versus the demand in the years 2012 and 2013.

Total funds requested over two consecutive years by way of proposals that fall under the priority area of Nature and Biodiversity and that meet minimum quality requirements as compared to the corresponding amount for the two preceding years (Article 9 (4) LIFE Regulation)		
Under the LIFE multiannual work programme for 2014-2017 applicable in the reference years 2014 and 2015 the term 'that meet minimum quality requirements' means that proposals have to have reached a passing score on all pass/fail criteria <u>and</u> the minimum overall pass score of 55 points. Under the LIFE+ rules applicable in the two preceding years, 2012 and 2013, the term means that proposals must have reached a passing score on all pass/fail criteria. There was no minimum overall pass score.		

Years	amount in EUR	Nature and Biodiversity Projects
2014	258,214,681	Traditional pilot, demonstrative, and best practice projects under the priority area Nature and Biodiversity
	33,385,324	Integrated projects under the priority area Nature and Biodiversity
	238,149	Technical assistance projects under the priority area Nature and Biodiversity
	1,614,641	Preparatory projects under the priority area Nature and Biodiversity
2015	255,482,202	Traditional pilot, demonstrative, and best practice projects under the priority area Nature and Biodiversity
	33,985,434	Integrated projects under the priority area Nature and Biodiversity
	100,000	Technical assistance projects under the priority area Nature and Biodiversity
	569,330	Preparatory projects under the priority area Nature and Biodiversity
Total funds 2014 and 2015	583,589,761	Demand by way of project proposals under the priority area Nature and Biodiversity

Years	amount in EUR	Nature and Biodiversity Projects
2012	148,649,749	Nature projects
	11,765,589	Biodiversity projects
2013	175,325,617	Nature projects
	22,056,955	Biodiversity projects
Total funds 2012 and 2013	357,797,910	Corresponding amount equivalent to the demand by way of LIFE+ Nature and Biodiversity proposals

Difference between the demand in the two consecutive years 2014 and 2015 versus the demand in the two preceding years 2012 and 2013		
Total difference in EUR	225,791,851	Increase in the demand of the years 2014 and 2015 versus the demand observed in the years 2012 and 2013
Total difference in %	63%	

Table II

Financial programming 2014-2020 for budget articles 07 02 01, 07 02 02, and 07 02 03

Line	Description	2014	2015	2016	2017	2018	2019	2020
07 02 01	Contributing to a greener and more resource-efficient economy and to the development and implementation of Union environmental policy and legislation (ENV)	107,206,163	120,670,000	128,831,000	139,399,233	140,778,000	148,835,000	155,195,200
07 02 02	Halting and reversing biodiversity loss (NAT)	139,446,000	147,832,750	157,206,000	165,584,150	200,092,250	211,620,000	220,844,000
07 02 03	Supporting better environmental governance and information at all levels (GIE)	37,755,415	51,493,000	55,683,358	59,383,000	45,180,000	47,769,000	50,428,300

COMMISSION DELEGATED REGULATION (EU) .../...

of 16.11.2017

on the increase of the percentage of the budgetary resources allocated to projects supported by way of action grants under the sub- programme for Environment dedicated to projects supporting the conservation of nature and biodiversity according to Article 9 paragraph 4 of the Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Regulation (EU) No 1293/2013 of the European Parliament and of the Council of 11 December 2013 on the establishment of a Programme for the Environment and Climate Action (LIFE) and repealing Regulation (EC) No 614/2007¹⁵, and in particular Article 9 paragraph 4 thereof,

Whereas:

- (1) The conditions for an increase of the percentage of the budgetary resources dedicated to projects supporting the conservation of nature and biodiversity referred to in Article 9 paragraph 3 of the LIFE Regulation by a maximum of 10 % are fulfilled, since the total funds requested over two consecutive years by way of proposals that fall under the priority area of Nature and Biodiversity and that meet minimum quality requirements exceed by more than 20 % the corresponding amount calculated for the two years preceding those years;
- (2) In view of the Nature Directives Fitness Check¹⁶ conclusions concerning the need to increase funding availability to enhance the Directives implementation and Action 8 of the Commission's Action Plan for nature, people and the economy¹⁷, the Commission decided to increase the 55% budgetary resources allocated to projects supported by way of action grants under the sub-programme for Environment that fall under the priority area of Nature and Biodiversity;
- (3) The increase of the percentage of the budgetary resources for the priority area Nature and Biodiversity is not expected to reduce the resources devoted to projects funded under the other priority areas of the sub-programme for Environment, due to the planned increase in the annual financial envelope for the implementation of the LIFE Programme in the years 2018-2020 and the decrease of the EU co-funding rate for the majority of action grants under the other priority areas from 60% to 55%.

¹⁵ OJ L 347, 20.12.2013, p. 185, hereinafter referred to as 'the LIFE Regulation'.

¹⁶ SWD(2016) 472 final (Commission Staff Working Document: Fitness Check of the EU Nature Legislation (Birds and Habitats Directives)).

¹⁷ COM(2017) 198 final and SWD (2017) 139 final (EU Action Plan for nature, people and the economy).

HAS ADOPTED THIS REGULATION:

Article 1

Article 9 paragraph 3 of the LIFE Regulation is replaced by the following text: ‘At least 60.5 % of the budgetary resources allocated to projects supported by way of action grants under the sub- programme for Environment shall be dedicated to projects supporting the conservation of nature and biodiversity.’

Article 2

This Regulation shall enter into force on the day following that 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, 16.11.2017

For the Commission
The President
Jean-Claude JUNCKER