

laying down a Community action programme promoting non-governmental organisations primarily active in the field of environmental protection

(OJ L 75, 16.3.2002, p. 1)

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DECISION No 466/2002/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 1 March 2002

laying down a Community action programme promoting non-governmental organisations primarily active in the field of environmental protection

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 ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Following consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

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 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 ⁽⁴⁾ comes to an end on 31 December 2001. The Programme has been evaluated by the Commission and present and previous beneficiaries, revealing a strong support for its renewal or revision.
- (3) The Sixth Environment Action Programme 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 make it possible for non-governmental organisations (hereinafter referred to as 'NGOs') to take part in such a dialogue, the Sixth Environment Action Programme envisages the need for appropriate support, including Community finance, to NGOs.
- (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 with a view to sustainable development. NGOs also active in the field of animal protection, provided that such activities serve to achieve environmental protection objectives, may also participate in this Programme.
- (5) NGOs are essential to coordinate 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. NGOs have good under-

⁽¹⁾ OJ C 270 E, 25.9.2001, p. 125.

⁽²⁾ Opinion delivered on 18 October 2001 (not yet published in the Official Journal).

⁽³⁾ Opinion of the European Parliament of 23 October 2001 (not yet published in the Official Journal), Council Common Position of 6 December 2001 (not yet published in the Official Journal) and Decision of the European Parliament of 16 January 2002 (not yet published in the Official Journal).

⁽⁴⁾ OJ L 354, 30.12.1997, p. 25.

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standing of public concerns on the environment 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 and to implement relevant activities related to environmental problems with a Community dimension, involving stakeholders at national, regional and local level, should be promoted. For this purpose only NGOs and NGO networks active at a European level will be targeted.
- (8) The geographical expansion of the Programme is necessary in order to include Candidate Countries' NGOs in the light of their importance in gaining public acceptance for the environmental 'acquis' and strengthening its implementation.
- (9) In the 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.
- (10) The annual appropriations should be decided upon by the budgetary authority in the budgetary procedure.
- (11) This Decision lays down, for the entire duration of the Programme, a financial framework constituting the prime reference, 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⁾, for the budgetary authority during the annual budgetary procedure,

HAVE DECIDED AS FOLLOWS:

Article 1

1. A Community action programme promoting non-governmental organisations (NGOs) primarily active in the field of environmental protection 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 and enhancement at a European level. Such activities should involve contributing, or being able to contribute, to the development and implementation of Community environmental policy and legislation in different regions of Europe.

3. 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. The Programme shall also contribute to the strengthening of small regional or local associations working to apply the *acquis communautaire* in relation to the environment and sustainable development in their local area.

Article 2

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

- (a) it must be an independent and non-profit-making legal person primarily active in the field of environmental protection and

⁽¹⁾ OJ C 172, 18.6.1999, p. 1.

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enhancement with an environmental objective aimed at the public good and with a view to sustainable development;

- (b) it must be active at a European level, either singly or in the form of several coordinated associations with a structure (membership base) and activities covering at least three European countries. However, coverage of two European countries is acceptable, provided that the primary objective of the activities is to support the development and implementation of Community environmental policy, as detailed in Article 1(2) and (3);
- (c) its activities must meet, in particular, the principles underlying the Sixth Environment Action Programme and be in line with the priority areas identified in Article 5;
- (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. In cases of exceptional circumstances, the Commission may grant a derogation from these two requirements, provided that to do so would not compromise the protection of Community financial interests.

Article 3

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

- (a) the Member States;
- (b) the Associated Countries⁽¹⁾ in accordance with the conditions established in the respective Europe Agreements, in the additional protocols thereto and in the decisions of the respective Association Councils;
- (c) Cyprus, Malta or Turkey in accordance with conditions and procedures to be agreed with those countries; or
- (d) the Balkan countries forming part of the Stabilisation and Association process for countries of South-Eastern Europe⁽²⁾ 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, for grants in the following calendar year. In addition, the Commission shall use other appropriate means available to make the programme known to potential beneficiaries, including the electronic media.

2. The Call for Proposals shall include an information package and set out the eligibility, selection and award criteria (including details of the proposed weighting system) 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 methods of payment, the control and monitoring measures and the objectives to be achieved by the grant. Payments shall be made immediately.

Article 5

1. Given the importance of sustainable development and the health and quality of life of European citizens, support from this Programme

⁽¹⁾ Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic and Slovenia.

⁽²⁾ Former Yugoslav Republic of Macedonia, Albania, Federal Republic of Yugoslavia, Bosnia-Herzegovina, and Croatia.

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shall target in particular the priority areas from the Sixth Environment Action Programme, grouped under four main headings as follows:

- (a) limiting climate change;
- (b) nature and bio-diversity — protecting a unique resource;
- (c) health and environment;
- (d) ensuring the sustainable management of natural resources and waste.

The Sixth Environment Action Programme will be subject to a review in the fourth year of operation and revised and updated, as necessary, to take account of new developments and information.

In addition to the abovementioned areas, environmental education and implementation and enforcement of Community environmental legislation shall also be priorities.

2. The selection and award process shall be carried out in four steps, as detailed in A of the Annex.

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 Balkan countries, 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 referred to in Article 5(2) and described in A of the Annex and the principles as outlined in C of the Annex.

2. A beneficiary under this Programme shall be free to use the grant to cover its eligible expenses 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 section 2 of D of the Annex. Beneficiaries may also disburse funds to partners or member organisations in accordance with details specified in the approved work programme.

3. The amount of the grant shall become final only once the audited financial statement has been accepted by the Commission, ensuring that Community funds have been used in accordance with the relevant provisions of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽¹⁾.

The final payment shall be reduced accordingly if the total of Community grants, from this and any other programmes, 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. In particular, a systematic scheme to monitor the beneficiaries' performance during the grant year, as well as an ex-post performance evaluation, shall be put in place.

6. The Commission shall provide unsuccessful applicants with reasons for the failure of the NGO to meet the requirements, giving

⁽¹⁾ OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Regulation (EC) No 762/2001 (OJ L 111, 20.4.2001, p. 1).

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sufficient explanation to enable them to identify reforms needed before making new applications.

Article 7

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

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2. The financial framework for the implementation of this Programme for the period 2002 to 2006 is hereby set at EUR 34,3 million.

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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 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 ⁽¹⁾. If appropriate, the European Anti-Fraud Office (OLAF) shall carry out investigations, which shall be governed by Regulation (EC) No 1073/1999 of the European Parliament and of the Council ⁽²⁾.

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. The beneficiary of a grant shall see to it that, where appropriate, supporting documents that are in the hands of partners or members are available for the Commission.

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. Repeated failure in two successive years shall result in ineligibility for the remaining years of the programme.

2. If an NGO becomes the subject of a Commission recovery order due to intentional irregularities, irregularities caused by negligence or fraud, it shall 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 shall be subject to one or several of the following administrative measures and penalties in proportion to the severity of the case (and with a right to appeal against the decision):

- (a) annulment of the grant;
- (b) payment of a fine of up to 50 % of the amount of the recovery order;
- (c) exclusion from other Community funding opportunity, for the remaining years of the Programme;
- (d) exclusion from the relevant dialogue mechanisms of the Commission, for the remaining years of the Programme.

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*.

⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

▼B*Article 11*

The Commission shall provide a report to the Member States and the European Parliament by 30 April each year on the process of allocating grants for the current year, and outcomes from grants for the previous year. The report shall include an explanation of how the Commission has selected beneficiaries for the current year. The Commission shall convene a meeting of stakeholders to discuss this report by 30 June each year.

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

A. THE FOUR STEPS OF THE SELECTION AND AWARD PROCESS

1. 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.
2. Elimination of applications which do not comply with the eligibility criteria as outlined in Articles 2 and 3.
3. Comparative assessment of the remaining eligible applications evaluated against the following criteria, which are further specified in B:
 - (a) extent to which the application and, more specifically, the proposed work programme meet the objectives of the Programme as described in Article 1 and the priorities of the Programme as described in Article 5;
 - (b) management and product quality;
 - (c) outreach, effectiveness and efficiency.

Comparative score values will be assigned to each retained applicant.

4. Fixing the set of applications, which will enter the award procedure by retaining only those which have received score values above thresholds defined by the Commission.

B. CHARACTERISTICS AGAINST WHICH APPLICANTS WILL BE ASSESSED

Applicants having successfully passed the first two selection steps accounted for in A shall be measured against the following criteria:

1. 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:

- (a) Policy relevance (in relation to the 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).
- (b) Relevance and potential impact of involvement in Community environmental policy-shaping and implementation.
- (c) Representational ability as to voicing the public's concerns from different regions of Europe and as to feeding in these ideas and proposals for the solution of environmental problems.
- (d) Relevance in environment-awareness raising and knowledge-enhancement activities, both in general and in relation to Community environmental policies.
- (e) Ability to: develop networks between organisations in Member States and in candidate countries; encourage cooperation with organisations in the public and private sector; and attract part financing from external sources.

For each of the abovementioned characteristics, consideration shall be given to the strength of the applicant with regard to fulfilling the associated NGO roles indicated in the examples given in D.

2. Management and product quality

Characteristics to be assessed shall include:

- (a) Organisational structure, adequacy in staffing and management of human resources.
- (b) Internal decision-making process, relationship with members, including arrangements to ensure involvement of membership in policy development and policy pronouncements.
- (c) Strategic approach, goal-orientation and planning practices.
- (d) Administration, budget control and financial management.

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- (e) Reporting practices (internal and external).
- (f) Self-assessment and quality control, feedback of experience (learning).
- (g) Technical/scientific competence.

3. Outreach, effectiveness, efficiency

Characteristics to be assessed shall include:

- (a) General visibility of the organisation and its activities.
- (b) External relations and effectiveness (with other actors in the field of the environment, such as local and regional authorities, business and industry, consumer groups, trade unions, other NGOs and the general public).

C. 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, the grant amount for NGOs with larger volumes of relevant activities (as measured by the average value of their preceding two years' audited annual expenses and the forecasted total eligible expenses for the grant year) will normally be higher than the grant amounts for NGOs with smaller volumes of relevant activities. However, the distribution will be made on a non-linear basis and so beneficiaries with smaller volumes of relevant activities will receive a relatively higher rate of support.
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.

D. ELIGIBLE EXPENSES

1. All expenses incurred by the beneficiary during the grant year shall be considered eligible except those listed in section 2. Eligible expenses could include some of the following, illustrative, examples of activities:
 - (a) coordinating and channelling to the Commission information and views, based on the concerns and opinions of the general public, on new and emerging perspectives, which cannot be, or are not being, fully dealt with at the Member State or appropriate level;
 - (b) preparatory work and research required for participation in experts groups, in preparatory and implementation committees of the Community institutions, providing important input to Community policies, programmes and initiatives and the necessary balance in relation to the interests of other actors in the environment, including industry/business, trade unions and consumer groups;
 - (c) stimulation of exchange of views, problems and possible solutions, related to environmental problems with a Community dimension, involving stakeholders at national, regional and local level. This could also include transfer of knowledge and ensuring synergy via networking;
 - (d) awareness-raising and knowledge-enhancement regarding both general aspects of the environment and Community environmental policy;
 - (e) capacity building, in particular to reinforce the involvement of small NGOs, new NGO networks and NGOs in the candidate countries and the Balkan countries at European level.
2. Payments made by the beneficiary and contracts awarded to third parties, which comprise elements of the categories below, will be deemed ineligible:
 - (a) entertainment, hospitality, unnecessary or ill considered expenses;
 - (b) expenses clearly outside the agreed work programme of the beneficiary for the grant year;
 - (c) debt reimbursements, interest owed, carried over deficits;
 - (d) costs related to the capital employed, investments or reserves set aside to strengthen the assets of the beneficiary;

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- (e) contributions in kind;
- (f) private expenses;
- (g) criminal/illegal activities.