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DRAFT REPORT

on the proposal for a Council regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia (COM(2011)0783 – C7-0514/2011 – 2011/0363(NLE))

Committee on Industry, Research and Energy

Rapporteur: Giles Chichester

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	18

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia (COM(2011)0783 – C7-0514/2011 – 2011/0363(NLE))

(Special legislative procedure – Consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2011)0783),
 - having regard to Article 203 of the Euratom Treaty, pursuant to which the Council consulted Parliament (C7-0514/2011)
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on Budgets (A7-0000/2012),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 106a of the Euratom Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1 **Proposal for a regulation** **Recital 5 a (new)**

Text proposed by the Commission

Amendment

(5a) Whereas under the Programmes established for the period 2007-2013 the Commission's supervision has focussed on budgetary execution of the financial appropriations and project implementation, rather than on the extent of the progress achieved towards the Programmes' objectives as a whole.

Insufficient measuring of progress towards the realisation of the Programmes' objectives and inadequate monitoring of the effective use of the resources has meant that no one has been truly accountable for the overall Programme's performance.

Or. en

Amendment 2
Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Following the request for further funding from Bulgaria, Lithuania and Slovakia, provision has been made in the Commission proposal for the next Multi-Annual financial framework for the period 2014-2020: 'A Budget for Europe 2020'⁴⁵ for a sum of EUR 700 million from the general budget of the European Union for nuclear safety and decommissioning. From this the amount EUR 500 million in 2011 prices which is about EUR 553 million in the current prices is foreseen for a new Programme to further support the decommissioning of the Bohunice V1 units 1-2 and the Ignalina units 1-2 over the period from 2014 to 2017 and the Kozloduy units 1-4 nuclear power plants over the period from 2014 to 2020. Funding under this new Programme should be made available in a gradually decreasing manner.

Amendment

(6) Following the request for further funding from Bulgaria, Lithuania and Slovakia, provision has been made in the Commission proposal for the next Multi-Annual financial framework for the period 2014-2020: 'A Budget for Europe 2020'⁴⁵ for a sum of EUR 700 million from the general budget of the European Union for nuclear safety and decommissioning. From this the amount EUR 500 million in 2011 prices which is about EUR 553 million in the current prices is foreseen for a new Programme to further support the decommissioning of the Bohunice V1 units 1-2 and the Ignalina units 1-2 over the period from 2014 to 2017 and the Kozloduy units 1-4 nuclear power plants over the period from 2014 to 2020. Funding under this new Programme should be made available in a gradually decreasing manner. ***The support covered by this Regulation should contribute to ensuring the successful transition of the nuclear power plants from an operating to a decommissioning organisation.***

Or. en

Amendment 3
Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) An effective control of the evolution of the decommissioning process will be ensured by the Commission in order to assure the highest Union added value of the funding allocated within this Regulation, although the final responsibility for the decommissioning rests with the Member States. This includes effective performance measurement and assessment of corrective measures during the programme.

Amendment

(11) An effective control of the evolution of the decommissioning process will be ensured by the Commission in order to assure the highest Union added value of the funding allocated within this Regulation, although the final responsibility for the decommissioning rests with the Member States. This includes effective performance measurement and assessment of corrective measures during the programme. ***This control should be based after the establishment of qualitative and quantitative meaningful performance indicators which will be easily monitored and reported on as necessary.***

Or. en

Amendment 4
Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission

1. The general objective of the Programme is to assist the Member States concerned to reach an irreversible state within the decommissioning process of Kozloduy units 1 to 4, Ignalina units 1 and 2 and Bohunice V1 units 1 and 2 nuclear power plants, in accordance with their respective decommissioning plans, while keeping the highest level of safety.

Amendment

1. The general objective of the Programme is to assist the Member States concerned to reach an irreversible state within the decommissioning process of Kozloduy units 1 to 4, Ignalina units 1 and 2 and Bohunice V1 units 1 and 2 nuclear power plants, in accordance with their respective decommissioning plans, while keeping the highest level of safety ***inline with the Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and general public against the dangers arising from ionising radiation.***¹

Amendment 5

Proposal for a regulation

Article 2 – paragraph 2 – point a – point iii a (new)

Text proposed by the Commission

Amendment

(iiiia) Safely managing the long term storage and disposal of decommissioning waste in accordance with a detailed waste management plan, to be measured by the quantity and type of stored and disposed waste compared to the total produced waste.

Amendment 6

Proposal for a regulation

Article 2 – paragraph 2 – point b – point iii a (new)

Text proposed by the Commission

Amendment

(iiiia) Safely managing the long term storage and disposal of decommissioning waste in accordance with a detailed waste management, to be measured by the quantity and type of stored and disposed waste compared to the total produced waste.

Amendment 7

Proposal for a regulation

Article 2 – paragraph 2 – point c – point iii a (new)

Text proposed by the Commission

Amendment

(iiia) Safely managing the long term storage and disposal of decommissioning waste in accordance with a detailed waste management, to be measured by the quantity and type of stored and disposed waste compared to the total produced waste.

Or. en

Justification

Long term storage of waste should comply with the storage directive. Traceability of waste will enhance security avoiding uncontrolled contaminated waste circulation. In case of geological storage directive on ground water should be taken into account. Contacts with the Implementing Geological Disposal of Radioactive Waste Technology Platform could be useful this Platform is to be a tool to support confidence-building in the safety and implementation of deep geological disposal solutions

Amendment 8

Proposal for a regulation

Article 3 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The financial envelope for the implementation of the Programme for the period 2014 to 2020 shall be EUR 552 947 000 in current prices.

The financial envelope for the implementation of the Programme for the period 2014 to 2020 shall be EUR */552 947 000/* in current prices.

Or. en

Amendment 9

Proposal for a regulation

Article 3 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

Amendment

(a) EUR 208 503 000 for the Kozloduy Programme for the period 2014 to 2020;

(a) EUR */208 503 000/* for the Kozloduy Programme for the period 2014 to 2020;

Amendment 10
Proposal for a regulation
Article 3 – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) EUR 229 629 000 for the Ignalina Programme for the period 2014 to 2017;

Amendment

(b) EUR *[229 629 000]* for the Ignalina Programme for the period 2014 to 2017;

Or. en

Amendment 11
Proposal for a regulation
Article 3 – paragraph 1 – subparagraph 2 – point c

Text proposed by the Commission

(c) EUR 114 815 000 for the Bohunice Programme for the period 2014 to 2017.

Amendment

(c) EUR *[114 815 000]* for the Bohunice Programme for the period 2014 to 2017.

Or. en

Amendment 12
Proposal for a regulation
Article 3 – paragraph 2

Text proposed by the Commission

2. *The* Commission will review the performance of the Programme and assess the progress of the Kozloduy, Ignalina and Bohunice Programmes against the milestones and target dates referred to in Art 2.3 by the end of 2015 within the framework of the interim evaluation referred to in Art. 8. Based on the results of this assessment, the Commission may review the amount of the appropriations allocated to the Programme, as well as the programming period and distribution

Amendment

2. *Based on a detailed programme established in advance, the* Commission will review the performance of the Programme and assess the progress of the Kozloduy, Ignalina and Bohunice Programmes against the milestones and target dates referred to in Art 2.3 by the end of 2015 within the framework of the interim evaluation referred to in Art. 8. Based on the results of this assessment, the Commission may review the amount of the appropriations allocated to the Programme,

amongst the Kozloduy, Ignalina and Bohunice Programmes.

as well as the programming period and distribution amongst the Kozloduy, Ignalina and Bohunice Programmes.

Or. en

Amendment 13
Proposal for a regulation
Article 3 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The financial allocation for the Kozloduy, Ignalina and Bohunice Programmes may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the programme and the achievement of its objectives; in particular, studies, meetings of experts, information and communication actions, including corporate communication of the political priorities of the European Union as far as they are related to the general objectives of this Regulation, *expenses* linked to IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the programme.

Amendment

The financial allocation for the Kozloduy, Ignalina and Bohunice Programmes may also cover expenses pertaining to preparatory, monitoring, control, audit and evaluation activities which are required for the management of the programme and the achievement of its objectives; in particular, studies, meetings of experts, information and communication actions, including corporate communication of the political priorities of the European Union as far as they are related to the general objectives of this Regulation. *Expenses* linked to IT networks focusing on information processing and exchange, together with all other technical and administrative assistance expenses incurred by the Commission for the management of the programme *can also be covered*.

Or. en

Amendment 14
Proposal for a regulation
Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Every effort should be made to continue the co-financing practice established under the preaccession assistance and the assistance given over

the period 2007-2013 for all 3 Member States' decommissioning efforts as well as to attract co-financing from other sources as appropriate.

Or. en

Amendment 15
Proposal for a regulation
Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

1. By 1 January 2014 Bulgaria, Lithuania and Slovakia shall fulfil the following ex ante conditionalities:

Amendment

1. By 1 January 2014 Bulgaria, Lithuania and Slovakia shall ***take the appropriate measures to ensure they*** fulfil the following ex ante conditionalities:

Or. en

Amendment 16
Proposal for a regulation
Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) Comply with *Union's* acquis; in ***particular in*** the area of nuclear safety the transposition into national law of the Council Directive 2009/71/Euratom on nuclear safety and the Council Directive 2011/70/Euratom on the management of spent fuel and radioactive waste.

Amendment

(a) Comply with ***the Euratom Treaty's*** acquis in the area of nuclear safety; ***in particular regarding*** the transposition into national law of the Council Directive 2009/71/Euratom on nuclear safety and the Council Directive 2011/70/Euratom on the management of spent fuel and radioactive waste.

Or. en

Amendment 17
Proposal for a regulation
Article 4 – paragraph 1 – point b

Text proposed by the Commission

(b) Establish ***a national legal framework to provide adequate provisions for the timely accumulation of national financial resources*** for the safe ***completion*** of decommissioning in accordance with applicable State aid rules.

Amendment

(b) Establish ***an overall financing plan that identifies the full costs required*** for the safe ***completion*** of decommissioning ***of the nuclear reactor units covered by this Regulation with the clear identification of the funding sources, anchored in a national legal framework and in*** accordance with applicable State aid rules.

Or. en

Amendment 18
Proposal for a regulation
Article 4 – paragraph 1 – point c

Text proposed by the Commission

(c) Submit to the Commission a revised detailed decommissioning plan

Amendment

(c) Submit to the Commission a revised detailed decommissioning plan ***broken down to the level of decommissioning activities, schedule and corresponding cost structure in accordance with an internationally recognised standard for decommissioning cost estimation.***

Or. en

Amendment 19
Proposal for a regulation
Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Before 1 January 2014 Bulgaria, Lithuania and Slovakia shall provide the Commission with the information showing that they fulfil the above ex ante conditionalities.

Or. en

Amendment 20
Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. **The** Commission shall adopt one joint annual work programme for Kozloduy, Ignalina and Bohunice Programmes specifying the objectives, expected results, related indicators and timeline for the use of funds under each annual financial commitment.

Amendment

1. **At the beginning of each year for the 2014-2020 period, the** Commission shall adopt one joint annual work programme for Kozloduy, Ignalina and Bohunice Programmes **respectively** specifying the objectives, expected results, related **performance** indicators and timeline for the use of funds under each annual financial commitment.

Or. en

Amendment 21
Proposal for a regulation
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

1a. The Commission shall submit an evaluation report of the implementation of the joint annual work programmes. This report will serve as a basis for the adoption of the next annual work programmes.

Amendment

1a. At the end of each year of the 2014-2020 period, the Commission shall submit an evaluation report of the implementation of the joint annual work programmes. This report will serve as a basis for the adoption of the next annual work programmes.

Or. en

Amendment 22
Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

2. The Commission shall adopt not later than 31 December 2014, detailed

Amendment

2. The Commission shall adopt not later than 31 December 2014, detailed

implementation procedures for the duration of the Programme. The act setting out the implementation procedures shall also define in more detail for the Kozloduy, Ignalina and Bohunice Programmes the expected results, activities *and* the corresponding performance indicators. It will contain the revised detailed decommissioning plans as referred to under Article 4(1)(c) that shall serve as baseline for the monitoring of the progress and the timely achievement of the expected results.

implementation procedures for the duration of the Programme. The act setting out the implementation procedures shall also define in more detail for the Kozloduy, Ignalina and Bohunice Programmes the expected *general and specific* results, activities, *detailed milestones as well as* the corresponding performance indicators. It will contain the revised detailed decommissioning plans as referred to under Article 4(1)(c) that shall serve as baseline for the monitoring of the progress and the timely achievement of the expected results.

Or. en

Amendment 23
Proposal for a regulation
Article 8 – title

Text proposed by the Commission

Evaluation

Amendment

Interim evaluation

Or. en

Amendment 24
Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

1. No later than end 2015, an evaluation report shall be established by the Commission on the achievement of the objectives of all the measures, at the level of results and impacts, the efficiency of the use of resources and its Union added value, in view of a decision amending or suspending the measures. The evaluation shall additionally address the scope for simplification, its internal and external coherence, the continued relevance of all objectives. It shall take into account

Amendment

1. No later than end 2015, an *interim* evaluation report shall be established by the Commission, *in close cooperation with the Member States and beneficiaries*, on the achievement of the objectives of all the measures, at the level of results and impacts, the efficiency of the use of resources and its Union added value, in view of a decision amending or suspending the measures. *Based on the results of this assessment, the Commission may review the appropriateness of the appropriations*

evaluation results on the long-term impact of the predecessor measures.

allocated to the Programme and their distribution amongst Kozloduy, Ignalina and Bohunice. The evaluation shall additionally address the scope for simplification, its internal and external coherence, the continued relevance of all objectives. It shall take into account evaluation results on the long-term impact of the predecessor measures.

Or. en

Amendment 25
Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall carry out ex-post evaluation in close cooperation with the Member States and beneficiaries. The ex-post evaluation shall examine the effectiveness and efficiency of the Programme and its impact on decommissioning.

deleted

Or. en

(Moved to 8 a (new) paragraph 1)

Amendment 26
Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. Evaluations shall take account of progress against performance indicators as referred to in Article 2(2).

3. The interim evaluations shall take account of progress against performance indicators as referred to in Article 2(2).

Or. en

Amendment 27
Proposal for a regulation
Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Final Evaluation

- 1. The Commission shall carry out ex-post evaluation in close cooperation with the Member States and beneficiaries. The ex-post evaluation shall examine the effectiveness and efficiency of the Programme and its impact on decommissioning.**
- 2. Before 31 December 2020, the Commission shall establish in close cooperation with the Member States and beneficiaries, a final evaluation report the effectiveness and efficiency of the Programme, as well as the effectiveness of financed measures in terms of impacts, use of resources and added value for the Union.**
- 3. The final evaluation shall take account of progress against performance indicators as referred to in Article 2(2).**
- 4. The Commission shall communicate the conclusions of this evaluation to the European Parliament and the Council.**
- 5. The Commission, will take into account the various decommissioning expertise and strategies employed by these Member States, to explore possible ways of harmonising approaches of decommissioning in the Union in order to ensure timely accumulation of the necessary knowledge in order to improve the competitiveness of the Union nuclear industry in that domain.**

Or. en

Justification

There is a growing number of NPPs across EU that are already being decommissioned or will be in the short/mid term, EU industry should gather expertise in that domain to become a world leader. It's likely that one third of the EU 143 reactors will need to be shut down by 2025.(COM(2007)794 final)

EXPLANATORY STATEMENT

The three countries, Lithuania, Slovakia and Bulgaria, operated old nuclear reactors which the international community concluded were too dated and could not be cost effectively upgraded to meet the minimum required safety standards. In the context of the negotiations for accession to the European Union, the three countries took the commitment to close and subsequently decommission these nuclear reactors on fixed dates. Recognising the exceptional social, environmental, economic and financial burden that early closure represented, and the European Union committed itself to provide financial assistance until the end of 2013 for both the decommissioning of these reactor units and contributing towards addressing the consequences of early closure.

In the pre-accession period assistance was provided to Lithuania and Slovakia through the PHARE¹ programme. Following accession between 2004-2006 assistance was provided under the Protocols to the Act of Accession and since 2007, Council Regulations for Lithuania² and Slovakia³ ensure that the assistance continues for the period 2007-2013.

For Bulgaria in the pre-accession period up to 2007 the EU had contributed to the decommissioning of the Kozloduy NPP through the PHARE programme, assistance for the period 2007-2009 was provided under the Protocol to the Treaty of Accession. In 2009 Bulgaria requested a prolongation of the funding assistance in order to proceed with a revised immediate decommissioning strategy, and the Council Regulation⁴ ensures that the assistance continues for the period 2010-2013.

The total assistance from the European Union to the three Member States until end of 2013 foresees € 2 847.8 million (€1367 million for Lithuania, €613 million for Slovakia and €867.8 million for Bulgaria).

In March 2011 the recipient Member States updated their decommissioning cost estimates to reach €5 300 million Euros, leaving a suggested shortfall of €2 500 million when comparing to the funding currently available at national and programme level. The absence of sufficient funding arrangements puts the completion of the decommissioning processes at risk.

Legal basis

In the case of Lithuania, the 2003 Treaty of Accession explicitly foresees the possibility for further financing for decommissioning (Ignalina units 1-2) beyond 2006.

In the case of Bulgaria (Kozloduy units 1-4), Article 30 of the 2005 Act of Accession refers only to the period 2007-2009.

In the case of Slovakia (Bohunice 1-2 units) the 2003 Treaty of Accession refers only to the period 2004-2006.

The Act and the Treaty do not provide a specific legal basis for Bulgaria and Slovakia for continued support beyond 2009/2006 as it did in the case of Lithuania. The Treaty of Accession and Article 30 of the Act of Accession can therefore not constitute an appropriate legal basis for putting further financing beyond 2013 in place.

The appropriate legal basis therefore is Article 203 of the Euratom Treaty. That Article

¹ Programme of aid to central and east European countries

² OJ L 411, 30.12.2006, p.10

³ OJ L 131, 23.5.2007, p.1

⁴ OJ L 189, 13.7.2010, p.9

provides that "if action by the Community should prove necessary to attain one of the objectives of the Community, and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures".

The current proposal foresees several simplifications: a single Council Regulation is foreseen for the financial Union support to Bulgaria, Lithuania and Slovakia under the 2014 – 2020 Multiannual Financial Framework (MFF) , where previously there were three separate and independent Regulations. This Regulation does not foresee any exceptions to the Financial Regulation.

Budgetary implication

The overall budgetary envelope covering the period 2014-2020 is € [552 947 000] in current prices and inline with the Commission proposal for the next Multi-Annual financial framework (2014-2020). This amount shall be distributed as follows: €[208 503 000] for the Kozloduy programme, €[229 629 000] for the Ignalina programme and €[114 815 000] for the Bohunice programme.

Management, audit and control

In 2007 a Member State Management Committee was put in place to assist the Commission in the implementation of the assistance programmes, and the Commission procedures were modified. A Memorandum of Understanding was signed between the Commission and the European Bank for Reconstruction and Development (EBRD) and a Joint Steering Committee was set up with the beneficiary countries to improve the coordination of the programme.

The assistance programme has been subject to regular audits and evaluations, in addition the European Court of Auditors has conducted performance audits of all three programmes, the ECA Special Report (16/2011) is available and conclusions should be considered when establishing the extent of Union support.

The Commission delegated the management of most (83%) of the EU financial assistance for the country programmes to the EBRD, who experience in managing nuclear decommissioning facilities since the early 1990s. The Commission is however ultimately responsible for the use of EU funds and they should therefore always be in a position to exercise its ultimate responsibility for the implementation of the programmes and be held accountable for the use of the funds.

Responsibilities for setting up the programmes involve the Commission, the EBRD, the CPMA (Central Projects Management Agency), the Assembly of Contributors to the International Decommissioning Support Funds, Nuclear plants operators and the Member States concerned. The Commission did not ensure that the broad priorities set out in the Accession Treaties and subsequent Council Regulations were translated into a coherent set of detailed targets and indicators.

None of the abovementioned bodies has established a system to monitor and assess the progress towards the achievement of the overall objectives of the programmes, the decommissioning of the eight reactors and the mitigation of their closure. Monitoring and reporting on programme achievements at all levels were therefore difficult.

It should be ensured by the Commission that the conditions for an effective, efficient and economical use of EU funds is in place. Objectives must be aligned with the budget made available and to the establishment of meaningful performance indicators, which can subsequently be monitored and reported on as necessary for the programme implementation as a whole.

To ensure that the objectives are met and monitored, the Commission, in close cooperation with the Member States and beneficiaries, should conduct both an interim and final evaluation on the achievement of the objectives, the level of results and impacts and the efficiency of the use of resources. The Commission should also be permitted, based on the results of the interim evaluation, to review the appropriateness of the appropriations allocated to the Programme and their distribution amongst Kozloduy, Ignalina and Bohunice.