

# EUROPEAN PARLIAMENT

1999



2004

---

*Session document*

FINAL  
**A5-0295/2001**

11 September 2001

**\***

## **REPORT**

on the proposal for a Council regulation amending Regulation (EC) n°  
1267/1999 establishing an Instrument for Structural Policies for Pre-Accession  
(COM(2001) 110 – C5-0152/2001 – 2001/0058(CNS))

Committee on Budgetary Control

Rapporteur: Christos Folias

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

## CONTENTS

	Page
PROCEDURAL PAGE .....	4
LEGISLATIVE PROPOSAL .....	5
DRAFT LEGISLATIVE RESOLUTION.....	9
EXPLANATORY STATEMENT .....	
OPINION OF THE COMMITTEE ON REGIONAL POLICY, TRANSPORT AND TOURISM .....	

## PROCEDURAL PAGE

By letter of 18 April 2001 the Council consulted Parliament, pursuant to Article 308 of the EC Treaty, on the proposal for a Council regulation amending Regulation (EC) n° 1267/1999 establishing an Instrument for Structural Policies for Pre-Accession (COM(2001) 110 - 2001/0058 (CNS)).

At the sitting of 2 May 2001 the President of Parliament announced that she had referred this proposal to the Committee on Budgetary Control as the Committee responsible and the Committee on Regional Policy, Transport and Tourism for its opinion (C5-0152/2001).

The Committee on Budgetary Control appointed Christos Folias rapporteur at its meeting of 29 May 2001.

The Committee considered the Commission proposal and draft report at its meeting of 10 September 2001.

At that meeting it adopted the draft legislative resolution unanimously and decided to apply the procedure without debate under Rule 114(1).

The following were present for the vote: Diemut R. Theato, chairman; Herbert Bösch and Freddy Blak, vice-chairmen; José Javier Pomés Ruiz, acting rapporteur (for Christos Folias); Jean-Louis Bourlanges (for Thierry B. Jean-Pierre), Helmut Kuhne, José Paulo Martins Casaca (for Michiel van Hulten), John Joseph McCartin (for Christopher Heaton-Harris), Jan Mulder (for Antonio Di Pietro), Heide Rühle (for Bart Staes) and Gabriele Stauner.

The opinion of the Committee on Regional Policy, Transport and Tourism is attached.

The report was tabled on 11 September 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## LEGISLATIVE PROPOSAL

### Proposal for a Council regulation amending Regulation (EC) n° 1267/1999 establishing an Instrument for Structural Policies for Pre-Accession (COM(2001) 110 – C5-0152/2001 – 2001/0058(CNS))

The proposal is amended as follows:

Text proposed by the Commission <sup>1</sup>	Amendments by Parliament
<b>Amendment 1</b> <b>Recital 8</b>	
The provisions of Regulation (EC) No 1267/1999 should moreover be adapted to take account of Council Decision 1999/468/CE of 28 June 1999 laying down procedures for the exercise of implementing powers conferred on the Commission <sup>1</sup> .	The provisions of Regulation (EC) No 1267/1999 should moreover be adapted to take account of Council Decision 1999/468/CE of 28 June 1999 laying down procedures for the exercise of implementing powers conferred on the Commission <sup>1</sup> . <b><i>This decision provides that the Commission should inform the European Parliament on a regular basis of committee proceedings, that the Commission should transmit to it documents related to activities of committees and inform it whenever the Commission transmits to the Council measures or proposals for measures to be taken.</i></b>

<sup>1</sup> OJ L 184, 17.7.1999, p. 23.

<sup>1</sup> OJ L 184, 17.7.1999, p. 23.

#### *Justification*

*It should be stressed that the Council Decision 1999/468/CE of 28 June 1999 laying down procedures for the exercise of implementing powers conferred on the Commission had as one important purpose amongst others to improve information to the European Parliament. This information is of particular importance in the political context of pre-accession aid.*

#### **Amendment 2**

<sup>1</sup> OJ C 180, 26.6.2001, p. 197

Article 1, new paragraph (1a)

***(1a) Article 7 (1) is modified as follows:***

“The Commission shall adopt decisions on the measures to be financed under ISPA ***and on the participation of third countries in invitations to tender and contracts*** in accordance with the procedure laid down in Article 14.

*Justification*

*This amendment clarifies that decisions on the participation of third countries in invitations to tender and contracts have to be submitted to the management committee for opinion.*

Amendment 3

Article 1, paragraph 2 a (new)

(c) to prevent irregularities and take action against them;

***(2a) Article 9(1)(c) is amended as follows:***

(c) to prevent irregularities and take action against them; ***to notify the Commission immediately when serious irregularities are suspected; and to inform it regularly of all relevant administrative or criminal investigations and allow officials of the European Anti-Fraud Office (OLAF) and the European Court of Auditors, where they so request, to have access to the inquiry reports in question;***

*Justification*

*The Commission must be informed more quickly and in greater detail than hitherto when irregularities occur. It must be able to satisfy itself that all the necessary steps are indeed being taken to punish irregularities.*

Or. de

Amendment 4  
Article 1, paragraph 2 b (new)

***(2b) The following new point (e) is added to paragraph 1 of Article 9:***

***(e) to make corruption of officials called upon to administer Community funds, and conflicts of interest involving those officials, punishable offences, not later than 1 January 2002;***

*Justification*

*Community funding may be granted if, and only if, effective protection against corruption and abuse of authority is provided under criminal law.*

Or. de

Amendment 5  
Article 1, paragraph 2 c (new)

***(2c) The following new paragraph 6 is added to Article 9:***

***Not later than 30 March 2002 the Commission shall submit a progress report to the European Parliament and the Council on compliance with the requirements imposed on beneficiary countries under paragraph 1.***

*Justification*

Or. de

Amendment 6  
Article 1, paragraph 3 a (new)

***(3a) Point 9 of Annex V is amended as follows:***

9. ***summary of*** information on the results of checks carried out, irregularities found and

9. ***complete and detailed*** information on the results of checks carried out, irregularities

administrative and judicial proceedings in progress;

found and administrative and judicial proceedings in progress;

*Justification*

*The reporting requirement to be met by the Commission in its annual reports needs to be tightened up to enable Parliament to exercise its supervisory powers effectively.*

Or. de



## **DRAFT LEGISLATIVE RESOLUTION**

**European Parliament legislative resolution on the proposal for a Council regulation amending Regulation (EC) n° 1267/1999 establishing an Instrument for Structural Policies for Pre-Accession (COM(2001) 110 – C5-0152/2001 – 2001/0058(CNS))**

### **(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2001) 110<sup>1</sup>),
  - having been consulted by the Council pursuant to Article 308 of the EC Treaty (C5-0152/2001),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Regional Policy, Transport and Tourism (A5-0295/2001),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly,
  3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  4. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and Commission.

---

<sup>1</sup> OJ C 180, 26.6.2001, p. 197

## EXPLANATORY STATEMENT

The main purpose of the Commission proposal<sup>1</sup> amending the regulation on Structural Policies for Pre-Accession (ISPA) is to allow that international funding institutions (such as the EBRD and the World Bank) can more easily participate in the funding of ISPA projects.

### *ISPA assistance for environment and transport infrastructure networks*

ISPA shall provide assistance to contribute to the preparation for accession to the European Union of the following applicant countries: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. This assistance shall be given for the improvement of the environment and of transport infrastructure networks.

Measures shall be of a sufficient scale to have a significant impact. The total cost of each measure shall in principle not be less than EUR 5 million.

Community assistance under ISPA may take the form of non-repayable direct assistance, repayable assistance or any other form of assistance. The rate of Community assistance granted under ISPA may be up to 75 % (and in exceptional cases 85 %) of public or equivalent expenditure.

According to the Commission, implementation of ISPA in 2000 resulted in the grant of Community assistance to a total of 75 measures, which the Commission approved after consulting the Management Committee set up to this end. The total cost of the approved measures was EUR 2.9 billion, with ISPA providing EUR 1.9 billion, a little over EUR 1 billion of which was committed under the 2000 budget. The budget commitments entered into in 2000 are split almost evenly between the two sectors concerned, transport infrastructure and the environment (See tables as provided by the Commission annexed).

### *Difficulties with co-financing*

With regard to co-financing the candidate countries sometimes have difficulties in participating in wider ISPA projects which would have a significant effect on environmental protection and the improvement of transport infrastructure networks. Therefore it is important that the EIB and other international funding bodies, as well as the private sector, participate in such funding. In 2000, ISPA obtained funding from international institutions in around 40 % of approved measures. By increasing co-operation with other sources of financing, the Commission hopes to increase the resources used in the sectors at which pre-accession aid is directed, improve the financial packages available to each measure and increase ISPA's multiplier effect in the years to come.

Finding such funding is sometimes proving difficult because of Article 114(1) of the Financial Regulation applicable to the General Budget of the European Communities. Pursuant to this provision, which applies to external aid, invitations to tender for contracts financed by the

---

<sup>1</sup> Proposal for a Council Regulation amending Regulation (EC) No 1267/1999 establishing an Instrument for Structural Policies for Pre-Accession (COM(2001) 110 final, dated 8 March 2001).

Community are open only to natural and legal persons in the Member States of the European Union and ISPA beneficiary countries.

Since international financial institutions may be required to comply with different tendering rules from those laid down in the Financial Regulation, this is in some instances an insurmountable barrier to the funding by these institutions of measures eligible for financial assistance under ISPA.

### ***Make use of the derogation laid down in the Financial Regulation***

Article 114(2) of the Financial Regulation lays down that, in exceptional cases and with proper justification, nationals of third countries may be allowed to participate in tenders.

However, application of this derogation is subject to two conditions: firstly, specific conditions must be laid down in the basic instruments, in this case the Council Regulation establishing ISPA, and secondly those conditions must be in accordance with the appropriate authorisation procedures. The purpose of the Commission proposal is to amend the ISPA regulation accordingly and, in this context, to give a more precise definition of the concept of eligible expenditure.

Moreover the Commission proposes to adapt the ISPA regulation to procedures for the exercise of implementing powers conferred on the Commission laid down in Council Decision 1999/468/CE of 28 June 1999<sup>1</sup>.

### ***Conclusions***

The Committee is in favour of the Commission proposal and of a swift adoption by Council. It submits further amendments that aim

- a) to clarify that decisions on the participation of third countries in invitations to tender and contracts have to be submitted to the management committee for opinion.
- b) to stress that the Council Decision 1999/468/CE of 28 June 1999 laying down procedures for the exercise of implementing powers conferred on the Commission had as a purpose amongst others to improve information to the European Parliament. This information is of particular importance in the political context of pre-accession aid.
- c) to stress that the Commission must be informed more quickly and in greater detail than hitherto when irregularities occur. It must be able to satisfy itself that all the necessary steps are indeed being taken to punish irregularities.
- d) to stress that Community funding may be granted if, and only if, effective protection against corruption and abuse of authority is provided under criminal law.
- e) to underline that the reporting requirement to be met by the Commission in its annual reports needs to be tightened up to enable Parliament to exercise its supervisory powers effectively.

\*\*\*

---

<sup>1</sup> OJ L 184, 17.7.1999, p.23.

**Table 1. ISPA Budget 2000 (Division of budget by country)**

<b>Transport/Environment Balance Percentage of Commitment Appropriations</b>								
<b>Beneficiary Country</b>	<b>Transport</b>		<b>Environment</b>		<b>Technical Assistance</b>		<b>TOTAL</b>	
	<b>ISPA Funds €</b>	<b>%</b>	<b>ISPA Funds €</b>	<b>%</b>	<b>ISPA Funds €</b>	<b>%</b>	<b>ISPA Funds €</b>	<b>%</b>
Bulgaria	52 000 000	49.98	52 045 600	50.02	0	0	104 045 600	10.43
Czech Republic	41 671 864	59.54	27 588 844	39.42	728 000	1.04	69 988 708	7.02
Estonia	11 331 126	40.15	15 808 281	56.02	1 080 000	3.83	28 219 407	2.83
Hungary	43 825 000	49.81	42 573 123	48.38	1 592 580	1.81	87 990 703	8.82
Latvia	19 925 328	42.62	26 568 260	56.83	255 000	0.55	46 748 588	4.69
Lithuania	34 042 528	65.16	18 200 000	34.84	0	0	52 242 528	5.24
Poland	173 085 066	56.39	130 258 589	42.44	3 614 000	1.18	306 957 655	30.77
Romania	118 627 137	49.59	120 601 333	50.41	0	0	239 228 470	23.98
Slovakia	30 853 200	72.66	11 606 372	27.34	0	0	42 459 572	4.26
Slovenia	7 500 000	38.20	11 175 275	56.91	960 000	4.89	19 635 275	1.97
<b>TOTAL</b>	<b>532 861 249</b>	<b>53.42</b>	<b>456 425 677</b>	<b>45.76</b>	<b>8 229 580</b>	<b>0.83</b>	<b>997 516 506</b>	

**Table 2: ISPA Funds by sector – Commitments for Budget 2000**

<b>ISPA Fund Support by Sector – Commitments for Budget 2000</b>				
<b>ISPA Budget 2000</b>	<b>ISPA Funds €</b>	<b>% ISPA funds/ sector</b>	<b>N° of projects</b>	
<b>ENVIRONMENT</b>				
Drinking Water	27 535 927	5.98	3	
Drinking and Waste Water	42 568 260	9.24	4	
Waste Water Treatment	296 696 243	64.38	24	
Solid Waste Management	94 020 967	20.40	8	
Air Pollution	0	0	0	
<b>Total ISPA Budget of Environmental Sector</b>	<b>460 821 397</b>	<b>46.20</b>	<b>39</b>	
<i>of which Technical Assistance (TA) constituted the following:</i>				
TA Drinking Water	228 000	0.02	1	
TA Waste Water Treatment	4 167 720	0.42	3	
TA Environmental Total of ISPA budget	4 395 720	0.44	4	
<b>TRANSPORT</b>				
Road	224 790 797	41.88	15	
Rail	283 584 312	52.84	19	
Airports	28 000 000	5.22	1	
Rail/Road	320 000	0.06	1	
<b>Total ISPA Budget of Transport Sector</b>	<b>536 695 109</b>	<b>53.80</b>	<b>36</b>	
<i>of which Technical Assistance (TA) constituted the following:</i>				
TA Road	620 000	0.06	2	
TA Rail	2 893 860	0.29	6	
TA Road/Rail	320 000	0.03	1	
TA Transport Total of ISPA budget	3 833 860	0.38	9	
total sector projects	989 286 926	99.17	62	
total technical assistance	8 229 580	0.83	13	
<b>Total support</b>	<b>997 516 506</b>		<b>75</b>	

10 July 2001

## **OPINION OF THE COMMITTEE ON REGIONAL POLICY, TRANSPORT AND TOURISM**

for the Committee on Budgetary Control

on the Proposal for a Council Regulation amending Regulation (EC) No 1267/1999 establishing an Instrument for Structural Policies for Pre-Accession (COM(2001) 110 – C5-0152/2001 – 2001/0058 (CNS))

Draftsman: Samuli Pohjamo

### **PROCEDURE**

The Committee on Regional Policy, Transport and Tourism appointed Samuli Pohjamo draftsman at its meeting of 25 April 2001.

It considered the draft opinion at its meetings of 19 June 2001 and 9 July 2001.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Konstantinos Hatzidakis, chairman; Helmuth Markov and Emmanouil Mastorakis, vice-chairmen; Samuli Pohjamo, draftsman; and Sir Robert Atkins, Emmanouil Bakopoulos, Rolf Berend, Theodorus J.J. Bouwman, Philip Charles Bradbourn, Garrelt Duin, Giovanni Claudio Fava, Markus Ferber (for Jacqueline Foster), Jean-Claude Fruteau (for John Hume), Mary Honeyball, Georg Jarzembowski, Dieter-Lebrecht Koch, Giorgio Lisi, Erik Meijer, Rosa Miguélez Ramos, Wilhelm Ernst Piecyk, Giovanni Saverio Pittella (for Gilles Savary), Reinhard Rack, Carlos Ripoll i Martínez Bedoya, Marieke Sanders-ten Holte, Agnes Schierhuber (for Dana Rosemary Scallon), Brian Simpson, Renate Sommer, Per Stenmarck (for Karla M.H. Peijs), Dirk Sterckx, Ulrich Stockmann, Margie Sudre, Hannes Swoboda (for Demetrio Volcic), Ari Vatanen and Mark Francis Watts.

## SHORT JUSTIFICATION

On 3 March 2001 the Commission issued a proposal for a Council Regulation amending the regulation on an Instrument for Structural Policies for Pre-Accession (ISPA). It is necessary to amend the ISPA regulation so that the European Investment Bank and other international funding institutions, such as the EBRD and the World Bank, can participate in the funding of ISPA projects. The provisions of the ISPA regulation, as amended, would be in line with the provisions of the regulation on the Phare programme.

### Commission proposal

Where their share of part-financing is intended to be covered in its entirety from candidate countries' public resources, the candidate countries often have difficulties in participating in wider ISPA projects which would have a significant effect on environmental protection and the improvement of transport infrastructure networks. Therefore it is important that the EIB and other international funding bodies, as well as the private sector, should be able to participate in such funding.

Invitations to tender for contracts financed by the Community are currently open, as regards the ISPA programme, only to natural and legal persons from the EU Member States and candidate countries. At present co-financing is restricted by the absence in the current regulation of special provisions, which would exceptionally and on an *ad hoc* basis permit the tendering procedure to be opened up to participants from third countries. This derogates from the regulations of international funding bodies and in some cases creates an insuperable obstacle to co-financing.

In cases of co-financing it should, therefore, be possible on an *ad hoc* basis to derogate from the rules of the EU's Financial Regulation on procurement contracts. For measures in which the Community is the only external source of aid, invitations to tender are still not open to third countries.

The definition of eligible expenditure should also be varied. If the international funding institutions participate in the funding of any ISPA measure, the costs financed by such institutions should be able to be included in the overall costs of the measure. The Commission is also at the same time making a technical correction to the commitment article to bring it up to date with the wording which is now generally in use.

### Conclusions

The effective implementation of the ISPA programme is suffering as a result of inadequate funding. The EU's share of the subsidy in each project should thus be as low as possible, so that more projects can be funded. ISPA support should not consist solely of subsidies but should also be granted in the form of loans. It should in particular be possible to use ISPA aid for the launching of projects and as an interest-rate subsidy. This would make it possible to act within the framework of the current provisions.

It is important not to create bad practice in the candidate countries through an unnecessarily high level of funding. For example, in a water purification project, the inhabitants of the area should pay for drinking water supply and waste water disposal, and these payments should not

be pegged at a particular level for too long but should vary in line with cost and expenditure levels. It is also crucial that as many projects as possible should be funded.

Because the Commission proposal is a technical change which mostly affects funding regulations, the Committee on Regional Policy, Transport and Tourism has exceptionally approved the allocation of this proposal for a regulation to the Committee on Budgetary Control as the committee responsible. This is clearly an exceptional case, and the change to the regulation should take place as soon as possible. However, it should be emphatically stressed that the Committee on Regional Policy, Transport and Tourism remains the committee responsible for ISPA in the European Parliament.

For the effective implementation of the ISPA programme it is particularly important that the Commission's proposed changes regarding tendering for contracts and commitmentology should enter into force as soon as possible. It is neither possible nor sensible in the context of this proposal to amend the ISPA regulations more generally. **The Committee on Regional Policy, Transport and Tourism, therefore proposes that the Commission proposal be approved unamended.**