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*****I** **REPORT**

on the proposal for a decision of the European Parliament and of the Council granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community (COM(2008)0910 – C6-0025/2009 – 2008/0268(COD))

Committee on Budgets

Rapporteur: Esko Seppänen

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***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. 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). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a decision of the European Parliament and of the Council on granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community (COM(2008)0910 – C6-0025/2009 – 2008/0268(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0910),
 - having regard to Article 251 and Articles 179 and 181(a) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0025/2009),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgets (A6-0109/2009),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Amendment 1

Proposal for a decision

Recital 6

Text proposed by the Commission

(6) The Community's external relations policies have been revised and broadened in recent years. This has notably been the case for the Pre-Accession Strategy, for the European Neighbourhood Policy, for the renewed partnerships with Latin America and South-East Asia and for the EU's Strategic Partnerships with Russia, Central Asia, China and India.

Amendment

(6) The Community's external relations policies have been revised and broadened in recent years. This has notably been the case for the Pre-Accession Strategy, for the European Neighbourhood Policy, for the renewed partnerships with Latin America and South-East Asia and for the EU's Strategic Partnerships with Russia, Central Asia, China and India. ***This is further the case in relation to the Community's development policies, which have now been extended to include all developing countries. These development policies are***

one of the pillars of the Community's external relations, affording a solution tailored to the needs of developing countries.

Justification

This amendment aims to bring the European Investment Bank lending practices into conformity with the development requirements clarified by the European Court of Justice decision of 6 November 2008, C-155/07.

Amendment 2

Proposal for a decision

Recital 7

Text proposed by the Commission

7. From 2007, the Community's external relations have also been supported by the new financial instruments, i.e. the IPA, the ENPI, the DCI and by the Instrument for Stability

Amendment

7. From 2007, the Community's external relations have also been supported by the new financial instruments, i.e. the IPA, the ENPI, the DCI, ***the EIDHR*** and by the Instrument for Stability

Amendment 3

Proposal for a decision

Recital 8

Text proposed by the Commission

(8) EIB Financing Operations should be consistent with and support the Community's external policies including specific regional objectives. By ensuring overall coherence with Community actions, EIB financing should be complementary to corresponding Community assistance policies, programs and instruments in the different regions. Moreover, the protection of the environment and energy security of the Member States should form part of the EIB's financing objectives in all eligible regions. EIB Financing Operations should take place in countries complying with appropriate conditionality consistent with Community high level agreements on

Amendment

(8) EIB Financing Operations should be consistent with and support the Community's external policies including specific regional objectives ***and should contribute to the general objective of promoting and consolidating democracy and the rule of law, human rights and fundamental freedoms, and to the observance of international environmental agreements to which the Community or its Member States are parties. In relation to developing countries in particular, EIB Financing Operations shall foster sustainable economic and social development of these countries, more particularly in the most disadvantaged amongst them; their***

political and macro-economic aspects.

smooth and gradual integration into the world economy; the campaign against poverty; the general objective of developing and consolidating democracy and the rule of law; the general objective of respecting human rights and fundamental freedoms; as well as compliance with objectives approved by the Community in the context of the United Nations and other competent international organisations. By ensuring overall coherence with Community actions, EIB financing should be complementary to corresponding Community assistance policies, programs and instruments in the different regions. Moreover, the protection of the environment and energy security of the Member States should form part of the EIB's financing objectives in all eligible regions. EIB Financing Operations should take place in countries complying with appropriate conditionality consistent with Community high level agreements on political and macro-economic aspects.

Justification

This amendment aims to bring the European Investment Bank lending practices into conformity with the development requirements clarified by the European Court of Justice decision of 6 November 2008, C-155/07.

Amendment 4

Proposal for a decision Recital 10

Text proposed by the Commission

(10) With regard to pre-accession countries, EIB financing in those countries should reflect the priorities established in the Accession and European Partnerships, in the Stabilisation and Association agreements and in negotiations with the Community. The focus of Community action in the Western Balkans should continue to shift progressively from

Amendment

(10) With regard to pre-accession countries, EIB financing in those countries should reflect the priorities established in the Accession and European Partnerships, in the Stabilisation and Association agreements and in negotiations with the Community. The focus of Community action in the Western Balkans should continue to shift progressively from

reconstruction to pre-accession support. In this context, the EIB activity should, in addition, also seek to encourage the institution building aspect, where relevant, in cooperation with other International Financial Institutions ('IFIs') active in the region. Over the period 2007-**2013**, financing to candidate countries (Croatia, Turkey and the former Yugoslav Republic of Macedonia) should increasingly take place under the Pre-Accession Facility made available by the EIB, which should be extended over time to cover the potential candidate countries in the Western Balkans in line with the progress of their accession process.

reconstruction to pre-accession support. In this context, the EIB activity should, in addition, also seek to encourage the institution building aspect, where relevant, in cooperation with other International Financial Institutions ('IFIs') active in the region. Over the period 2007-**2011**, financing to candidate countries (Croatia, Turkey and the former Yugoslav Republic of Macedonia) should increasingly take place under the Pre-Accession Facility made available by the EIB, which should be extended over time to cover the potential candidate countries in the Western Balkans in line with the progress of their accession process.

Amendment 5

Proposal for a decision

Recital 11

Text proposed by the Commission

(11) With regard to countries covered by the ENPI, the EIB should continue and consolidate its activities *in* the Mediterranean region, enhancing its focus on private sector development. In this respect, cooperation by partner countries to facilitate private sector development and encourage structural reform, in particular financial sector reform, is needed, as well as other measures to facilitate EIB activities, in particular to ensure that the EIB can issue bonds in local markets. As regards Eastern Europe, Southern Caucasus and Russia, the EIB should enhance its activities in the countries concerned in line with appropriate conditionality consistent with Community high level agreements with the country in question on political and macro-economic aspects. In this region, the EIB should finance projects of significant interest to the Community in transport, energy, telecommunications and environmental infrastructure. Priority

Amendment

(11) With regard to countries covered by the ENPI, the EIB should continue and consolidate its activities *relating to* the Mediterranean region, enhancing its focus on private sector development. In this respect, cooperation by partner countries to facilitate private sector development and encourage structural reform, in particular financial sector reform, is needed, as well as other measures to facilitate EIB activities, in particular to ensure that the EIB can issue bonds in local markets. As regards Eastern Europe, Southern Caucasus and Russia, the EIB should enhance its activities in the countries concerned in line with appropriate conditionality consistent with Community high level agreements with the country in question on political and macro-economic aspects. In this region, the EIB should finance projects of significant interest to the Community in transport, energy, telecommunications and environmental infrastructure. Priority

should be given to projects on extended major Trans European Network axes, projects with cross-border implications for one or more Member States and major projects favouring regional integration through increased connectivity. In the environmental sector, the EIB should in Russia give particular priority to projects within the framework of the Northern Dimension Environmental Partnership. In the energy sector, strategic energy supply and energy transport projects are of particular importance. EIB Financing Operations in this region should be carried out in close cooperation with the European Bank for Reconstruction and Development ('the EBRD'), in particular according to the terms set out in a tripartite Memorandum of Understanding between the Commission, the EIB and the EBRD.

should be given to projects on extended major Trans European Network axes, projects with cross-border implications for one or more Member States and major projects favouring regional integration through increased connectivity. In the environmental sector, the EIB should in Russia give particular priority to projects within the framework of the Northern Dimension Environmental Partnership. In the energy sector, strategic energy supply and energy transport projects are of particular importance, ***in line with the objective of Community policy of diversifying energy sources and with a view to guaranteeing stable and secure resources for consumers***. EIB Financing Operations in this region should be carried out in close cooperation with the European Bank for Reconstruction and Development ('the EBRD'), in particular according to the terms set out in a tripartite Memorandum of Understanding between the Commission, the EIB and the EBRD.

Amendment 6

Proposal for a decision

Recital 15

Text proposed by the Commission

15. With a view to enhancing the coherence of overall Community support in the regions concerned, opportunities should be sought to combine EIB financing with Community budgetary resources as appropriate, in the form of grant support, risk capital and interest rate subsidies, alongside technical assistance for project preparation, implementation or enhancement of the legal and regulatory framework, through the IPA, the ENPI, the Instrument for Stability and, for South Africa, the DCI.

Amendment

15. With a view to enhancing the coherence of overall Community support in the regions concerned, opportunities should be sought to combine EIB financing with Community budgetary resources as appropriate, in the form of grant support, risk capital and interest rate subsidies, alongside technical assistance for project preparation, implementation or enhancement of the legal and regulatory framework, through the IPA, the ENPI, the Instrument for Stability, ***the EIDHR*** and, for South Africa, the DCI.

Amendment 7

Proposal for a decision

Recital 17

Text proposed by the Commission

17. Reporting by the EIB and the Commission on EIB Financing Operations should be strengthened. On the basis of the information received from the EIB, the Commission should report, on an annual basis, to the European Parliament and the Council on the EIB Financing Operations carried out under this Decision. The report should, in particular, include a section on value-added in line with Community policies, and a section on cooperation with the Commission, other IFIs and bilateral donors, including on cofinancing.

Amendment

17. The reporting **and transmission of information** by the EIB and the Commission on EIB Financing Operations should be strengthened. On the basis of the information received from the EIB, the Commission should report, on an annual basis, to the European Parliament and the Council on the EIB Financing Operations carried out under this Decision. The report should, in particular, **contain the strategic programming documents and** include a section on value-added in line with Community policies, and a section on cooperation with the Commission, other IFIs and bilateral donors, including on cofinancing.

Amendment 8

Proposal for a decision

Recital 18

Text proposed by the Commission

(18) The Community guarantee established by this Decision should cover EIB Financing Operations signed during a period beginning on 1 February 2007 and ending on **31 December 2013**. In order to be able to take stock of the developments during the first half of that period, the EIB and the Commission should prepare a mid-term review of the Decision. This review should in particular include an external evaluation whose terms of reference are specified in Annex II.

Amendment

(18) The Community guarantee established by this Decision should cover EIB Financing Operations signed during a period beginning on 1 February 2007 and ending on **31 August 2011**. In order to be able to take stock of the developments during the first half of that period, the EIB and the Commission should prepare a mid-term review of the Decision. This review should in particular include an external evaluation whose terms of reference are specified in Annex II.

Amendment 9

Proposal for a decision
Recital 23

Text proposed by the Commission

(23) The Court, however, ordered that the effects of Decision 2006/1016/EC be maintained for EIB financing arrangements entered into before the entry into force, within a period of 12 months from the date of delivery of the said judgment, of a new decision adopted on the appropriate legal basis, namely Articles 179 EC and 181a EC together.

Amendment

(23) The Court, however, ordered that the effects of Decision 2006/1016/EC be maintained for EIB financing arrangements entered into before the entry into force, within a period of 12 months from the date of delivery of the said judgment, of a new decision adopted on the appropriate legal basis, namely Articles 179 EC and 181a EC together. ***This judgement implies that the codecision procedure will now apply for the activation of the optional mandate, the eligibility of countries listed in Annex I, and the suspension of new EIB financing in a specific country in the event of serious concerns over the political or economic situation.***

Amendment 10

Proposal for a decision
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Nevertheless, the swift adoption of this Decision should be achieved whilst ensuring that the European Parliament's prerogatives are fully respected; for that reason, the Commission should present, before 28 February 2010, a proposal for a new decision also taking into consideration the conclusions of the mid-term review.

Amendment 11

Proposal for a decision Recital 24 b (new)

Text proposed by the Commission

Amendment

(24b) That proposal for a new decision should address, amongst other things, the issue of greater scrutiny by the European Parliament and the Council of all budgetary and political decisions to be taken by the EIB and the Commission in the framework of that new decision, the issue of transparency of the whole financing mechanism, and the issue of the limitation of Community guarantee compared to disbursed appropriations.

Amendment 12

Proposal for a decision Recital 24 c (new)

Text proposed by the Commission

Amendment

(24c) The presentation of a proposal for a new decision of the European Parliament and of the Council by 28 February 2010 is all the more necessary since this Decision will expire on 31 August 2011.

Amendment 13

Proposal for a decision Article 1 – paragraph 6

Text proposed by the Commission

Amendment

6. The Community guarantee shall cover EIB Financing Operations signed during the period beginning on 1 February 2007 and ending on **31 December 2013**. EIB Financing Operations signed under Council Decision 2006/1016/EC and under Council Decision 2008/847/EC shall continue to

6. The Community guarantee shall cover EIB Financing Operations signed during the period beginning on 1 February 2007 and ending on **31 August 2011**. EIB Financing Operations signed under Council Decision 2006/1016/EC and under Council Decision 2008/847/EC shall continue to

benefit from the Community guarantee under this Decision.

benefit from the Community guarantee under this Decision.

Amendment 14

Proposal for a decision

Article 9 – paragraph 1

Text proposed by the Commission

1. The Commission shall present to the European Parliament and the Council a mid-term report on the application of this Decision by **30 June 2010**, accompanied, **as appropriate**, by a proposal for its amendment, drawing upon an external evaluation whose terms of reference are specified in Annex II of this Decision.

Amendment

1. The Commission shall present to the European Parliament and the Council a mid-term report on the application of this Decision by **28 February 2010**, accompanied by a proposal for its amendment, **also** drawing upon an external evaluation whose terms of reference are specified in Annex II of this Decision.

Amendment 15

Proposal for a decision

Article 11

Text proposed by the Commission

This Decision shall take effect on the third day following its publication in the *Official Journal of the European Union*.

Amendment

This Decision shall take effect on the third day following its publication in the *Official Journal of the European Union* **and shall expire on 31 August 2011**.

EXPLANATORY STATEMENT

Introduction

This proposal for a Decision deals with the renewal of the Community budget guarantee to the EIB against losses under loans in third countries.

Since the Court of Justice annulled the existing Decision 2006/1016/EC, and since the effects of this Decision are maintained until 6 November 2009, the Commission had to come up with a new proposal in order for the Community guarantee to continue to be applicable.

Background of the Court Judgement

The issue of the legal basis was raised in the course of the legislative procedure (2006/0107(CNS)) for the adoption of Council Decision 2006/1016/EC, the relevance of Article 181a of the Treaty being questioned by the Parliament.

Actually, it appeared that a dual legal basis would have been more appropriate (Article 181a together with Article 179), since many countries eligible according to Annex I are developing countries under the OECD list. As a consequence, Parliament challenged the choice of the legal basis in the Court of Justice (case C-155/07), invoking that, as developing countries, both articles should apply.

On 6 November 2008, the Court judged that :

- the existing Decision 2006/1016/EC is annulled
- its effects are maintained for a 12 months period
- the new decision should be adopted under a dual legal basis, namely Articles 179 and 181a, which implies a co-decision procedure.

The new proposal

In comparison to annulled Decision 2006/1016/EC, the new proposal for a Decision differs on a limited number of points, amongst others :

- reference to a dual legal basis of articles 179 and 181a EC, which implies the co-decision procedure for the adoption of the entire Decision
- as a consequence, reference to the European Parliament as co-decider, amongst others, on the activation of the optional mandate (Article 1 par.3 (b)), on the eligibility of countries listed in Annex I and marked with "*" and other countries not listed in Annex I (Article 2 par.2), and on the suspension of new EIB financing in a specific country in the event of serious concerns over political or economic situation (Article 2 par.4).
- inclusion of the five Central Asia countries in the list of eligible countries laid down in Annex I

Fast-track procedure and transitional aspects

Nevertheless, a main element is missing in the Commission proposal.

Actually, this proposal should be understood as a "fast-track" and "transitional" one;

- "fast-track" to take into consideration the difficulty to have a regular codecision procedure before 6 November 2009 due to the Parliament's elections (Plenary will not be in a position to pronounce itself on legislative matters during more than four months in 2009);
- "transitional" since the conclusions of the mid-term review of EIB have to be taken into consideration in a new codecided Decision;

For these reasons, your rapporteur wishes to time-frame clearly the sequence of legislative texts dealing with the granting of the Community guarantee to EIB external loans, in order to assert Parliament's prerogatives following Court Judgement :

- the effects of the annulled Decision 2006/1016/EC expire on 6 November 2009
- the present Decision shall expire on a precise date, to be defined with the Council
- the next proposal for a Decision, taking into account the conclusions of the mid-term review, must be presented before the end of the mandate of the current Commission; the proposed deadline is 28 February 2010.

Finally, your rapporteur wishes to recall that the Parliament has already, in the past procedures, expressed, amongst others, its concerns about the coherence between this Decision and EU external policies on human rights and rule of law in third countries, its concerns about the lack of scrutiny over the various budgetary and non-budgetary decisions taken by the EIB and the Commission, and its concerns about the actual limitation percentage of Community guarantee. He underlines that these points will definitely have to be dealt with during the co-decision procedure.

PROCEDURE

Title	Community guarantee to the EIB	
References	COM(2008)0910 – C6-0025/2009 – 2008/0268(COD)	
Date submitted to Parliament	14.1.2009	
Committee responsible Date announced in plenary	BUDG 3.2.2009	
Committee(s) asked for opinion(s) Date announced in plenary	INTA 3.2.2009	
Not delivering opinions Date of decision	INTA 24.2.2009	
Rapporteur(s) Date appointed	Esko Seppänen 20.9.2004	
Discussed in committee	10.2.2009	24.2.2009
Date adopted	24.2.2009	
Result of final vote	+: 30	–: 0
	0: 0	
Members present for the final vote	Laima Liucija Andrikiienė, Richard James Ashworth, Glenn Bedingfield, Reimer Böge, Costas Botopoulos, Daniel Dăianu, Vasilica Viorica Dăncilă, James Elles, Vicente Miguel Garcés Ramón, Salvador Garriga Polledo, Catherine Guy-Quint, Jutta Haug, Anne E. Jensen, Wiesław Stefan Kuc, Janusz Lewandowski, Vladimír Maňka, Mario Mauro, Alexandru Nazare, Gérard Onesta, Esko Seppänen, Theodor Dumitru Stolojan, László Surján, Ralf Walter	
Substitute(s) present for the final vote	Marusya Ivanova Lyubcheva, Paul Rübig, Margarita Starkevičiūtė, Peter Šťastný	
Substitute(s) under Rule 178(2) present for the final vote	Zdzisław Kazimierz Chmielewski, Juan Fraile Cantón, Manolis Mavrommatis	