COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.11.1998

COM(1998) 654 final

97/0309 (SYN)

COMMUNICATION FROM THE COMMISSION

concerning the re-examination of the Commission proposal on the basis of which the Council adopted its common position concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the fifth framework programme of the European Community (1998-2002)

(presented by the Commission pursuant to Article 189 c (d)
of the EC Treaty)

Introduction

In accordance with Article 189 C, point d, of the EC Treaty, the purpose of this Communication is to set out the results of the re-examination of the Commission proposal on the basis of which the Council adopted its common position on 10 July 1998, taking into account the amendments proposed by the European Parliament on second reading on 8 October 1998. Its purpose is also to forward to the Council the European Parliament amendments that the Commission has not accepted, giving its opinion on them.

The Commission proposal of 15 December 1997 concerns the participation and dissemination rules which are intended to supplement, alongside the RTD framework programme and the specific programmes which they implement, the legal structure of Community research and technological development policy.

Re-examination of the Commission proposal

As indicated in its Communication to the European Parliament, of 14 July 1998, concerning the Council common position with a view to the adoption of a Council decision concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the fifth framework programme of the European Community (1998-2002) [SEC(98) 1205], on 22 June 1998 the Commission endorsed the Council draft which led to the common position.

For the reasons given below, the Commission is unable to accept the following amendments adopted by the European Parliament at its plenary session on 8 October 1998 and following re-examination it is maintaining its proposal which is identical to the common position.

European Parliament amendments to the common position

- No 1 (Article 4 - Cluster of SMEs and one large enterprise): SMEs are entitled to participate in indirect RTD actions just like any other legal entity.

- No 2 (Article 5 - Exception to the requirement that an enterprise must have been operational for at least one year in order to qualify for Community subsidies): The Article in question makes no mention of any rule as regards how long an enterprise must have been in existence, and "start-up companies" (entities on the point of exercising an RTD activity) can also participate.

- No 3 (Article 8 - Advance financing of innovative projects): This Article is not intended to determine the point in time when the contribution is paid but simply concerns the conditions concerning the resources which participants must have. Advance financing should also be seen in conjunction with the question of the payment of the advance.

- No 4 (Article 10 - Agreement of the partners during the negotiation stage and submission of a new proposal if the contract is not signed within a fixed deadline): A fixed deadline might not be sufficiently flexible. In addition, it might be inappropriate to make provision for a simple option, that is already encountered in practice, in a legally binding text.

- No 5 (Article 12 - Contribution to the dissemination, use and alteration of innovative projects carried out in a rapidly changing market): The detailed rules for dissemination and use should be specified at the level of technological implementation. In addition, the contracts will contain provisions enabling supplementary agreements to be concluded.

- No 6 (Article 15 - Extending the cases of ownership of knowledge by the Community): Certain indirect RTD actions would fall into a legal vacuum; the Commission also feels that results should only be its property if it has borne the full costs.

- No 7 (Article 20 - Electronic data communication) : This would introduce a routine administrative rule into a text of principle ; the Commission already makes use of this possibility in practice.

- Nos 8 and 9 (Articles 22 and 22a - Protection of the Community's financial interests): The Commission favours sectoral legislation specific to research and intends to make provision both for contractual penalties and a recital in this connection in the specific programmes, as called for by the European Parliament.

- No 10 (Article 23a - Facilitating participation in projects): This would introduce a routine administrative rule into a text of principle ; moreover, the Commission is encouraging the establishment of assistance networks.

- No 11 (Article 23b - Reasoned decisions): This is already covered by the EC Treaty.

ISSN 0254-1475

COM(98) 654 final

DOCUMENTS

EN 15 08 16 01

Catalogue number : CB-CO-98-654-EN-C

Office for Official Publications of the European Communities

L-2985 Luxembourg

4