

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.7.2006
COM(2006) 419 final

2006/0139 (CNS)

Proposal for a

COUNCIL DECISION

granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern Europe, Mediterranean countries, Latin America and Asia and the Republic of South Africa)

(Codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

   This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

   For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided[1] to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this[2], stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

   Codification must be undertaken in full compliance with the normal Community legislative procedure.

   Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Decision 2000/24/EC of 22 December 1999 granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern Europe, Mediterranean countries, Latin America and Asia and the Republic of South Africa)[3]. The new Decision will supersede the various acts incorporated in it[4]; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Decision 2000/24/EC and the instruments amending it,

---

1 COM(87) 868 PV.

2 See Annex 3 to Part A of the Conclusions.

3 Carried out pursuant to the Communication from the Commission to the European Parliament and the Council - Codification of the Acquis communautaire, COM(2001) 645 final.

4 See Annex I to this proposal.

carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex II to the codified Decision.

↓ 2000/24/EC (adapted)

2006/0139 (CNS)

Proposal for a

COUNCIL DECISION

granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern Europe, Mediterranean countries, Latin America and Asia and the Republic of South Africa)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article ⌦ 181a ⌫ thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament[5],

Having regard to the opinion of the European Economic and Social Committee[6],

Whereas:

↓

(1) Council Decision 2000/24/EC of 22 December 1999 granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern Europe, Mediterranean countries, Latin America and Asia and the Republic of South Africa)[7] has been substantially amended several times[8]. In the interests of clarity and rationality the said Decision should be codified.

↓ 2000/24/EC Recital 1

(2) The European Council meeting in Madrid on 15 and 16 December 1995 confirmed the importance of the European Investment Bank, hereinafter referred to as 'the EIB', as an instrument of cooperation between the Community and Latin America and called on the EIB to intensify its activities in the region. These projects should be of interest to both the Community and the countries concerned.

5 OJ C […], […], p. […].

6 OJ C , , p. .

7 OJ L 9, 13.1.2000, p. 24. Decision as last amended by Decision 2006/174/EC (OJ L 62, 3.3.2006, p. 26).

8 See Annex I.

↓ 2000/24/EC Recital 2

(3) The European Council meeting in Florence on 21 and 22 June 1996 welcomed the results of the Asia-Europe summit, which marked a turning-point in relations between the two continents.

↓ 2000/24/EC Recital 3

(4) The European Council meeting in Amsterdam on 16 and 17 June 1997 welcomed the conclusions adopted at the Second Euro-Mediterranean Conference, which was held at Valletta, Malta, on 15 and 16 April 1997 and reaffirmed the principles and objectives agreed at Barcelona in 1995.

↓ 2000/24/EC Recital 4

(5) The European Council meeting in Luxembourg on 12 and 13 December 1997 launched the enlargement process with the Central and Eastern European countries and Cyprus.

↓ 2000/24/EC Recital 5

(6) The European Council meeting in Cardiff on 15 and 16 June 1998 welcomed the efforts which the Republic of South Africa was making to modernise its economy and integrate it into the world trading system.

↓ 2000/24/EC Recital 6

(7) The EIB is completing the current loan programmes for Central and Eastern Europe, the Mediterranean region, Asia and Latin America and the Republic of South Africa pursuant to Council Decision 97/256/EC[9], as well as the lending that is governed by the Protocol on Financial Cooperation with the Former Yugoslav Republic of Macedonia, according to Council Decision 98/348/EC[10].

↓ 2000/24/EC Recital 7

(8) The Council has invited the EIB to start operations in Bosnia and Herzegovina. These operations may be continued, subject to a positive report being drawn up as stipulated in Council Decision 98/729/EC[11].

↓ 2000/24/EC Recital 8

(9) Although Bosnia and Herzegovina and the Former Yugoslav Republic of Macedonia have been included in the Central and Eastern Europe region since the adoption of

[9] OJ L 102, 19.4.1997, p. 33. Decision as last amended by Regulation (EC) No 2666/2000 (OJ L 306, 7.12.2000, p. 1).

[10] OJ L 155, 29.5.1998, p. 53.

[11] OJ L 346, 22.12.1998, p. 54.

Decision 97/256/EC, the EIB's total lending effort to applicant countries within this region should increase given the importance of the pre-accession facility the EIB plans to create for EIB lending for projects in these countries without a guarantee from the Community budget or Member States.

↓ 2000/24/EC Recital 9

(10) In these circumstances, the EIB should ensure that its guaranteed lending within the Central and Eastern Europe mandate will finance particularly projects in those countries which have fewer projects suitable for financing from the pre-accession facility or projects in non-applicant countries.

↓ 2000/24/EC Recital 10

(11) The Cooperation Agreements between the European Community and Nepal, between the European Community and the Lao People's Democratic Republic and between the European Community and Yemen entered into force on 1 June 1996, 1 December 1997 and on 1 July 1998 respectively. The Cooperation Agreement between the European Community and South Korea was signed on 28 October 1996. Nepal, Yemen, Laos and South Korea should become beneficiaries of EIB funding under the EIB's mandate for Asia and Latin America.

↓ 2000/24/EC Recital 11

(12) It is appropriate to make certain improvements in the programmes of operations in respect of duration and country coverage. It is appropriate to adjust the blanket guarantee rate and the portion of lending for which the EIB is invited to cover the commercial risk from non-sovereign guarantees.

↓ 2000/24/EC Recital 12

(13) The Council is calling on the EIB to continue its operations in support of investment projects carried out in those countries by offering it the guarantee provided for in this Decision.

↓ 2000/24/EC Recital 13

(14) In June 1996, the Commission, in agreement with the EIB, presented to the Council a proposal for a new guarantee system for EIB lending to third countries.

↓ 2000/24/EC Recital 14 (adapted) and 2005/47/EC Recital 5 (adapted)

(15) On 2 December 1996 the Council approved conclusions on new guarantee arrangements for EIB lending to third countries, according to which the approach of a global guarantee, without distinguishing between the regions and projects, is approved and a risk-sharing scheme accepted. Under the risk-sharing scheme ⌦ the budgetary guarantee should cover ⌫ only political risks arising from currency non transfer,

expropriation, war or civil disturbance ⌦ and denial of justice upon breach of certain contracts by the third country government or other authorities ⌫.

2005/47/EC Recital 6

(16) Under the risk-sharing scheme, the EIB should secure commercial risks by means of non-sovereign third-party guarantees or by means of any other security or collateral as well as relying on the financial strength of the debtor, in accordance with its usual criteria.

↓ 2000/24/EC Recital 15

(17) The guarantee arrangements should not affect the excellent credit standing of the EIB.

↓ 2000/24/EC Recital 16

(18) Council Regulation (EC, Euratom) No 1149/1999[12] revised the target amount and the provisioning rate for the Loan Guarantee Fund established by Council Regulation (EC, Euratom) No 2728/94[13].

↓ 2005/47/EC Recital 7

(19) The financial perspective for the period 2000 to 2006 according to 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[14] envisages a ceiling for the loan guarantee reserve in the Community budget of EUR 200 million (at 1999 prices) per annum.

↓ 2000/24/EC Recital 18

(20) EIB financing in eligible third countries should be managed, in accordance with the EIB's usual criteria and procedures, including appropriate control measures, as well as with the relevant rules and procedures concerning the Court of Auditors and OLAF, in such a way as to support Community policies and to enhance coordination with the Community's other financial instruments. There is regular consultation between the EIB and the Commission to ensure coordination of priorities and activities in these countries and to measure progress towards the fulfilment of the Community's relevant policy objectives. The setting and periodic review of the operation objectives and the measurement of their fulfilment are the responsibility of the EIB's Board of Directors. In particular, EIB financing in the candidate countries should reflect the priorities established in the accession partnerships between the Community and those countries. Thus the transparency of the EIB lending under this Decision should be substantially enhanced.

[12] OJ L 139, 2.6.1999, p. 1.

[13] OJ L 293, 12.11.1994, p. 1 Regulation as last amended by Regulation (EC, Euratom) No 2273/2004 (OJ L 396, 31.12.2004, p. 28).

[14] OJ C 172, 18.6.1999, p. 1.

↓ 2005/47/EC Recital 8

(21) Close cooperation between the EIB and the Commission should ensure consistency and synergy with the European Union's geographical cooperation programmes and ensure that the EIB loan operations complement and strengthen the European Union's policies for those regions.

↓ 2000/24/EC Recital 19

(22) As from the date on which this Decision takes effect, the Community guarantee covering the special earthquake facility for Turkey under Council Decision 1999/786/EC[15] shall take the form of an extension of the global guarantee under this Decision.

↓ 2000/24/EC Recital 20

(23) The EIB and the Commission will adopt the procedures for granting the said guarantee,

↓ 2000/24/EC
→1 2005/47/EC Art. 1 pt. 1(a)(i)
→2 2005/47/EC Art. 1 pt. 1(a)(ii)

HAS DECIDED AS FOLLOWS:

Article 1

1. →1 The Community shall grant the European Investment Bank (EIB) a global guarantee in respect of all payments not received by it but due in respect of credits opened, in accordance with its usual criteria, and in support of the Community's relevant external policy objectives, for investment projects carried out in the South-eastern Neighbours, the Mediterranean countries, Latin America and Asia and the Republic of South Africa. ←

This guarantee shall be restricted to 65% of the aggregate amount of the credits opened, plus all related sums. →2 The overall ceiling of the credits opened shall be equivalent to EUR 19 460 million, broken down as follows: ←

↓ 2005/47/EC Art. 1 pt. 1(a)(ii)

– South-eastern Neighbours:

  EUR 9 185 million,

– Mediterranean countries:

  EUR 6 520 million,

[15] OJ L 308, 3.12.1999, p. 35.

– Latin America and Asia:

EUR 2 480 million,

– Republic of South Africa:

EUR 825 million,

– Special action supporting the consolidation and intensification of the EC-Turkey Customs Union:

EUR 450 million;

and may be used by 31 January 2007 at the latest. The credits already signed shall be taken into account as a deduction from the regional ceilings.

↓ 2000/24/EC (adapted)

The Commission shall report on the application of this Decision at the latest six months before any new accession treaties enter into force, and make proposals for amendments of this Decision if appropriate. The Council will discuss and act on any proposal with effect from the date of entry into force of any new accession treaty.

If, on expiry of the guaranteed lending period on 31 January 2007, the loans granted by the EIB have not attained the overall amounts referred to in the second subparagraph, this period shall be automatically extended by six months.

2. The countries covered by paragraph 1 are:

↓ 2005/47/EC Art. 1 pt. 1(b)(i)

– *South-eastern Neighbours*: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Romania, Serbia and Montenegro, Turkey;

↓ 2000/24/EC
→1 2006/174/EC Art. 1

– *Mediterranean countries*: Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria, Tunisia and Gaza-West Bank;

– *Latin America*: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela;

– *Asia*: Bangladesh, Brunei, China, India, Indonesia, Laos, Macao, Malaysia, →1 the Maldives, ← Mongolia, Nepal, Pakistan, Philippines, Singapore, South Korea, Sri Lanka, Thailand, Vietnam and Yemen;

– Republic of South Africa.

3. The EIB is hereby invited to aim to cover the commercial risk on 30% of its lending under this Decision from non-sovereign guarantees as far as possible on an individual regional mandate basis. This percentage shall be expanded upon whenever possible insofar as the market permits.

Article 2

The Commission shall inform the European Parliament and the Council each year of the loan operations and progress made on risk-sharing under Article 1(3) and shall, at the same time, submit an assessment of the operation of the scheme and of coordination between the financial institutions operating in that area. The Commission information submitted to the European Parliament and the Council shall include an assessment of the contribution of the lending under this Decision to the fulfilment of the Community's relevant external policy objectives, taking into account the operational objectives and appropriate measurements of their fulfilment to be established by the EIB for lending under this Decision.

For the purposes referred to in the first paragraph, the EIB shall transmit to the Commission the appropriate information.

↓ 2005/47/EC Art. 1 pt. 2

The Commission shall report on the application of this Decision by 31 July 2006 at the latest.

↓ 2000/24/EC

Article 3

The EIB and the Commission shall fix the terms on which the guarantee is to be given.

↓

Article 4

Decision 2000/24/EC is repealed.

References to the repealed Decision shall be construed as references to this Decision and shall be read in accordance with the correlation table in Annex II.

↓ 2000/24/EC

Article 5

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

Done at Brussels,

For the Council
The President

↑

ANNEX I

Repealed Decision with its successive amendments

Council Decision 2000/24/EC	(OJ L 9, 13.1.2000, p. 24)
Council Decision 2000/688/EC	(OJ L 285, 10.11.2000, p. 20)
Council Decision 2000/788/EC	(OJ L 314, 14.12.2000, p. 27)
Council Decision 2001/778/EC	(OJ L 292, 9.11.2001, p. 43)
Council Decision 2005/47/EC	(OJ L 21, 25.1.2005, p. 9)
Council Decision 2006/174/EC	(OJ L 62, 3.3.2006, p. 26)

ANNEX II

CORRELATION TABLE

Decision 2000/24/EC	This Decision
Articles 1, 2 and 3	Articles 1, 2 and 3
-	Article 4
Article 4	Article 5
-	Annex I
-	Annex II