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2010/0150 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 663/2009 establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy

EXPLANATORY MEMORANDUM

Regulation (EC) no 663/2009 of 13 July 2009[1] established a programme to aid economic recovery for Europe (EEPR) by granting EUR 3.98 billion by the end of 2010. The EEPR is a financial instrument whose overall objective is to stimulate recovery from the downturn affecting the EU economy while enhancing the achievement of the EU energy policy priorities, namely the security and diversification of energy supply, the operation of the internal energy market and the reduction of greenhouse gas emissions. This Community financing was allocated to three sub-programmes in the field of gas and electricity infrastructure projects; offshore wind electricity projects (OWE), and carbon capture and storage projects (CCS).

The Commission adopted the award decisions for each sub-programme respectively on 9 December 2009 for the OWE and CCS sub-programmes and on 4 March 2010 for the gas and electricity infrastructure projects. It is estimated in the report from the Commission of 27 April 2010[2] on the implementation of the EEPR that almost the entire EEPR financial envelope (€3.98 billion) will be committed in the course of spring 2010. An amount of around €114 million will however not be committed under the EEPR Regulation adopted on 13 July 2009. The Report indicates that this amount is not expected to change, but notes that one or more project promoters may fail, for legal, financial or technical reasons, to comply with some specific conditions for the disbursement of the grants so that more funds may finally not be committed under the EEPR Regulation adopted on 13 July 2009. The amount of uncommitted funds will be known by the end of 2010.

Energy saving is the EU's most immediate and cost-effective way of addressing the EU's strategic objectives of fighting climate change, ensuring security of energy supply and achieving sustainable economic and social development. In the spirit of the Europe 2020 strategy for sustainable growth and jobs, the development of further renewable sources and the promotion of energy efficiency would contribute to Greener Growth, building a competitive and sustainable economy, and tackling climate change. By giving support to these policies, Europe will create new jobs and green market opportunities fostering the development of a competitive, secure and sustainable economy.

Even though there is a modest improvement of the GDP growth projections for the first half of 2010, the forecasted growth rate for 2010 remains mainly unchanged at 0.7% in the EU. Furthermore, the industrial production and retail sales figures amongst others have been less promising, and investments remain weak. Equally, financial markets remain unstable and uncertain[3]. Adding a weak labour market, the economic crisis is still present in Europe and requires swift and effective EU action in line with policy objectives.

Providing for increased financial incentive and technical assistance is a key element to address the barriers of high up-front cost and lack of information and stimulate sustainable energy improvements. In a market constrained by the prevailing economical crises and in a

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1 Regulation (EC) No 663/2009 of the European Parliament and of the Council of 13 July 2009 establishing a programme to aid economic recovery by granting Community financial assistance to projects in the field of energy.

2 Communication from the Commission to the European Parliament and the Council, Report on the implementation of the European Energy Programme for Recovery, COM(2010)191 final.

3 The Commission interim economic forecasts on 25 February 2010, Press release of ECFIN of 25/2/2010.

time of caution by commercial banks, generating low investment rates, there are additional barriers for project financing to promote this policy area. Existing experiences across Europe demonstrate how well-targeted and well-designed financial aid policies can lead to massive improvement and succeed to tap the development potential of sustainable energy.

Investments help in sustainable energy can be most effective and beneficial when targeted at municipal and local levels. Housing energy renovation, decentralised renewable energy installations, urban mobility plans are activities that need a high workload input from skilled persons, whose jobs are not subject to delocalisation. It is therefore very intensive in terms of job creation. Besides, sustainable energy at local level contributes decisively to other policies, such as social integration, or improvement of quality of life, and attractiveness of local communities towards business and visitors.

In this context, the technical assistance and financial incentive may assist in preparing and mobilising the existing Structural and Cohesion Funds to the optimal extent.

In the 2nd Strategic Energy Review[4], the European Commission's announced its intention to launch a Sustainable Energy Financing Initiative in cooperation with the European Investment Bank and other International Financial Institutions (IFIs) in order to establish appropriate financing mechanisms for the massive development of energy efficiency and renewable energies.

Provision of financial assistance through financial intermediaries such as IFIs enables to use the EU funding in the most efficient way and to maximise its impact in the short term, with the highest possible benefits on economic activity and job creation. Through the financing of technical assistance to project development combined with innovative financial incentive schemes (such as guarantees, soft loans with favourable interests, blended instruments and project financing), a high leverage factor between the EU funding and the total investment mobilized can be guaranteed.

These elements were taken into account when drawing the present proposal.

It is proposed to use the uncommitted funds under Chapter II of the EEPR Regulation for the creation of a dedicated financial instrument to support energy efficiency and renewable initiatives within the Sustainable Energy Financing Initiative. The financial facility shall support the development of bankable energy efficiency and renewable energy projects and facilitate the financing of investments in energy efficiency and renewable energy, in particular in urban settings. In order to foster a large number of decentralised investments, municipal, local and regional public authorities will be the beneficiaries. The approach will build up on the success of the Covenant of Mayors, signed up by more than 1600 regions and cities across Europe.

The sustainable energy projects to be financed include public and private buildings, high energy efficient combined heat and power (CHP) and district heating/cooling networks (in particular from renewable energy sources), decentralised renewable energy sources embedded in local settings, clean urban transport and local infrastructure such as smart grids, efficient street lighting, and smart metering.

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4 2nd Strategic Energy Review of 13.Nov. 2008, An EU Energy Security and Solidarity Action Plan, COM(2008)781.

The facility shall be implemented by one or several financial intermediaries such as IFIs. The selection will be operated on the basis of the demonstrated capacity of the financial intermediaries to use the funding in the most efficient and effective way. Financial intermediaries shall put in place financial schemes that guarantee a high leverage factor between the EU funding and the total investment in order to raise significant investments in the EU. Reaching this leverage factor shall be a necessary precondition for the financial assistance. The financial intermediaries shall abide to transparent management and reporting procedures to allow strict Commission's supervision of the use of the funds; no funding other than management fees or costs related to the establishment and implementation of the facility shall be made available to those financial intermediaries. Finally, negotiations with the IFIs can be pursued in parallel to the legislative procedure which shall facilitate early commitment of the funds.

In compliance with the EEPR Regulation, the facility shall be limited to the financing of measures that have a rapid, measurable and substantial impact on economic recovery within the EU, increased energy security and reduction of greenhouse gas emissions.

The criteria set out in the EEPR Regulation adopted on13 July 2009 should fully apply to the selection of the measures financed under the facility. These criteria include the soundness and technical adequacy of the approach, the soundness of the financial package, the maturity of the project, the extent to which lack of access to finance is delaying the implementation of the action and EEPR assistance will stimulate public and private finance, as well as the socioeconomic and environmental impacts. The geographical balance of the projects should also be taken into account as an essential element.

This proposal is fully in line with the Declaration of the Commission[5] referred to in Recital 7 of the EEPR Regulation[6], indicating its intention to propose, if appropriate, when reporting in 2010 on the implementation of the Regulation, measures allowing for the reallocation of uncommitted funds to the financing of projects in the areas of energy efficiency and energy from renewable sources.

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[5] The Commission Declaration reads as follows*: "Should the Commission, when reporting in 2010 on the implementation of the Regulation under its Article 28, find that it will not be possible to commit by the end of 2010 a part of the funds foreseen for the projects listed in the annex to the Regulation, the Commission will propose, if appropriate and in a geographically balanced way, an amendment to the Regulation allowing for the financing of projects in the area of energy efficiency and renewable energy sources, in addition to the above initiatives, including eligibility criteria similar to those applying to projects listed in the Annex to this Regulation".*

[6] Recital 7 of the EEPR states the following*: "In the event that it is not possible to commit all funds by the end of 2010, the Commission has declared its intention, if appropriate, to propose, when reporting in 2010 on the implementation of this Regulation, measures allowing for the financing of projects consistent with the Recovery Plan, such as projects in the areas of energy efficiency and energy from renewable sources".*

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the functioning of the European Union, and in particular Article 194(1)(c) thereof,

Having regard to the proposal from the European Commission[7],

Having regard to the opinion of the European Economic and Social Committee[8],

Having regard to the opinion of the Committee of the Regions[9],

After transmission of the proposal to the national Parliaments

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EC) No 663/2009 of the European Parliament and the Council of 13 July 2009[10] established a programme to aid economic recovery for Europe (EEPR) by granting EUR 3.98 billion by the end of 2010.

(2) Part of this money will not be committed under the sub programmes provided for in Chapter II of Regulation (EC) No 663/2009.

[7] OJ C , , p. .
[8] OJ C , , p. .
[9] OJ C , , p. .
[10] OJ L 200, 31.7.2009, p. 31.

(3) In the spirit of the Europe 2020 strategy for sustainable growth and jobs, the development of further renewable sources and the promotion of energy efficiency would contribute to Greener Growth, building a competitive and sustainable economy, and tackling climate change. By giving support to these policies, Europe will create new jobs and green market opportunities fostering the development of a competitive, secure and sustainable economy.

(4) Providing increased financial incentive is a key element to address the barriers of high up-front cost and stimulate sustainable energy improvements. Investment support in sustainable energy can be most effective and beneficial when targeted at local level.

(5) A dedicated financial instrument to support energy efficiency and renewable initiatives within the Sustainable Energy Financing Initiative[11] should therefore be created to use the uncommitted funds under Chapter II of Regulation (EC) No 663/2009. This financial facility should support the development of bankable energy efficiency and renewable energy projects and facilitates the financing of investment programmes in energy efficiency and renewable energy by local and regional public authorities, in particular in urban settings.

(6) So as to maximise the impact of the EU funding in the short term, the facility should be managed by one or several financial intermediaries such as International Financial Institutions (IFIs). The selection should be operated on the basis of the demonstrated capacity of the financial intermediaries to use the funding in the most efficient and effective way and with the highest leverage between the EU funding and the total investment in order to raise significant investments in the EU.

(7) In compliance with Regulation (EC) No 663/2009, the facility should be limited to the financing of measures that have a rapid, measurable and substantial impact on economic recovery within the EU, increased energy security and reduction of greenhouse gas emissions. The criteria set out in Regulation (EC) No 663/2009 should fully apply to the selection and eligibility of the measures financed under the facility. The geographical balance of the projects should also be taken into account as an essential element.

(8) Since the exact amount of uncommitted funds may be known just by the end of 2010, individual legal commitments implementing budgetary commitments should be made by 31 March 2011.

(9) Due to the urgent need to address the economic crises and the Union's pressing energy needs, expenditure should be eligible as from 13 July 2009 as many applicants requested the eligibility of expenditure from the submission of the grant application in line with Article 112 of Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

(10) Due to the urgent need to address the economic crisis and the European Union's pressing energy needs, this Regulation should enter into force immediately after its publication,

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[11] 2nd Strategic Energy Review of 13.Nov. 2008 , COM(2008)781.

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EC) No 663/2009

Regulation (EC) No 663/2009 is amended as follows:

(1) In Article 1, the following fourth paragraph is added:

"This Regulation shall allow for the creation of financial instruments to support energy efficiency and renewable initiatives."

(2) In Article 3, paragraph 2 is replaced by the following:

"Individual legal commitments under Chapter II implementing the budgetary commitments made in 2009 and 2010 shall be made by 31 December 2010. Individual legal commitments according to Article 22 shall be made by 31 March 2011."

(3) Article 22 is replaced by the following:

"Article 22
Funds that cannot be committed under Chapter II or become available by 31 December 2010

1. In compliance with Article 3(2), appropriations that could not be subject to individual legal commitments under Chapter II for an amount of EUR 114 million, and eventually other appropriations that become available as a result of total or partial non-implementation of the projects according to Chapter II shall be for a financial facility within the Sustainable Energy Financing Initiative[12].

2. The financial facility referred to in paragraph 1 shall be implemented in compliance with Annex II. The provisions of Article 23 (1) shall not apply.

(4) In paragraph 2 of Article 23, the second sentence shall be replaced by the following:

"Expenditure may be eligible as from 13 July 2009."

(5) The Annex shall be renamed Annex I and a new Annex II shall be added:

"Annex II
Financial facility within the Sustainable Energy Financing Initiative

I. Implementation of a financial facility for sustainable energy projects

The financial facility shall support the development of bankable energy efficiency and renewable energy projects and facilitate the financing of investments in energy efficiency and renewable energy by municipal, local and regional public authorities. This facility shall be implemented in accordance with the provisions on the delegation of budgetary execution tasks laid down in the Financial Regulation and its Implementing Rules.

12 2nd Strategic Energy Review of 13.Nov. 2008 , COM(2008)781.

The facility shall be used for sustainable energy projects in particular in urban settings. This shall include:

(a) projects for public and private buildings incorporating renewable and/or energy efficiency solutions including those based on the usage of Information and Communication Technologies (ICT);

(b) investments for high energy efficient combined heat and power (CHP) and district heating/cooling networks, in particular from renewable energy sources;

(c) decentralised renewable energy sources embedded in local settings;

(d) clean urban transport to support increased energy efficiency and integration of renewable energy sources;

(e) local infrastructure, including efficient street lighting, smart metering, and smart grids, that make full usage of ICT.

The facility may be used to provide incentives and technical assistance as well as raise awareness of the national and local authorities, to ensure optimal use of the Structural and Cohesion Funds, in particular, in cases of energy efficiency and renewable energy improvements in housing and other types of buildings

The beneficiaries of the facility shall be public authorities, preferably at regional and local level, or private entities acting on behalf of these public authorities. Particular attention will be given to proposals involving co-operation of such bodies with housing associations and development agencies.

II. Cooperation with Financial Intermediaries

The facility shall be implemented by one or several financial intermediaries such as International Financial Institutions (IFIs). The selection will be operated on the basis of the demonstrated capacity of the financial intermediaries to use the funding in the most efficient and effective way in accordance with the rules and criteria set out in this Annex.

The financial intermediaries shall comply with the relevant requirements on the delegation of budgetary execution tasks set out in the Financial Regulation and its Implementing Rules, in particular as regards procurement rules, internal control, accounting and external audit. No funding other than management fees or costs related to the establishment and implementation of the facility shall be made available to those financial intermediaries.

The detailed terms and conditions of the facility, including monitoring and control, shall be laid down in a(n) agreement(s) between the Commission and the financial intermediaries.

III. Funding conditions and selection and eligibility criteria

The facility shall be limited to the financing of measures that have a rapid, measurable and substantial impact on economic recovery within the EU, increased energy security and reduction of greenhouse gas emissions.

Due attention will be paid to reaching a significant leverage factor between the total investment and the EU funding in order to raise significant investments in the EU. Public authorities benefiting from financing should comply with the following conditions:

(a) they have made a political commitment to mitigate climate change, including precise targets;

(b) they dispose of an emission inventory and develop multi-annual strategies to attain their targets;

(c) they accept to be publicly accountable for the progress in their overall strategy.

Measures financed under the facility shall comply with the following selection and eligibility criteria:

(i) the soundness and technical adequacy of the approach;

(ii) the soundness of the financial package for the full investment phase of the action;

(iii) the geographical balance of the projects;

(iv) maturity, defined as reaching the investment stage, and incurring substantial capital expenditure as soon as possible;

(v) the extent to which lack of access to finance is delaying the implementation of the action;

(vi) the extent to which EEPR assistance will stimulate public and private finance;

(vii) quantified socioeconomic impacts;

(viii) quantified environmental impacts."

Article 2
Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, […]

For the European Parliament	*For the Council*
The President	*The President*