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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EURATOM) No 549/2007

of 14 May 2007

on the implementation of Protocol No 9 on Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant in Slovakia to the Act concerning the conditions of accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ (the Financial Regulation), and in particular Article 110 thereof,

Having regard to Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾, and in particular Article 166 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽³⁾,

Whereas:

(1) Slovakia committed itself to the closure of Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant by 31 December 2006 and 31 December 2008, respectively.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

⁽²⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.4.2007, p. 13).

⁽³⁾ OJ C 280 E, 18.11.2006, p. 108.

The European Union expressed its willingness to continue to provide financial assistance up to 2006 as an extension of the pre-accession aid planned under the Phare programme in support of Slovakia's decommissioning efforts.

(2) Protocol No 9 on Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant in Slovakia, as annexed to the 2003 Act of Accession, reiterates Slovakia's commitment to close the Bohunice V1 nuclear power plant and, to this end, establishes an assistance programme with a budget of EUR 90 million for the period 2004 to 2006.

(3) In Protocol No 9 the Union also recognised that decommissioning of the Bohunice V1 nuclear power plant will have to continue beyond the Financial Perspectives 2002 to 2006 and that this effort represents a significant financial burden for Slovakia. Decisions on the continuation of assistance from the Union in this field after 2006 will take account of this situation.

(4) International decommissioning funds managed by the European Bank for Reconstruction and Development (EBRD) have been in place for a number of years. Through the Phare programme in particular, the Community is the main contributor to these funds.

(5) Consequently, provision should be made for a sum of EUR 423 million ⁽⁴⁾ from the general budget of the European Union to fund the decommissioning of the Bohunice V1 nuclear power plant over the period from 2007 to 2013.

⁽⁴⁾ This figure is at current prices, and is equivalent to EUR 375 million at 2004 prices.

- (6) The appropriations of the general budget of the European Union for decommissioning should not lead to distortions of competition in relation to power supply companies on the energy market in the Union. These appropriations should also be used to finance measures to compensate the loss of production capacity in line with the *acquis*.
- (7) The financial assistance may be made available as a Community contribution to the Bohunice International Decommissioning Support Fund managed by the EBRD.
- (8) The tasks of the EBRD include managing the public funds allocated to the programmes for decommissioning nuclear power plants and monitoring the financial management of these programmes so as to optimise the use of public money. In addition, the EBRD carries out the budget tasks entrusted to it by the Commission in line with the requirements of Article 53(7) of the Financial Regulation.
- (9) Protocol No 9 leaves open the possibility of the establishment of different implementation routes for assistance to meet the purpose mentioned in Article 2, including a nationally administered accredited channel. The Commission and Slovakia could develop the implementing modalities in line with the relevant sections of the Financial Regulation.
- (10) In order to ensure the highest possible efficiency, the decommissioning of the Bohunice V1 nuclear power plant should be carried out with recourse to the best available technical expertise, and with due regard to the nature and technological specifications of the units to be shut down.
- (11) The decommissioning of the Bohunice V1 nuclear power plant should be carried out in line with the legislation on the environment, particularly Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ⁽¹⁾.
- (12) A financial reference amount, within the meaning of Point 38 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound

financial management ⁽²⁾, is inserted in this Regulation for the entire duration of the programme, without prejudice to the powers of the budgetary authority as defined by the Treaty establishing the European Community.

- (13) For the adoption of measures necessary for the implementation of this Regulation the Commission should be assisted by a committee,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation establishes the programme laying down detailed rules for implementation of the Community's financial contribution provided for in Protocol No 9 annexed to the 2003 Act of Accession.

Article 2

The Community contribution to the programme under this Regulation shall be granted for the purpose of providing financial support for measures connected with the decommissioning of the Bohunice V1 nuclear power plant, measures for environmental upgrading in line with the *acquis* and for modernising conventional production capacity to replace the production capacity of the two reactors at the Bohunice V1 power plant and other measures which stem from the decision to close and decommission this plant and which contribute to the necessary restructuring, upgrading of the environment and modernisation of the energy production, transmission and distribution sectors in Slovakia as well as to enhancing security of supply and energy efficiency in Slovakia.

Article 3

1. The financial reference amount necessary for implementation of the programme provided for in Article 2 for the period from 1 January 2007 to 31 December 2013 shall be EUR 423 million ⁽³⁾.

2. The annual appropriations shall be authorised by the budget authority within the limits of the financial framework.

3. The amount of the appropriations allocated to the programme may be reviewed in the course of the period from 1 January 2007 to 31 December 2013 to take account of the progress made with implementation of the programme and ensure that the programming and allocation of the resources are based on actual payment needs and absorption capacity.

⁽¹⁾ OJ L 175, 5.7.1985, p. 40. Directive as last amended by Directive 2003/35/EC of the European Parliament and of the Council (OJ L 156, 25.6.2003, p. 17).

⁽²⁾ OJ C 139, 14.6.2006, p. 1.

⁽³⁾ This figure is at current prices, and is equivalent to EUR 375 million at 2004 prices.

Article 4

The contribution for certain measures may amount to up to 100 % of the total expenditure. Every effort shall be made to continue the co-financing practice established under the pre-accession assistance and the assistance given over the period 2004 to 2006 for Slovakia's decommissioning effort as well as to attract co-financing from other sources, as appropriate.

Article 5

1. Measures and financial assistance under the programme shall be decided and implemented in accordance with the provisions laid down in Articles 53(2) and 54(2)(c) of the Financial Regulation.

2. Financial assistance for measures under the programme, or parts thereof, may be made available as a Community contribution to the Bohunice International Decommissioning Support Fund, managed by the EBRD.

3. Measures under the programme shall be adopted in accordance with the procedure referred to in Article 8(2).

Article 6

1. The Commission may have an audit of the use made of the assistance carried out either directly by its own staff or by any other qualified outside body of its choice. Such audits may be carried out throughout the lifetime of the agreement between the Community and the EBRD on making Community funds available to the Bohunice International Decommissioning Support Fund and for a period of five years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the Commission.

2. Commission staff and outside personnel authorised by the Commission shall have appropriate right of access, particularly to the beneficiary's offices and to all the information, including information in electronic format, needed in order to conduct such audits.

The Court of Auditors shall enjoy the same rights, especially of access, as the Commission.

Furthermore, in order to protect the Community's financial interests against fraud and other irregularities, the European Anti-Fraud Office (OLAF) may carry out on-the-spot checks and inspections under this programme in accordance with Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾.

⁽¹⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

3. For the Community action financed under this Regulation, the term 'irregularity' in Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽²⁾ shall mean any infringement of a provision of Community law or any breach of a contractual obligation resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it by an unjustified item of expenditure or budgets managed by other international organisations on behalf of the Communities.

4. The agreements between the Community and the EBRD on making Community funds available to the Bohunice International Decommissioning Support Fund shall provide for appropriate measures to protect the financial interests of the Community against fraud, corruption and other irregularities and to enable the Commission, OLAF and the Court of Auditors to carry out on-the-spot checks.

Article 7

The Commission shall ensure the implementation of this Regulation and shall report at regular intervals to the European Parliament and the Council. It shall carry out a mid-term review, as provided for in Article 3.

Article 8

1. The Commission shall be assisted by a Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. Where reference is made to this paragraph, the following procedure shall apply:

— the representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a timelimit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 118(2) of the Euratom Treaty, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote,

— the Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of 30 days,

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

— the Council, acting by qualified majority, may take a different decision within the period provided for above.

3. The committee shall adopt its rules of procedure on the proposal of its chairman, on the basis of standard rules of procedure as published in the *Official Journal of the European Union*. The committee shall lay down in its rules of procedure special rules on consultation which shall enable the Commission, where necessary, to adopt special measures by an emergency procedure.

The principles and conditions on public access to documents applicable to the Commission shall apply to the committee.

The European Parliament shall be informed by the Commission of committee proceedings on a regular basis. To that end, it shall receive agendas for committee meetings, and the results of voting and summary records of the meetings and lists of the authorities and organisations to which the persons designated by the Member States to represent them belong.

Article 9

This Regulation shall enter into force on the 20th day following 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, 14 May 2007.

For the Council
The President
F.-W. STEINMEIER
