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# European Communities

## EUROPEAN PARLIAMENT

# Working Documents

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# Report

drawn up on behalf of the Committee on Public Health and the Environment

**on the communication and the proposal from the Commission of the European Communities to the Council (Doc. 306/73) for a regulation on the creation of a European foundation for the improvement of living and working conditions**

**Rapporteur: Mr. E. JAHN**

PE 35.707/fin.

1.2./

English Edition

By letter of 21 December 1973 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 235 of the EEC Treaty, to deliver an opinion on the communication and proposal from the Commission of the European Communities to the Council on the creation of a European Foundation for the improvement of living and working conditions.

On 15 January 1974 Parliament referred this proposal to the Committee on Public Health and the Environment and the Committee on Social Affairs and Employment, requesting each committee to deal with the parts falling within its terms of reference.

On 21 January 1974 the Committee on Public Health and the Environment appointed Mr JAHN rapporteur.

It considered the proposal at its meetings of 21 January and 19 March 1974 and unanimously adopted the motion for a resolution and explanatory statement at the second of these two meetings.

The following were present: Mr Jahn, vice-chairman and rapporteur; Mr Adams, Mr Brégégère, Miss Flesch (deputizing for Mr Premoli), Mr Gibbons, Mr Lagorce, Lord Lothian, Mr Martens, Mr Willi Müller, Mr Noè, Mrs Orth, Mr Radoux (deputizing for Mr Eisma), Lord St. Oswald and Mrs Walz (deputizing for Mr Rosati).

After clarifying a number of points of difference with the rapporteur of the Committee on Social Affairs and Employment, Mr Marras, the Committee on Public Health and the Environment confirmed, with minor changes, the motion for a resolution and explanatory statement at its meeting of 9 May 1974.

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A

The Committee on Public Health and the Environment hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

FIRST MOTION FOR A RESOLUTION[1]

embodying the opinion of the European Parliament on the communication and proposal from the Commission of the European Communities to the Council on the creation of a European Foundation for the improvement of living and working conditions

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council,[2]

- having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc. 306/73),

- having regard to the report of the Committee on Public Health and the Environment (Doc. 93/74),

1. Welcomes the regulation proposed by the Commission as an important step towards a Community environmental policy;

2. Endorses the Commission's choice of Article 235 of the EEC Treaty as the legal basis and confirms in this connection its earlier positive stand on the advisability of basing Community environmental measures on this article of the Treaty;

3. Urges that the objective set for the planned European Foundation should be the improvement not only of living and working conditions but also of the environment and that it therefore be called the 'European Foundation for the improvement of living, working and environmental conditions';

4. Notes with satisfaction that under the proposed regulation the European Parliament is also entitled to make suggestions directly to the Foundation on the preparation of its annual programme of

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[1] A second motion for a resolution has been submitted by the Committee on Social Affairs and Employment.

[2] OJ No. C 35, 28 March 1974, page 5 and Doc. COM(73) 2026 final

work and that the Director of the Foundation is obliged to take into account suggestions made by the European Parliament and the other Community institutions;

5. Insists that the general report on the activities, the financial situation and the prospects of the Foundation should be forwarded by the Director directly to the various Community institutions;

6. Urges the Council to ensure that the regulation comes into force by 31 July 1974 at the latest ;

7. Requests the Commission to incorporate the following amendments in its proposal pursuant to Article 149, second paragraph, of the EEC Treaty;

8. Requests the committee responsible to establish whether the Commission of the European Communities incorporates the amendments proposed by the European Parliament in its proposal and to report to Parliament on this if necessary;

9. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

| TEXT PROPOSED BY THE COMMISSION OF THE EUROPEAN COMMUNITIES [1] | AMENDED TEXT |
|---|---|
| Proposal from the Commission of the European Communities to the Council on the creation of a European Foundation for the improvement of living and working conditions | Proposal from the Commission of the European Communities to the Council on the creation of a European Foundation for the improvement of living, working <u>and environmental</u> conditions |
| Preamble and recitals unchanged | |
| <u>Article 1</u> | <u>Article 1</u> |
| A European Foundation for the improvement of living and working conditions is hereby created, hereinafter called the Foundation | A European Foundation for the improvement of living, working <u>and environmental</u> conditions is hereby created, hereinafter called the Foundation |
| <u>Article 2</u> | <u>Article 2</u> |
| The Foundation's task in the field of improving living and working conditions in the Community shall consist of the following: | The Foundation's task in the field of improving living, working <u>and environmental</u> conditions in the Community shall consist of the following: |
| (a) to promote medium and long-term research into the factors which determine these conditions; | (a) <u>to develop and analyse basic considerations on the improvement of living conditions in the society of the future with a view to preparing models for European civilization</u>; |
| (b) to promote or carry out short-term research in certain cases; | (b) to implement a system of information and documentation as well as ensuring the dissemination of knowledge (see section (d) of the Commission proposal); |
| (c) to promote or carry out pilot experiments; | (c) to promote or carry out short-term research in certain cases; |
| (d) to implement a system of information and documentation as well as ensuring the dissemination of knowledge; | (d) to promote or carry out pilot experiments; (see section (b)) |
| Articles 3 to 7 unchanged | |

[1] For full text see OJ No. C 35, 28 March 1974, page 5

| TEXT PROPOSED BY THE COMMISSION OF THE EUROPEAN COMMUNITIES | AMENDED TEXT |
|---|---|
| Article 8 | Article 8 |
| 1. The Administrative Board shall be composed of eleven members:-<br>(a) one appointed by each Member State;<br>(b) two appointed by the Commission | 1. unchanged |
| 2. The members of the Administrative Board must be chosen on account of their competence in fields connected with the objectives of the Foundation. | 2. unchanged |
| 3. The length of their term of office shall be three years and shall be renewable. | 3. unchanged |
| 4. The Administrative Board shall elect a chairman from among its members for a period of one year. | 4. unchanged |
| 5. The chairman shall convene the Administrative Board at least two times per year or at the request of half its members. | 5. The chairman shall convene the Administrative Board at least two times per year or at the request of a majority of its members. |
| Article 9 | Article 9 |
| 1. The Administrative Board shall determine the general guidelines of the Foundation, after having received the opinion of the Scientific and Technical Committee. | 1. The Administrative Board shall determine the general guidelines of the Foundation, after having received the opinion of the Scientific and Technical Committee. It shall do so on the first occasion within three months of being appointed. The guidelines shall be reviewed annually. |
| 2. It shall adopt its rules of procedure, staff regulations and other provisions governing the Foundation. | 2. unchanged |

Articles 10 to 14 unchanged

| TEXT PROPOSED BY THE COMMISSION OF THE EUROPEAN COMMUNITIES | AMENDED TEXT |
|---|---|
| Article 15 | Article 15 |
| 1. Each year the Director shall prepare a general report by 31 March at the latest on the activities, the financial situation and the prospects of the Foundation and shall submit it to the Administrative Board. | 1. Each year the Director shall prepare a general report by 31 March at the latest on the activities of the Foundation in the preceding year, its financial situation and prospects and shall submit it to the Administrative Board. |
| 2. The Director shall communicate the general report to the Community institutions once it has been adopted by the Administrative Board. | 2. The Director shall communicate the general report directly to each of the Community institutions once it has been adopted by the Administrative Board. |
| Articles 16 to 20 unchanged | |
| Article 21 | Article 21 |
| This regulation shall enter into force on ..... 1974 | This regulation shall enter into force on 31 July 1974 at the latest. |
| Annex unchanged | |

B

## EXPLANATORY STATEMENT

### I. Preliminary remarks

1. The Commission prefaces its proposed regulation with a 'communication' in which it outlines the background and explains its reasons for proposing the regulation.

The present report goes into this communication where this appears necessary for an appraisal of the various provisions of the proposed regulation.

### II. Legal basis

2. In its selection of a legal basis for its proposed regulation the Commission rightly assumes in the recitals that, as stated in Article 118 of the EEC Treaty, it has in conformity with the general objectives of the Treaty the task of acting in close contact with Member States by making studies in the social field, which includes the field of industrial hygiene.

The European Community does not, however, have a body for Reflection, Concertation, Analysis and Research, which would make a systematic scientific approach to these problems possible.

In addition, the European Communities' Action Programme on the Environment of 19 July 1973 provides for the creation by the Community institutions of a body capable of pinpointing the elements whose combined influences affect living and working conditions, and of making long-term forecasts of factors which are a threat to the conditions of life and factors which can improve these conditions.

If the Community is to achieve its objectives to improve the living and working conditions in a Common Market that functions properly, the establishment of the planned Foundation is essential. As the Treaty does not provide the necessary powers for its establishment, the only possible basis for the proposed regulation is Article 235 of the EEC Treaty.

3. The Committee on Public Health and the Environment fully supports the Commission's reasoning and agrees with the legal basis selected. This is in line with the opinions delivered by the European Parliament on a number of occasions at the suggestion of the committee. For example, in paragraph 6 of its resolution of 18 April 1972 on the Commission's first

communication on Community environmental policy,[1] the European Parliament urged the Commission and Council to base the Community's legal acts in the field of environmental protection as far as possible on Article 100 and 235 of the EEC Treaty, since they provide a suitable foundation in the majority of cases.

The Legal Affairs Committee, which had been asked for its opinion, also pointed out at that time that the two most important conditions for the application of Article 235 of the EEC Treaty to Community environmental protection measures (action by the Community is necessary; the treaty has not provided the necessary powers) are fulfilled.[2]

As is also stated in Mr JAHN's report on the Community's Action Programme on the Environment[3] 'quite plainly.... the action programme itself is based, according to the express instructions given by the Paris Summit Conference, on Article 235 of the EEC Treaty, except for those parts which come under Article 100 of the Treaty'.

Finally, the European Parliament, acting on a report drawn up by Mr ARMENGAUD on behalf of the Legal Affairs Committee (Doc 15/72), delivered the following clear opinion on this problem in paragraphs 12 to 14 of its resolution of 18 April 1972 on the possibilities afforded by the Community Treaties:[4]

The European Parliament

- Considers that, inasmuch as the Treaties provide no specific power of action in this field, such power should be sought under Article 235 with a view to establishing direct Community rules on environmental policy and and an overall programme of action;

- Stresses that, when all the conditions for the implementation of Article 235 are fulfilled, the Commission and the Council are under an obligation to act to create the direct power required to issue rulings in the field of environmental policy and to implement an overall programme of action in the Community;

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[1] OJ No. C 46 of 9 May 1972, p.10

[2] See report by Mr JAHN on the Commission's first communication on Community environmental policy (Doc. 9/72, Explanatory Statement, Sec. 68, para.1)

[3] Doc. 106/73, sec. 1, para.4

[4] OJ No. C 46 of 9 May 1972, p.13

- Stresses that, when all the conditions for the implementation of Article 235 are fulfilled, the Commission and the Council are under an obligation to act;

- Considers it essential and important for the Council to state clearly that Article 235 applies to all environmental problems'.

III. The provisions of the proposed regulation

4. Article 1 stipulates the creation of a 'European Foundation for the improvement of living and working conditions.'

This designation neither corresponds to the Commission's original concept nor reflects the tasks actually to be delegated to the Foundation. It is also contrary to the suggestions made by the European Parliament in a number of resolutions.

5. In its first communication of 1971 on the Community's environmental policy (Doc. SEC (71) 2616 final) the Commission set out as item 9 of a comprehensive and at the same time practical Community Action Programme on the Environment:

'Desirability of a European Institute for the Environment, with particular reference to the action being taken in the Member States.

The purpose of an institute of this kind might be to ensure coordination at Community level of studies and research work undertaken in the field of environmental protection for the purpose of:

- deliberating further on the improvement of living conditions by conducting studies or holding seminars and conferences and drawing up a model of European civilization;

- drawing up a list of the Community's natural sources of supply and preparing a general long-term plan for the management and development of these sources of supply.

- collecting, processing, supplementing and disseminating information on environmental questions at Community level, particularly on new techniques and processes which can reduce pollution;

- holding training course, above all at postgraduate level, on environmental protection.'

7. The Foundation that is to be created should therefore bear a name that befits it: European Foundation for the improvement of living, working and environmental conditions.

Your committee urges that Article 1 be amended accordingly. The same applies to the title of the regulation, which should read: Council regulation on the creation of a European Foundation for the improvement of living, working and environmental conditions.

By limiting the name of the Foundation, the Commission has unilaterally adopted the French request for the creation of a European Foundation to study living and working conditions, made at the Paris Summit Conference in October 1972 and reiterated in the Council of Ministers for Social Affairs in May 1973.

In spite of the Commission's contention, there is no merger of the French request and the earlier proposal from the Commission for the creation of a European Institute for the Environment, which largely corresponds to the concept envisaged by the European Parliament.

8. The limitation of the name of the Foundation is all the more serious as in Article 2 the Foundation's tasks are restricted to 'the field of improving living and working conditions in the Community'. Your committee therefore urges the extension of the Foundation's tasks to include the improvement of the environment.

Article 2 (a-d) sets the Foundation's tasks as follows:

- to promote long-term research into the factors which determine living and working conditions;
- to promote or carry out short-term research in certain cases;
- to promote or carry out pilot experiments;
- to implement a system of information and documentation as well as ensuring the dissemination of knowledge.

This relatively limited concept represents a considerable step backwards compared with the tasks which the Commission itself envisaged in its communication of 22 March 1972 on a Community environmental action programme.

At that time the European Parliament was largely in favour of this programme (see report by Mr JAHN - Doc. 74/72). Your committee therefore considers it logical for the tasks proposed by the Commission in 1972 to take the place at least in part of the limited objectives now proposed.

Consequently, Article 2 should be reworded as follows:
'The Foundation's task in the field of improving living, working and environmental conditions in the Community shall consist of the following :

(a) to develop and analyse basic considerations on the improvement of living conditions in the society of the future with a view to preparing models for European civilization;

(b) to implement a system of information and documentation as well as ensuring the dissemination of knowledge;

(c) to promote or carry out short-term research in certain cases;

(d) to promote or carry out pilot experiments;'

9. Article 3 contains a list of the Foundation's powers, which is not exhaustive; it may take any measures which are in accordance with its tasks and necessary for the attainment of its objectives; it may in particular :

- conclude research contracts, grant financial assistance and award prizes to individual researchers or institutes;

- organize courses, conferences and seminars;

- facilitate contact between universities, authorities and organizations of economic and social life;

- set up working parties.

In carrying out its task, the Foundation is to collaborate as closely as possible with the institutes, the foundations and specialized bodies in the Member States.

These provisions are approved by your committee.

10. Article 4 deals with the legal status of the Foundation. It is to be a non-profit making body possessing a legal personality and enjoy the broadest legal status granted to legal persons in the Member States.

Article 4(2) will eventually determine the seat of the Foundation. The Commission's communication (p.4) states that the Council will determine the Foundation's seat.

This will not, however, prevent the European Parliament from making suitable proposals. Your rapporteur suggests to the committee that the seat of the Foundation should be Berlin.

Berlin is all the more appropriate since it has already been designated as the seat of the 'Bundesamt für Umweltschutz' (Federal Environment Office).

In this way the close cooperation which is doubtless necessary between the two institutions will be made considerably easier.

11. Article 5 governs the organs of the Foundation. It will be managed and represented by a Director responsible to an Administrative Board. In addition, the Director will be advised by a Scientific and Technical Committee and assisted by a Deputy Director.

12. Article 6 contains the provisions for the appointment of the Director and Deputy Director. They are to be chosen on account of their competence and should be capable of acting independently.

13. Article 7 governs the duties of the Director and Deputy Director.

Your committee approves Articles 5 to 7, since they basically concern organizational and technical questions. In its opinion it will be of decisive importance in practice to ensure that the Foundation's work is rational and unbureaucratic.

14. Articles 8 to 10 contain provisions on the composition, duties and voting procedure of the Administrative Board.

The Administrative Board is to be composed of eleven members, one from each Member State and two from the Commission.

Their term of office is to be 3 years and renewable.

Under Article 8 (4) the Administrative Board will elect its chairman for a period of one year.

The chairman will convene the Administrative Board at least two times per year, and at the request of half of its members.

Your committee feels that for the sake of clarity the word 'half' should be replaced by the words '<u>a majority</u>'.

15. The basic tasks of the Administrative Board will consist in

- determining the general guidelines of the Foundation, after having received the opinion of the Scientific and Technical Committee;
- adopting rules of procedure, staff regulations and other provisions governing the Foundation.

Your committee regrets the fact that no time limit has been set for the determination of the general guidelines, without which the work of the Foundation will have little purpose or effect. These guidelines should also be reviewed annually.

It therefore urges that Article 9 (1) be amended to read as follows: 'The Administrative Board shall determine the general guidelines of the Foundation after having received the opinion of the Scientific and Technical Committee. <u>On the first occasion it shall do so within three months of being appointed. The guidelines shall be reviewed annually</u>.

16. Articles 11 and 12 govern the composition and duties of the Scientific and Technical Committee.

It is to be composed of 15 members, appointed by the Administrative Board.

The following will have the right to propose five members each :

- workers' organizations set up at Community level;
- employers' organizations set up at Community level;
- the Director representing scientific and other circles concerned with the activities of the Foundation.

As with the Administrative Board, the term of office of the committee members is to be three years and renewable.

The committee's primary task will be to give opinions to the other organs of the Foundation in all fields coming under its competence, either at the request of the Director or on its own initiative.

The committee is to meet four times per year and in addition when requested by at least eight of its members.

The Committee on Public Health and the Environment approves the provisions of Articles 11 and 12.

17. The same applies to Article 13, according to which the Foundation may include among its members benefactors, correspondents and associates.

The Administrative Board is to determine the conditions of affiliation, including possible subscriptions.

18. Under Article 14 the Foundation is to draw up a programme of work. This provision is particularly welcomed by your committee since the European Parliament has repeatedly called on the Commission to include a practical programme of work in the proposal to be submitted to the Council.

The Director is required to draw up the annual programme of work before 1 July each year on the basis of the general guidelines and taking into account proposals from the Scientific and Technical Committee and suggestions which may be made by the Community Institutions. The latter will inform the Foundation of their requirements and forward the studies and work which come within the scope of their activities.

This provision is fully endorsed by your committee. As an institution of the Community, the European Parliament is thus also granted a direct right of proposal, i.e., it will forward its suggestions to the Director of the European Foundation direct without their being 'filtered' i.e., either dropped or amended, by the Commission and Council beforehand. The Director will be obliged to take suggestions by the European Parliament and the other Community institutions into account.

19. Article 15 stipulates the preparation by the Director of a general report by 31 March of each year on the activities, financial situation and prospects of the Foundation and the submission of this report to the Administrative Board. The committee suggests that this provision be made clearer in the following manner:

'Each year the Director shall prepare a general report by 31 March at the latest on the activities of the Foundation in the preceding year, its financial situation and prospects and shall submit it to the Administrative Board.'

To ensure that the European Parliament receives this general report at the same time as the Council and Commission and thus to avoid unnecessary and tedious circuitous routes to Parliament, your committee insists that Article 15(2) should be amended as follows:

'The Director shall communicate the general report directly to each of the Community institutions once it has been adopted by the Administrative Board.'

20. Article 16 contains provisions on the budget and finances of the Foundation. As they are normal budgetary rules, your committee approves these provisions.

21. Article 17 stipulates that the Foundation will receive a subsidy entered in the budget of the European Communities each year.

To this end, the Administrative Board is to transmit to the Commission, before 1 July each year, an estimate of the revenue and expenditure at the same time as a request for the subsidy. The estimate will be annexed by the Commission to the preliminary draft budget of the Communities.

Your committee also approves this provision.

22. Article 18 contains the provisions on financial control, for which the Audit Board is responsible under Article 206 of the EEC Treaty. The purpose of the audit, which is to be based on records, and if necessary, performed on the spot, will be to establish that all revenue has been received and all expenditure incurred in a lawful and regular manner and that the financial management has been sound.

After the close of each financial year, the Audit Board will draw up a report, which will be adopted by a majority of its members (Article 206, second paragraph, of the EEC Treaty).

The Administrative Board will every year send the accounts of the Foundation for the preceding year to the Commission. The accounts and the Audit Board's report will be forwarded by the Commission to the Council and the European Parliament together with its draft budget.

The Administrative Board will appoint a financial expert to be responsible for auditing the accounts.

Your committée does not have any objections to the provisions of Article 18.

23. Your committee welcomes the provisions on secrecy contained in Article 19. They oblige the members of the Administrative Board and the Scientific and Technical Committee, the Director, the Deputy Director and the staff members of the Foundation, even after the termination of their services, not to divulge information which, by its nature, comes under professional secrecy, and in particular information concerning the commercial relations of enterprises or details of their production costs.

24. Under Article 20 the protocol of the European Communities on privileges and immunities will apply to the members of the Administrative Board, the Director and Deputy Director and to the staff members of the Foundation.

25. Article 21 concerns the date on which the regulation is to come into force. The Commission has not, however, proposed any date but has instead left a space for its subsequent entry. On the other hand, the 'Financial Note' annexed to the regulation invites the Council to pronounce on the draft decision before 1 April 1974. In fact, the draft Social Action Programme (Doc. 216/73) submitted to the Council by the Commission makes provision for the Council to be required to decide on the creation of a European Foundation on the improvement of the environment and living and working conditions (Action I/6) by 1 April 1974 at the latest.

Desirable though it may seem for the regulation to come into force on this date, it should be remembered that the Commission's proposal was not forwarded to the European Parliament and the Council was not consulted until 1974. Parliament is therefore unlikely to deliver its opinion before March 1974. In these circumstances it would appear unrealistic to expect the Council, which must, of course, take Parliament's vote into consideration, to adopt the regulation by 1 April 1974. Your committee insists, however, that the regulation enter into force on 31 July 1974 at the latest.

26. The annex to the regulation proposed by the Commission includes a Financial Note on the European Foundation. The note contains an estimate of expenditure for the first year of the Foundation's activity. The Commission is assuming in this connection that the Foundation will not have any revenue

of its own in the first few years of its activities. The Commission feels that 100,000 u.a. will be required for 1974 to cover the Foundation's initial costs.

Provision is made for funds totalling 4.5 m u.a. for the Foundation's first full year of activity (1975). This amount is composed as follows:

| | | | |
|---|---|---|---|
| 1. | RUNNING COSTS | | |
| - | Rental of premises | 70,000 u.a. | |
| - | Equipment | 160,000 u.a. | |
| - | Administrative running costs | 40,000 u.a. | |
| - | Salaries and related expenditure[1] | 400,000 u.a. | |
| - | Official travel | 25,000 u.a. | |
| - | Meetings | 120,000 u.a. | |
| - | Receptions and representation | 5,000 u.a. | |
| | Total running expenditure: | | 820,000 u.a. |
| 2. | OPERATING COSTS | | |
| - | Dissemination of information | 360,000 u.a. | |
| - | Grants, conference fees and training courses | 600,000 u.a. | |
| - | Studies, surveys and consultations | 2,000,000 u.a. | |
| - | Organization of seminars, meetings and congresses | 360,000 u.a. | |
| - | Information and education for the public | 360,000 u.a. | |
| | Total operational costs: | | 3,680,000 u.a. |
| | TOTAL EXPENDITURE: | | 4,500,000 u.a. |

The Commission also makes provision for expenditure of 4.5m u.a. in 1976. However, it is estimated that operating costs will be somewhat higher than in 1975 and running costs somewhat lower, since the cost of initial equipment will largely have been covered in 1975.

[1] The staff will include in addition to the Director and Deputy Director 3 graduates, 3 assistants and 7 secretaries