

## I

(Acts whose publication is obligatory)

**REGULATION (EC) No 1889/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 20 December 2006  
on establishing a financing instrument for the promotion of democracy and human rights worldwide**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 179(1) and 181a(2) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure referred to in Article 251 of the Treaty <sup>(1)</sup>,

Whereas:

(1) A new framework for planning and delivering assistance is proposed in order to make the Community's external assistance more effective and transparent. Council Regulation (EC) No 1085/2006 <sup>(2)</sup> establishes an Instrument for Pre-Accession Assistance (IPA) for Community assistance to candidate and potential candidate countries. Regulation (EC) No 1638/2006 <sup>(3)</sup> establishes a European Neighbourhood and Partnership Instrument (ENPI) providing direct support for the EU's European Neighbourhood Policy. Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 <sup>(4)</sup> establishes a financing instrument for Development Cooperation (DCI). Council Regulation (EC) No 1889/2006 <sup>(4)</sup> establishes a financing instrument for cooperation with industrialised and other high-income countries and territories (ICI). Regulation (EC) No 1717/2006 <sup>(5)</sup> establishes a financing Instrument for Stability (IfS) providing assistance in situations of crisis and emerging crisis, and specific global and trans-regional threats. This Regulation establishes a financing instrument for the promotion of democracy and human rights worldwide (European Instrument for Democracy and Human Rights) allowing for assistance independent from the consent of third country governments and other public authorities.

(2) Article 6(1) of the Treaty on European Union stipulates that the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

(3) The promotion, development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms constitute a prime objective of the Community's development policy and economic, financial and technical cooperation with third countries <sup>(6)</sup>. A commitment to respect, promote and protect democratic principles and human rights is an essential element of the Community's contractual relations with third countries <sup>(7)</sup>.

(4) This financing instrument contributes to the achievement of the objectives of the development policy statement on the 'European Consensus on Development' (DPS) jointly adopted by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the Commission on 20 December 2005 <sup>(8)</sup>. The DPS underlines that 'progress in the protection of human rights, good governance and democratisation is fundamental for poverty reduction and sustainable development', thereby contributing to the achievement of the Millennium Development Goals (MDGs).

(5) The DPS having reaffirmed that the promotion of gender equality and women's rights is a fundamental human right and a question of social justice, as well as being instrumental in achieving all the MDGs, the Cairo Programme of Action and the Convention on the Elimination of All Forms of Discrimination Against Women, this Regulation includes a strong gender component.

<sup>(1)</sup> Opinion of the European Parliament of 12 December 2006 (not yet published in the Official Journal) and Council Decision of 20 December 2006.

<sup>(2)</sup> OJ L 210, 31.7.2006, p. 82.

<sup>(3)</sup> OJ L 310, 9.11.2006, p. 1.

<sup>(4)</sup> OJ L 386, 29.12.2006, p. 1

<sup>(5)</sup> OJ L 327, 24.11.2006, p. 1.

<sup>(6)</sup> Commission Communication of 8 May 2001 on the European Union's role in promoting human rights and democratisation in third countries.

<sup>(7)</sup> Commission Communication of 23 May 1995 on the Inclusion of Respect for Democratic Principles and Human Rights in Agreements between the Community and Third Countries.

<sup>(8)</sup> OJ C 46, 24.2.2006, p. 1.

- (6) This financing instrument contributes to achieving the objective of the Union's Common Foreign and Security Policy, as set out in Article 11(1) of the Treaty on European Union and shaped by EU Guidelines, regarding the development and consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms.
- (7) The Community's contribution to the development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms is rooted in the general principles established by the International Bill of Human Rights, and any other human rights instrument adopted within the framework of the United Nations, as well as relevant regional human rights instruments.
- (8) Democracy and human rights are inextricably linked. The fundamental freedoms of expression and association are the preconditions for political pluralism and democratic process, whereas democratic control and separation of powers are essential to sustain an independent judiciary and the rule of law which in turn are required for effective protection of human rights.
- (9) Human rights are considered in the light of universally accepted international norms, but democracy has also to be seen as a process, developing from within, involving all sections of society and a range of institutions, in particular national democratic parliaments, that should ensure participation, representation, responsiveness and accountability. The task of building and sustaining a culture of human rights and making democracy work for citizens, though especially urgent and difficult in emerging democracies, is essentially a continuous challenge, belonging first and foremost to the people of the country concerned but without diminishing the commitment of the international community.
- (10) In order to address the above issues in an effective, transparent, timely and flexible manner beyond the expiry of Council Regulation (EC) No 975/1999 of 29 April 1999 laying down the requirements for the implementation of development cooperation operations which contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms <sup>(1)</sup> and Council Regulation (EC) No 976/1999 of 29 April 1999 laying down the requirements for the implementation of Community operations, other than those of development cooperation, which, within the framework of Community cooperation policy, contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries <sup>(2)</sup>, which served as the legal base for the European Initiative for Democracy and Human Rights and which expire by 31 December 2006, there is a need for specific financial resources and a specific financing instrument that can continue to work in an independent manner whilst remaining complementary to and reinforcing related Community instruments for external assistance, the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part <sup>(3)</sup>, and humanitarian aid.
- (11) Community assistance under this Regulation is designed to complement the various other tools for implementation of EU policies on democracy and human rights, which range from political dialogue and diplomatic demarches to various instruments of financial and technical cooperation, including both geographic and thematic programmes. It will also complement the more crisis-related interventions of the Instrument for Stability.
- (12) In particular, in addition and complementary to the measures agreed with partner countries in the context of the cooperation pursued under the Instrument for Pre-accession Assistance, the European Neighbourhood and Partnership Instrument, the Development Cooperation Instrument, the Cotonou Agreement with ACP countries, the Instrument for Cooperation with Industrialised Countries and other high-income countries and territories and the Instrument for Stability, the Community provides assistance under this Regulation that addresses global, regional, national and local human rights and democratisation issues in partnership with civil society understood to span all types of social action by individuals or groups that are independent from the state and active in the field of human rights and democracy promotion.

<sup>(1)</sup> OJ L 120, 8.5.1999, p. 1. Regulation as last amended by Regulation (EC) No 2110/2005 of the European Parliament and of the Council (OJ L 344, 27.12.2005, p. 1).

<sup>(2)</sup> OJ L 120, 8.5.1999, p. 8. Regulation as last amended by Regulation (EC) No 2112/2005 (OJ L 344, 27.12.2005, p. 23).

<sup>(3)</sup> OJ L 317, 15.12.2000, p. 3; OJ L 385, 29.12.2004, p. 88.

- (13) Furthermore, whilst democracy and human rights objectives must be increasingly mainstreamed in all external assistance financing instruments, Community assistance under this Regulation will have a specific complementary and additional role by virtue of its global nature and its independence of action from the consent of third country governments and other public authorities. This makes possible cooperation with civil society on sensitive human rights and democracy issues, including migrants' enjoyment of human rights, rights of asylum seekers and internally displaced persons, providing the flexibility to respond to changing circumstances or to support innovation. It also provides a Community capacity to articulate and support specific objectives and measures at international level which are neither geographically linked nor crisis related and which may require a transnational approach or involve operations both within the Community and in a range of third countries. It provides the necessary framework for operations, such as support to independent EU election observation missions requiring policy coherence, a unified management system and common operating standards.
- (14) Developing and consolidating democracy under this Regulation should include democratic parliaments and their capacity to support and advance democratic reform processes. National parliaments need therefore to be included as eligible bodies for funding under this Regulation when this is necessary in order to achieve its objectives, unless the proposed measure can be financed under a related Community external assistance instrument.
- (15) The 'Guidelines for strengthening operational coordination between the Community, represented by the Commission, and the Member States in the field of external assistance' of 21 January 2001 emphasise the need for enhanced coordination of EU external assistance in the fields of supporting democratisation and promoting respect for human rights and fundamental freedoms worldwide. The Commission and Member States should ensure that their respective assistance measures are complementary and coherent, avoiding overlapping and duplication. The Commission and Member States should seek closer coordination with other donors. Community policy in the sphere of development cooperation should be complementary to the policies pursued by the Member States.
- (16) The relevance and scope of Community assistance in promoting democracy and human rights calls for the Commission to seek regular and frequent exchanges of information with the European Parliament.
- (17) The Commission needs to consult representatives of civil society, as well as other donors and actors, as early as appropriate in the programming process in order to facilitate their respective contributions and to ensure that assistance activities are as complementary to each other as possible.
- (18) The Community needs to be able to respond rapidly to unforeseen needs and in exceptional circumstances in order to enhance the credibility and effectiveness of its commitment to the promotion of democracy and human rights in countries where such situations arise. This requires that the Commission have the possibility to decide on Special Measures not covered by Strategy Papers. This assistance management instrument corresponds to those included in the other external assistance financing instruments.
- (19) The Community should also be able to respond in a flexible and timely manner to the specific needs of human rights defenders by means of ad hoc measures which are not subject to calls for proposals. Moreover, eligibility of entities which do not have legal personality under the applicable national law is also possible under the conditions of the Financial Regulation.
- (20) This Regulation establishes a financial envelope for the period 2007-2013 which constitutes the prime reference amount for the budgetary authority according to point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(1)</sup>.
- (21) Financial support needs to be secured for the European Inter-University Centre for Human Rights and Democratisation, providing a European Masters Degree in Human Rights and Democratisation and an EU-UN Fellowship Programme, beyond the expiry by the end of 2006 of Decision No 791/2004/EC of the European Parliament and of the Council of 21 April 2004 establishing a Community action programme to promote bodies active at European level and support specific activities in the field of education and training <sup>(2)</sup>, which served as the legal basis for funding.
- (22) European Union Election Observation Missions contribute significantly and successfully to democratic processes in third countries <sup>(3)</sup>. However, the promotion of democracy extends far beyond the electoral process alone. Expenditure for EU Election Observation Missions should therefore not take up a disproportionate amount of the total funding available under this Regulation.

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(2)</sup> OJ L 138, 30.4.2004, p. 31.

<sup>(3)</sup> Commission Communication of 11 April 2000 on EU Election Assistance and Observation.

(23) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.

(24) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of this Regulation to lay down rules on a European Instrument for Democracy and Human Rights. This Regulation does not go beyond what is necessary in order to achieve the objective pursued, in accordance with the third paragraph of Article 5 of the Treaty,

HAVE ADOPTED THIS REGULATION:

#### TITLE I

### OBJECTIVES AND SCOPE

#### Article 1

#### Objectives

1. This Regulation establishes a European Instrument for Democracy and Human Rights under which the Community shall provide assistance, within the framework of the Community's policy on development cooperation, and economic, financial and technical cooperation with third countries, consistent with the European Union's foreign policy as a whole, contributing to the development and consolidation of democracy and the rule of law, and of respect for all human rights and fundamental freedoms.

2. Such assistance shall aim in particular at

- (a) enhancing the respect for and observance of human rights and fundamental freedoms, as proclaimed in the Universal Declaration of Human Rights and other international and regional human rights instruments, and promoting and consolidating democracy and democratic reform in third countries, mainly through support for civil society organisations, providing support and solidarity to human rights defenders and victims of repression and abuse, and strengthening civil society active in the field of human rights and democracy promotion;
- (b) supporting and strengthening the international and regional framework for the protection, promotion and monitoring of human rights, the promotion of democracy and the rule of law, and reinforcing an active role for civil society within these frameworks;

- (c) building confidence in and enhancing the reliability of electoral processes, in particular through election observation missions, and through support for local civil society organisations involved in these processes.

#### Article 2

#### Scope

1. Having regard to Articles 1 and 3, Community assistance shall relate to the following fields:

- (a) promotion and enhancement of participatory and representative democracy, including parliamentary democracy, and the processes of democratisation, mainly through civil society organisations, inter alia in:
  - i) promoting freedom of association and assembly, unhindered movement of persons, freedom of opinion and expression, including artistic and cultural expression, independent media, unimpeded access to information, and measures to combat administrative obstacles to the exercise of these freedoms, including the fight against censorship;
  - ii) strengthening the rule of law, promoting the independence of the judiciary, encouraging and evaluating legal and institutional reforms, and promoting access to justice;
  - iii) promoting and strengthening the International Criminal Court, ad hoc international criminal tribunals and the processes of transitional justice and truth and reconciliation mechanisms;
  - iv) supporting reforms to achieve effective and transparent democratic accountability and oversight, including that of the security and justice sectors, and encouraging measures against corruption;
  - v) promoting political pluralism and democratic political representation, and encouraging political participation by citizens, in particular marginalised groups, in democratic reform processes at local, regional and national level;
  - vi) promoting the equal participation of men and women in social, economic and political life, and supporting equality of opportunity, and the participation and political representation of women;
  - vii) supporting measures to facilitate the peaceful conciliation of group interests, including support for confidence-building measures relating to human rights and democratisation.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (b) the promotion and protection of human rights and fundamental freedoms, as proclaimed in the Universal Declaration of Human rights and other international and regional instruments concerning civil, political, economic, social and cultural rights, mainly through civil society organisations, relating to inter alia:
- i) the abolition of the death penalty, prevention of torture, ill-treatment and other cruel, inhuman and degrading treatment or punishment, and the rehabilitation of victims of torture;
  - ii) support for, protection of, and assistance to human rights defenders, in terms of Article 1 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;
  - iii) the fight against racism and xenophobia, and discrimination based on any ground including sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;
  - iv) the rights of indigenous peoples and the rights of persons belonging to minorities and ethnic groups;
  - v) the rights of women as proclaimed in the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocols, including measures to combat female genital mutilation, forced marriages, crimes of honour, trafficking, and any other form of violence against women;
  - vi) the rights of the child, as proclaimed in the Convention on the Rights of the Child and its Optional Protocols, including the fight against child labour, child trafficking and child prostitution, and the recruitment and use of child soldiers;
  - vii) the rights of persons with disabilities;
  - viii) the promotion of core labour standards and corporate social responsibility;
  - ix) education, training and monitoring in the area of human rights and democracy, and in the area covered by paragraph 1(a)(vii);
  - x) support for local, regional, national or international civil society organisations involved in the protection, promotion or defence of human rights and in measures referred to in paragraph 1(a)(vii);
- (c) the strengthening of the international framework for the protection of human rights, justice, the rule of law and the promotion of democracy, in particular by
- i) providing support for international and regional instruments concerning human rights, justice, the rule of law and democracy;
  - ii) fostering cooperation of civil society with international and regional intergovernmental organisations, and supporting civil society activities aimed at promoting and monitoring the implementation of international and regional instruments concerning human rights, justice, the rule of law and democracy;
  - iii) promoting observance of international humanitarian law;
- (d) building confidence in and enhancing the reliability and transparency of democratic electoral processes, in particular
- i) through deployment of European Union Election Observation Missions;
  - ii) through other measures of monitoring electoral processes;
  - iii) by contributing to developing electoral observation capacity of civil society organisations at regional and local level, and supporting their initiatives to enhance participation in, and the follow-up to, the electoral process
  - iv) by supporting measures aimed at implementing recommendations of European Union Election Observation Missions, in particular through civil society organisations.
2. The promotion and protection of gender equality, the rights of the child, rights of indigenous peoples, rights of persons with disabilities, and principles such as empowerment, participation, non-discrimination of vulnerable groups and accountability shall be taken into account whenever relevant by all assistance measures referred to in this Regulation.
3. The assistance measures referred to in this Regulation shall be implemented in the territory of third countries or shall be directly related to situations arising in third countries, or shall be directly related to global or regional actions.

*Article 3***Complementarity and Coherence of Community Assistance**

1. Community assistance under this Regulation shall be consistent with the framework of the Community's policy on development cooperation and with the European Union's foreign policy as a whole, and complementary to that provided for under related Community instruments for external assistance and the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, on the other part. Complementary Community assistance under this Regulation shall be provided to reinforce action under the related external assistance instruments.

2. The Commission shall ensure that measures adopted under this Regulation are consistent with the Community's overall strategic policy framework and in particular with the objectives of the above instruments, as well as with other relevant Community measures.

3. In order to enhance the effectiveness and consistency of Community and Member States assistance measures, the Commission shall ensure close coordination between its own activities and those of the Member States, both at decision-making level and on the ground. Coordination shall involve regular consultations and frequent exchanges of relevant information, including with other donors, during the different phases of the assistance cycle, in particular at field level.

4. The Commission shall inform and have regular exchanges of views with the European Parliament.

5. The Commission shall seek regular exchanges of information with civil society, at all levels, including in third countries.

## TITLE II

## IMPLEMENTATION

*Article 4***General framework for implementation**

Community assistance under this Regulation shall be implemented through the following measures:

- a) Strategy Papers and revisions thereof as appropriate;
- b) Annual Action Programmes;
- c) Special Measures;
- d) Ad hoc Measures.

*Article 5***Strategy Papers and Revisions**

1. Strategy Papers shall set out the Community's strategy for Community assistance under this Regulation, the Community's priorities, the international situation and the activities of the main partners. They shall be consistent with the overall purpose, objectives, scope, and principles of this Regulation.

2. Strategy Papers shall set out the priority areas selected for financing by the Community, the specific objectives, the expected results and the performance indicators. They shall also give the indicative financial allocation, both overall and per priority area; this may be given in the form of a range, where appropriate.

3. Strategy Papers, and any revisions or extensions thereof, shall be adopted in accordance with the procedure laid down in Article 17(2). They shall cover no more than the period of validity of this Regulation. Strategy Papers shall be reviewed at mid-term, or ad hoc if necessary.

4. The Commission and Member States shall exchange information and consult each other, as well as other donors and actors including representatives of civil society, at an early stage of the programming process in order to promote complementarity among their cooperation activities.

*Article 6***Annual Action Programmes**

1. Notwithstanding Article 7, the Commission shall adopt Annual Action Programmes based on the Strategy Papers and Revisions referred to in Article 5.

2. Annual Action Programmes shall specify the objectives pursued, the fields of intervention, the expected results, the management procedures and the total amount of financing planned. They shall take into account lessons learned from past implementation of Community assistance. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable. Objectives shall be measurable and have time-bound benchmarks.

3. Annual Action Programmes, and any revisions or extensions thereof, shall be adopted in accordance with the procedure laid down in Article 17(2). In cases where amendments to Annual Action Programmes do not exceed 20 % of the global amount allocated to them, such amendments shall be adopted by the Commission. It shall inform the Committee referred to in Article 17(1) thereof.

4. In case an Annual Action Programme has not yet been adopted, the Commission may exceptionally, on the basis of the Strategy Papers referred to in Article 5, adopt measures not provided for in an Annual Action Programme under the same rules and procedures as for Annual Action Programmes.

*Article 7***Special Measures**

1. Notwithstanding Article 5, in the event of unforeseen and duly justified needs or exceptional circumstances, the Commission may adopt Special Measures not covered in the Strategy Papers.
2. Special Measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures and the total amount of financing. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and the indicative timetable for their implementation. They shall include a definition of the type of performance indicators that will have to be monitored when implementing the special measures.
3. Where the cost of such measures is equal to or exceeds EUR 3 000 000, the Commission shall adopt them in accordance with the procedure laid down in Article 17(2).
4. For Special Measures costing below EUR 3 000 000, the Commission shall send the measures to the European Parliament and the Member States for information within 10 working days of adopting its decision.

*Article 8***Support measures**

1. Community financing under this Regulation may cover expenditure associated with the preparation, follow-up, monitoring, audit and evaluation activities directly necessary for the implementation of this Regulation and the achievement of its objectives, such as studies, meetings, information, awareness-raising, training and publication activities, including training and educational measures for partners from civil society, expenditure associated with computer networks for the exchange of information, and any other administrative or technical assistance expenditure necessary for the management of the programme. It may also cover expenditure, where appropriate, for actions to highlight the Community character of the assistance measures, and for activities to explain the objectives and results of assistance measures to the general public in the countries concerned.
2. Community financing shall also cover expenditure at Commission delegations on the administrative support needed to manage operations financed under this Regulation.
3. The Commission shall adopt Support Measures not covered by Strategy Papers as referred to in Article 5 in accordance with Article 7(3) and (4).

*Article 9***Ad hoc Measures**

1. Notwithstanding Article 5, the Commission may allocate small grants on an ad hoc basis to human rights defenders responding to urgent protection needs.
2. The Commission shall regularly inform the European Parliament and the Member States of the ad hoc measures carried out.

*Article 10***Eligibility**

1. Without prejudice to Article 14, the following bodies and actors operating on an independent and accountable basis shall be eligible for funding under this Regulation for the purposes of implementing the assistance measures referred to in Articles 6, 7 and 9:
  - a) civil society organisations, including non-governmental non-profit organisations and independent political foundations, community based organisations, and private sector non-profit agencies, institutions and organisations, and networks thereof at local, national, regional and international level;
  - b) public sector non-profit agencies, institutions and organisations and networks at local, national, regional, and international level;
  - c) national, regional and international parliamentary bodies, when this is necessary to achieve the objectives of this instrument and unless the proposed measure can be financed under a related Community external assistance instrument;
  - d) international and regional inter-governmental organisations;
  - e) natural persons when this is necessary to achieve the objectives of this Regulation.
2. Other bodies or actors not listed in paragraph 1 can be financed, exceptionally and in duly justified cases, provided this is necessary to achieve the objectives of this Regulation.

*Article 11***Management Procedures**

1. The assistance measures financed under this Regulation shall be implemented in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>(1)</sup> and any revision thereof on a centralised basis or by joint management with international organisations in accordance with Article 53(1) of that Regulation.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

2. In the event of co-financing and in other duly justified cases, the Commission may, in accordance with Article 54 of Regulation (EC, Euratom) No 1605/2002, decide to entrust tasks of public authority, and in particular budget implementation tasks, to bodies referred to in Article 54(2)(c) of that Regulation.

#### Article 12

##### Budget commitments

1. Budget commitments shall be made on the basis of decisions taken by the Commission in accordance with Articles 6, 7, 8 and 9.

2. Community financing may take one of the following legal forms, inter alia:

- a) grant agreements, grant decisions or contribution agreements;
- b) agreements pursuant to Article 54 of Regulation (EC, Euratom) No 1605/2002;
- c) procurement contracts;
- d) employment contracts.

#### Article 13

##### Types of financing

1. Community financing may take the following forms:

- a) projects and programmes;
- b) grants to finance projects submitted by international and regional inter-governmental organisations as referred to in Article 10(1)(d);
- c) small grants to human rights defenders as referred to in Article 2(1)(b)(ii) to finance urgent protection measures under Article 9(1);
- d) grants to support operating costs of the Office of the UN High Commissioner for Human Rights;
- e) grants to support operating costs of the European Inter-University Centre for Human Rights and Democratisation (EIUC), in particular for the European Master's Degree Programme in Human Rights and Democratisation and the EU-UN Fellowship Programme, fully accessible to nationals of third countries, as well as other education, training and research activities promoting human rights and democratisation;

f) contributions to international funds, such as those managed by international or regional organisations;

g) human and material resources for effective implementation of European Union Election Observation Missions;

h) public contracts as defined in Article 88 of Regulation (EC, Euratom) No 1605/2002.

2. Measures financed under this Regulation are eligible for cofinancing from the following, in particular from:

- a) Member States and their local authorities, and in particular their public and parastatal agencies;
- b) other donor countries, and in particular their public and parastatal agencies;
- c) international and regional inter-governmental organisations;
- d) companies, firms, other private organisations and business, trade unions, trade union federations, and other non-state actors.

3. In the case of parallel co-financing, the project or programme is to be split into a number of clearly identifiable components, which are each financed by different partners providing co-financing in such a way that the end-use of the financing can always be identified. In the case of joint co-financing, the total cost of the project or programme is to be shared between the partners providing the co-financing and resources are pooled in such a way that it is not possible to identify the source of funding for any given activity undertaken as part of the project or programme.

4. In the case of joint co-financing, the Commission may receive and manage funds on behalf of the bodies referred to in paragraph 2 (a), (b), and (c), for the purpose of implementing joint measures. Such funds shall be dealt with as assigned revenue in accordance with Article 18 of Regulation (EC, Euratom) No 1605/2002.

5. In the event of co-financing and in other duly justified cases, the Commission may entrust tasks of public authority, and in particular budget implementation tasks, to bodies referred to in Article 54(2)(c) of Regulation (EC) No 1605/2002.

6. Community assistance shall not be used for paying taxes, duties or charges in beneficiary countries.

## Article 14

**Rules of participation and rules of origin**

1. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural persons who are nationals of or legal persons who are established in a Member State of the Community, in an accession or official candidate country as recognised by the European Community or in a Member State of the European Economic Area.

Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural persons who are nationals of or legal persons who are established in a developing country, as specified by the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD/DAC), in addition to natural or legal persons eligible by virtue of this Regulation. The Commission shall publish and update the list of developing countries established by the OECD/DAC in accordance with regular reviews of this list and inform the Council thereof.

2. Participation in the award of procurement or grant contracts financed under this Regulation shall also be open to all natural persons who are nationals of or legal persons who are established in any country other than those referred to in paragraph 1, where reciprocal access to their external assistance has been established. Reciprocal access shall be granted whenever a country grants eligibility on equal terms to the Member States and to the recipient country concerned.

Reciprocal access shall be established by means of a specific decision concerning a given country or a given regional group of countries. Such a decision shall be adopted in accordance with the procedure laid down in Article 17(2) and shall be in force for a minimum period of one year.

3. Participation in the award of grants and public contracts financed under this Regulation shall be open to international organisations.

4. The provisions of paragraphs 1, 2 and 3 are without prejudice to the participation of categories of eligible organisations by nature or by localization in regard to the objectives of the action to carry out.

5. Experts may be of any nationality. This is without prejudice to the qualitative and financial requirements set out in the Community's procurement rules.

6. If measures financed under this Regulation are implemented on a centralised basis and indirectly by delegation to specialised Community bodies, international or national public sector bodies, or bodies governed by private law with a public mission

in accordance with Article 54(2)(c) of Regulation (EC, Euratom) No 1605/2002, participation in the public procurement and grant award procedures of the managing entity shall be open to natural persons who are nationals of the countries having access to Community contracts and grants in accordance with the principles set out in paragraph 1 of this Article, and of any other country eligible under the rules and procedures of the managing entity, and to legal persons which are established in those countries.

7. Whenever Community assistance covers an operation implemented through an international organisation, participation in the appropriate contractual procedures shall be open to all natural persons and legal persons who are eligible pursuant to this Article, as well as to all natural persons and legal persons who are eligible pursuant to the rules of that organisation, care being taken to ensure that equal treatment is afforded to all donors. The same rules shall apply in respect of supplies, materials and experts.

8. Whenever Community funding covers an operation co-financed with a third country, subject to reciprocity, or with a regional organisation, or with a Member State, participation in the appropriate contractual procedures shall be open to all natural persons and legal persons who are eligible pursuant to this Article as well as to all natural persons and legal persons who are eligible under the rules of such third country, regional organisation or Member State. The same rules shall apply in respect of supplies, materials and experts.

9. All supplies and materials purchased under a contract financed under this Regulation must originate from the Community or from an eligible country as defined in paragraphs 1 and 2. The term 'origin' for the purpose of this Regulation is defined in the relevant Community legislation on rules of origin for customs purposes.

10. The Commission may, in duly substantiated cases, authorise the participation of natural and legal persons either from countries having traditional economic, trade or geographical links with neighbouring countries, or from other third countries, and the purchase and use of supplies and materials of different origin.

11. Derogations may be justified on the basis of the unavailability of products and services in the markets of the countries concerned, for reasons of extreme urgency, or if the eligibility rules would make the realisation of a project, a programme or an action impossible or exceedingly difficult.

12. Tenderers who have been awarded contracts shall respect internationally agreed core labour standards, such as the International Labour Organization's core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour.

*Article 15***Protection of the financial interests of the Community**

1. Any agreement or contract resulting from the implementation of this Regulation shall contain provisions ensuring the protection of the Community's financial interests, in particular with respect to fraud, corruption and any other irregularities in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests <sup>(1)</sup>, 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 <sup>(2)</sup>, and Regulation (EC, Euratom) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) <sup>(3)</sup>.

2. Agreements and contracts shall expressly entitle the Commission and the Court of Auditors to have the power of audit, on the basis of documents and on-the-spot, over all contractors and subcontractors who have received Community funds. They shall also expressly authorise the Commission to carry out on-the-spot checks and inspections, as provided for in Regulation (Euratom, EC) No 2185/96.

*Article 16***Evaluation**

1. The Commission shall regularly monitor and review its programmes, and evaluate the effectiveness, coherence and consistency of programming, where appropriate by means of independent external evaluations, in order to ascertain whether the objectives have been met and to enable it to formulate recommendations with a view to improving future operations. Proposals by the European Parliament or the Council for independent external evaluations shall be taken into due account.

2. The Commission shall send its evaluation reports to the Committee referred to in Article 17(1) and to the European Parliament for information. Member States may request discussion of specific evaluations in the Committee referred to in Article 17(1). The results shall feed back into programme design and resource allocation.

3. The Commission shall associate all stakeholders as appropriate in the evaluation phase of Community assistance provided under this Regulation. Joint evaluations with Member States, international organisations or other bodies shall be encouraged.

<sup>(1)</sup> OJ L 312, 23.12.1995, p. 1.

<sup>(2)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(3)</sup> OJ L 136, 31.5.1999, p. 1.

## TITLE III

**FINAL PROVISIONS***Article 17***Committee**

1. The Commission shall be assisted by a Democracy and Human Rights Committee, hereinafter referred to as 'the Committee'.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period provided for in Article 4(3) of Decision 1999/468/EC shall be 30 days.

3. The Committee shall adopt its rules of procedure.

*Article 18***Annual Report**

1. The Commission shall examine progress achieved in implementing the assistance measures undertaken pursuant to this Regulation and shall submit to the European Parliament and to the Council an annual report on the implementation and results and, as far as possible, main outcomes and impacts of the assistance. The report shall be an integral part of the Annual Report on European Community development policy implementation and implementation of external assistance and of the EU Annual Report on Human Rights.

2. The annual report shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, the involvement of the relevant partners, and the implementation of budget commitments and payments, broken down according to global, regional, and country measures, and fields of assistance. It shall assess the results of assistance, using as far as possible specific and measurable indicators of its role in meeting the objectives of this Regulation.

*Article 19***Financial envelope**

The financial envelope for the implementation of this Regulation for the period 2007-2013 shall be EUR 1 104 000 000. Annual appropriations shall be authorised by the budgetary authority within the limits of the Financial Framework 2007 – 2013.

*Article 20***Review**

Not later than 31 December 2010, the Commission shall submit to the European Parliament and to the Council a report evaluating the implementation of this Regulation in the first three years with, if appropriate, a legislative proposal introducing the necessary modifications to this Regulation.

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

Done at Brussels, 20 December 2006.

*For the European Parliament*  
*The President*  
J. BORRELL FONTELLES

*Article 21***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.

It shall apply from 1 January 2007 until 31 December 2013.

*For the Council*  
*The President*  
J. KORKEAOJA

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