

Thursday 17 December 1998

COMMON POSITION  
OF THE COUNCILAMENDMENTS  
BY PARLIAMENT

(Amendment 27)

*Article 8c (new)***Article 8c****Legal remedies and complaints**

**1. The Member States shall, in cooperation with consumer associations and industrial and professional organisations, devise complaints systems which guarantee the independent, impartial and effective processing of complaints.**

**2. In the case of cross-border contracts within the European Union, the Member States shall ensure that appropriate and effective complaints procedures and remedies are in place to settle any disputes between consumers and sellers. In the case of defective goods consumers shall be entitled to use the complaints agency as mediator or to assign their claims arising from the contract of sale to the complaints agency.**

(Amendment 28)

*Article 9(1), footnote*<sup>(1)</sup> *Thirty-six* months after entry into force of this Directive.<sup>(1)</sup> **Twenty-four** months after entry into force of this Directive.**5. Democracy and the rule of law \*\*I****A4-0466/98**

**Draft Council Regulation (EC) 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 (9581/98 – C4-0507/98 – 97/0191(SYN))**

The draft was approved with the following amendments:

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AMENDMENTS BY PARLIAMENT

(Amendment 1)

*Title*

Draft Council Regulation 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

Draft Council Regulation 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 **and of the proper management of public affairs**

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## (Amendment 2)

*Recital 1*

Whereas procedures should be laid down 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;

Whereas procedures should be laid down 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 **and of the proper management of public affairs;**

## (Amendment 3)

*Recital 2*

Whereas the Council has adopted simultaneously with this Regulation, Regulation No ..., 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;

Whereas the Council has adopted simultaneously with this Regulation, Regulation No ..., 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 **and of the proper management of public affairs** in third countries;

## (Amendment 4)

*Recital 3*

Whereas Community policy in the sphere of development cooperation contributes to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms;

Whereas Community policy in the sphere of development cooperation contributes to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms **and of the proper management of public affairs;**

## (Amendment 5)

*Recital 5*

Whereas Community action to promote human rights and democratic principles is guided by belief in the universality and indivisibility of human rights, principles that underpin the international system for the protection of human rights;

Whereas Community action to promote human rights and democratic principles is guided by belief in the universality and indivisibility of human rights, principles that underpin the international system for the protection of human rights **and constitute the very foundations of European integration;**

## (Amendment 6)

*Recital 18*

Whereas the Community needs to be able to respond rapidly to emergencies or situations of particular importance in order to enhance the credibility and effectiveness of its commitment to the promotion of human rights and democratic principles in countries where such situations arise;

Whereas the Community needs to be able to respond rapidly to emergencies or situations of particular importance in order to enhance the credibility, **visibility** and effectiveness of its commitment to the promotion of human rights and democratic principles in countries where such situations arise;

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(Amendment 7)

*Recital 19a (new)*

**Whereas the development of civil society must take shape in particular with the emergence and the organisation of new players and whereas, to that end, the Community must be induced to provide financial support for partners who cannot demonstrate any previous experience in the field;**

(Amendment 8)

*Recital 22*

*Whereas a financial reference amount, within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, is included in this Regulation for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty;*

**Deleted**

(Amendment 9)

*Article 1*

*The purpose of this Regulation is to lay down the procedures for the implementation of Community operations which, within the framework of Community development 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.*

*The operations referred to in this Regulation shall be implemented in the territory of developing countries or shall be directly related to situations arising in developing countries.*

**The purpose of this Regulation is to set out the conditions, modes of implementation and control measures relating to Community operations for development cooperation, the consolidation of democracy and the rule of law, and respect for fundamental rights, civil liberties and of the proper management of public affairs.**

**The operations referred to in this Regulation shall be implemented, in the context of Community development cooperation policy, within developing countries or shall be directly related to situations affecting them.**

(Amendment 10)

*Article 2(1)(ca) new***(ca) support for refugees and displaced persons;**

(Amendment 11)

*Article 2(1)(e)*

(e) supporting local, national, regional or international institutions, including NGOs, involved in the protection or defence of human rights;

(e) supporting local, national, regional or international institutions, including NGOs, involved in the protection, **promotion** or defence of human rights;

(Amendment 12)

*Article 2(1)(i)*

(i) the promotion of equality of opportunity and non-discriminatory practices, including measures to combat racism and xenophobia;

(i) the promotion of equality of opportunity and non-discriminatory practices, including measures to combat racism, xenophobia **and sexism**;

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(Amendment 13)

*Article 2(2)(a)*

(a) promoting and strengthening the rule of law, in particular upholding the independence of the judiciary and strengthening it, and support for a humane prison system; support for constitutional and legislative reform;

(a) promoting and strengthening the rule of law, in particular upholding the independence of the judiciary and strengthening it, and support for a humane prison system; support for constitutional and legislative reform; **supporting moves to abolish the death penalty;**

(Amendment 14)

*Article 2(2)(c)*

(c) promotion of pluralism both at political level and at the level of civil society by strengthening the institutions needed to maintain the pluralist nature of that society, including non-governmental organisations (NGOs), and by promoting independent and responsible media and supporting a free press and respect for the rights of freedom of association and assembly;

(c) promotion of pluralism both at political level and at the level of civil society by strengthening the institutions needed to maintain the pluralist nature of that society, including non-governmental organisations (NGOs), and by promoting independent, **pluralist** and responsible media and supporting a free press and respect for the rights of freedom of association and assembly;

(Amendment 15)

*Article 2(3)(e)*

(e) supporting international, regional or local organisations, including the NGOs involved in preventing, resolving and dealing with the consequences of conflict, including support for establishing ad hoc international criminal tribunals and setting up a permanent international criminal court, *together with measures to rehabilitate and re-integrate* the victims of human rights violations.

(e) supporting international, regional or local organisations, including the NGOs involved in preventing, resolving and dealing with the consequences of conflict, including support for establishing ad hoc international criminal tribunals and setting up a permanent international criminal court, **and in providing support and help** for the victims of human rights violations.

(Amendment 16)

*Article 3, introduction*

Community support for these aims may include the financing of:

Community support for these aims may include, **within the limits established annually by the budget authority**, the financing of:

(Amendment 38)

*Article 3(4)*

4. measures to monitor, audit and evaluate Community operations.

4. measures to monitor, audit and evaluate Community operations, **to explain their purposes and results to public opinion in the countries concerned, and administrative and technical assistance to the mutual benefit of the Commission and the beneficiaries.**

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(Amendment 18)

*Article 4(1)*

1. The partners eligible for financing under this Regulation are regional and international organisations, non-governmental organisations, national, regional and local authorities and official agencies, community-based organisations and public or private-sector institutes and operators.

1. The partners eligible for financing under this Regulation are regional and international organisations, non-governmental organisations, national, regional and local authorities and official agencies, community-based organisations and public or private-sector institutes and operators. **Whatever their ideological allegiance and whatever their links to political, social or other organisations, the partners shall under all circumstances take on the responsibility of disseminating, respecting and promoting, through their actions, democratic principles and human rights, without any kind of discrimination. With a view to actively involving those concerned, the Community shall take a particular interest in those – frequently small scale – activities which encourage grassroots democracy.**

(Amendment 19)

*Article 4(1a) (new)*

**1a. Where operations take the form of cooperation agreements between the Community and the host countries, those agreements shall lay down the conditions of sustainability of the operations which are necessary to ensure their impact on progress in the field of democracy and human rights and the continuity of their effects.**

(Amendment 20)

*Article 4(1b) new*

**1b. The Commission shall draw up an annual or multiannual programme of operations to be carried out, adjusting the operations to be financed in line with the priorities set in this plan, after consulting the interinstitutional working party on human rights and on the basis of the budgetary appropriations available.**

(Amendment 21)

*Article 4(2) (new)*

2. *Operations financed by the Community under this Regulation shall be implemented by the Commission either at the request of a partner referred to in paragraph 1 or on its own initiative.*

**Article 4a**

**Operations financed by the Community under this Regulation shall be implemented by the Commission, in accordance with Article 4(1), either at the request of a partner referred to in Article 4(1) or on its own initiative.**

(Amendment 22)

*Article 5*

To be eligible for Community aid, the partners referred to in Article 4(1) must have their main headquarters *in a Member State of the Community or in a third country eligible for Community aid under this Regulation*. Such headquarters must be the effective decision-making centre for all operations

To be eligible for Community aid, the partners referred to in Article 4(1) must have their main headquarters in a third country eligible for Community aid under this Regulation **or in a Member State of the Community**. Such headquarters must be the effective decision-making centre for all operations

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financed under this Regulation. Exceptionally, the headquarters may be in another third country.

## AMENDMENTS BY PARLIAMENT

financed under this Regulation. Exceptionally, the headquarters may be in another third country

(Amendment 23)

*Article 6, introduction and (a) and (b)*

Without prejudice to the institutional and political environment in which the partners referred to in Article 4(1) operate, the following factors shall in particular be considered when determining a body's suitability for Community funding:

- (a) *its commitment to defending, respecting and promoting human rights and democratic principles in a non-discriminatory manner;*
- (b) its experience in the field of promoting human rights and democratic principles;

Without prejudice to the institutional and political environment in which the partners referred to in Article 4(1) operate, the following factors shall in particular be considered **in addition to the provisions of Article 4 of this Regulation**, when determining a body's suitability for Community funding:

**Deleted**

- (b) **where appropriate**, its experience in the field of promoting human rights and democratic principles;

(Amendment 24)

*Article 8(1)*

1. Participation in invitations to tender and the award of contracts shall be open on equal terms to natural or legal persons from *the Member States and* the host country. It may be extended to other countries in exceptional and duly justified cases.

1. Participation in invitations to tender and the award of contracts shall be open on equal terms to natural or legal persons from the host country **and the Member States**. It may be extended to other countries in exceptional and duly justified cases.

(Amendment 25)

*Article 8(1a) (new)*

**1a. For small-scale operators (small NGOs, local administrations and public agencies, etc.) the tendering procedure shall be adapted to guarantee them equal opportunities.**

(Amendment 26)

*Article 8(2)*

2. *Supplies shall originate in the Member States or the host country. They may originate in other countries in exceptional and duly justified cases.*

2. Supplies **should be made with the aim of achieving cost-effectiveness and should preferably originate in the host country.**

(Amendment 27)

*Article 9*

In the interests of consistency and complementarity and in order to maximise the overall effectiveness of operations, the Commission, in close cooperation with the Member States, may take any coordination measures necessary, *and in particular:*

1. In the interests of consistency and complementarity and in order to maximise the overall effectiveness of operations, the Commission, in close cooperation with the Member States, may take any coordination measures necessary.

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- (a) introduce a system for the exchange and systematic analysis of information on *operations financed or considered for financing by the Community and the Member States*;
- (b) coordinate the implementation of operations on the spot by means of regular meetings for the exchange of information between the representatives of the Commission *and the Member States* in the recipient country;
- (c) promote a coherent approach in relation to humanitarian assistance and, whenever possible, integrate the protection of human rights within humanitarian assistance.

(Amendment 28)

*Article 9a**Article 9a*

*The financial reference amount for the implementation of this Regulation during the period 1999 to 2004 shall be ECU 250 million.*

*The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.*

(Amendment 29)

*Article 10*

The Commission shall appraise, decide upon and administer, monitor and evaluate operations under this Regulation in accordance with the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation applicable to the general budget of the European Communities. *It shall lay down the conditions for allocating, mobilising and implementing aid under this Regulation.*

## AMENDMENTS BY PARLIAMENT

**2. In any case, and for the purposes of the provisions set out in the previous paragraph, the Commission shall:**

- (a) introduce a system for the exchange and systematic analysis of information on **the planning of the operations to be carried out, the approval of each individual operation whose financing is under consideration by the Commission and the Member States, and the development of the operations already approved**;
- (b) coordinate the implementation of operations on the spot by means of regular meetings for the exchange of information **on the above subjects** between the representatives of the Commission, **the European Parliament and the Council** in the recipient country;

**3. The Commission shall also, in close cooperation with the Member States, promote a coherent approach in relation to humanitarian assistance and, whenever possible, integrate the protection of human rights within humanitarian assistance.****Deleted**

**1.** The Commission shall **plan**, appraise, decide upon and administer, monitor and evaluate operations under this Regulation in accordance **with the provisions thereof and** with the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation applicable to the general budget of the European Communities.

**2. The Commission** shall lay down the conditions for allocating, mobilising and implementing aid under this Regulation, **as well as those for the sustainability of operations and those required to improve the visibility of their impact on democracy and human rights.**

(Amendment 30)

*Article 11(1), second indent*

— programmes intended to provide a coherent framework for action in a given country or region or in a specific field where the scale and complexity of the needs identified are such that they seem likely to continue.

— **the programme provided for under Article 4(1b) of this Regulation, and all** programmes intended to provide a coherent framework for action in a given country or region or in a specific field where the scale and complexity of the needs identified are such that they seem likely to continue;

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- **decisions relating to operations required on extraordinary or urgent grounds, not included in the programme referred to in Article 4(1b) of this Regulation.**

(Amendment 31)

*Article 12*

1. The Commission shall be assisted by a Committee, hereinafter referred to as the Human Rights and Democracy Committee, composed of representatives of the Member States, and chaired by the representative of the Commission.

2. *Where reference is made to this Article 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 time limit 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 148(2) of the 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 the measures envisaged if they are in accordance with the opinion of the Committee.*

*If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.*

*If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.*

1. The Commission shall be assisted by an **advisory** Committee, hereinafter referred to as the Human Rights and Democracy Committee, composed of representatives of the Member States, and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the Committee a **proposal containing** a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, **taking a vote if necessary.**

**The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask for its opinion to be entered in the minutes.**

**The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform it of the manner in which its opinion was taken into consideration.**

**The committee shall meet as a rule in public, unless a specific duly motivated decision is taken to the contrary and published in good time. It shall publish agendas two weeks in advance of its meetings. It shall publish minutes of its meetings. It shall establish a public register of declarations of interest by its members**

**2a. These provisions shall be adopted in accordance with the European Parliament position on a new act laying down the principles on European Union committees chaired by the Commission and the Commission's powers of implementation.**

**In accordance with the agreement concluded between the European Parliament and the Commission concerning committology and referred to in the European Parliament's resolution of 24 October 1996 on the draft general budget of the European Communities for the financial year 1997 — Section III — Commission<sup>(1)</sup>, the Commission shall keep the European Parliament fully informed of the proceedings of the Committee.**

<sup>(1)</sup> OJ C 347, 18.11.1996, p. 125.

(Amendment 32)

*Article 12a (new)***Article 12a**

**1. The interinstitutional advisory working party on democracy and protection of human rights, set up by the 1998 budget, and comprising, inter alia, no more than five Members from the European Parliament, shall be consulted on:**

- **the annual programme and, whenever necessary, the multiannual programmes;**



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- the decisions to be taken by the Commission in accordance with Article 11(1);
- the emergency measures as referred to in Article 13(1) and (2).

2. It shall be informed of the results of the activity referred to in Article 3, in particular the tendering procedure, feasibility and evaluation studies, technical assistance and measures for the purpose of highlighting the Community character of the operations, and the emergency measures financed under Article 13.

3. It shall also be notified of the decisions the Commission intends to take in accordance with Article 11(2).

(Amendment 33)

*Article 13(3a) new*

**3a. The Commission shall also inform the European Parliament of these emergency measures.**

(Amendment 34)

*Article 14*

The Committee may examine any general or specific issues concerning Community aid in the field and should also play a useful role as a means for improving the coherence of the human rights and democratisation actions of the European Union towards third countries. Once a year it will discuss general guidelines *presented by the representative of the Commission* for operations *under this Regulation* to be undertaken in the year ahead.

The Committee may examine any general or specific issues concerning Community aid in the field and should also play a useful role as a means for improving the coherence of the human rights and democratisation actions of the European Union towards third countries. Once a year it will discuss **the programme proposed for the coming financial year or the general guidelines for operations to be undertaken in the year ahead, in the framework of a multiannual programme to be adopted first pursuant to this Regulation.**

(Amendment 35)

*Article 17(2)*

2. *At the close of each financial year, the Commission shall submit an annual report to the European Parliament and to the Council with a summary of the operations financed in the course of that year.*

*The summary shall contain information concerning the agencies with which the operations referred to in Article 1 have been implemented.*

*The report shall also include a review of any external evaluation exercises which may have been conducted and may, if appropriate, propose specific operations.*

2. The Commission shall submit a report to the European Parliament and to the Council **each year. This report shall contain at least the following:**

- (a) a detailed summary of the operations financed during the previous financial year;**
- (b) the planned programme for the current financial year and a statement of the progress made with regard to the operations included therein;**
- (c) the forecasts for the programme and the operations to be undertaken during the following financial year;**
- (d) a summary of the evaluations carried out in accordance with the provisions of Article 15 of this Regulation;**
- (e) information on the bodies together with which the operations referred to in Article 1 of this Regulation have been implemented.**

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**2a. The annual report must be submitted to the European Parliament during the first quarter of the year to enable the European Parliament to take note of it and evaluate it in good time before the European Parliament's consideration and adoption of the Community budget.**

**2b. The Commission communication referred to in this Article shall be the subject of an annual debate, in plenary sitting, on the development of European cooperation in the sphere of human rights, progress with the rule of law and the proper management of public affairs.**

(Amendment 36)

*Article 19, second paragraph*

*It shall apply until 31 December 2004.*

**Deleted.**

**Legislative resolution embodying Parliament's opinion on the draft Council Regulation (EC) 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 (9581/98 — C4-0507/98 — 97/0191(SYN))**

(Cooperation procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the Council, COM(97)0357 — 97/0191(SYN)<sup>(1)</sup> and the Council draft, 9581/98 — 97/0191(SYN),
  - having been consulted by the Council pursuant to Articles 189c and 130w of the EC Treaty (C4-0507/98),
  - having regard to Rule 58 of its Rules of Procedure,
  - having regard to the report of the Committee on Development and Cooperation and the opinions of the Committee on Budgets and the Committee on Foreign Affairs, Security and Defence Policy (A4-0466/98),
1. Approves the Council draft, subject to Parliament's amendments;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 189a(2) of the EC Treaty;
  3. Calls on the Council to incorporate Parliament's amendments in the common position that it adopts in accordance with Article 189c(a) of the EC Treaty;
  4. Should the Council intend to depart from the text approved by Parliament, calls on the Council to notify Parliament and for the conciliation procedure to be initiated;
  5. Instructs its President to forward this opinion to the Council and Commission.

<sup>(1)</sup> OJ C 282, 18.9.1997, p. 14.