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(Acts whose publication is obligatory)

**REGULATION (EC) No 2130/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 29 October 2001
on operations to aid uprooted people in Asian and Latin American developing countries**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 179(1) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) In the context of refugee policy, the United Nations have adopted the Convention concluded in Geneva on 28 July 1951 relating to the Status of Refugees, the New York Protocol of 31 January 1967 and many resolutions in this field and in the fields of human rights and humanitarian law.
- (2) The Universal Declaration of Human Rights of 10 December 1948, the International Covenant on Civil and Political Rights of 16 December 1966, the International Covenant on Economic, Social and Cultural Rights of 16 December 1966, the Convention on the Elimination of all Forms of Discrimination against Women of 18 December 1979 and the Convention on the Rights of the Child of 20 November 1989 also address the issue of refugees.
- (3) The European Parliament has adopted several resolutions in this area, including the Resolution of 16 December 1983 on assistance to refugees in developing countries ⁽³⁾.
- (4) Both the European Parliament and the Council have called for greater effort by the Community in this field.
- (5) An integrated, consistent and effective strategy must be devised for Community action in respect of humanitarian aid, rehabilitation, aid to uprooted people and development cooperation, with a view to pursuing a sustainable European Community development policy.
- (6) It is particularly necessary to integrate aid for uprooted peoples with the development strategy of the countries and population groups for whom the aid is destined; Community action should therefore facilitate the move from the emergency stage to that of development, encouraging the socio-economic integration or reintegration of the people affected and, given the need to eliminate the causes of armed conflict, encourage the establishment or strengthening of democratic structures and the role of the population in the development process.
- (7) Support programmes for uprooted people and demobilised former soldiers are an integral part of an overall rehabilitation strategy for Asian and Latin American developing countries. For the programmes to be effective, aid must be coordinated at Community level and with other donors, non-governmental organisations (NGOs) and United Nations bodies, particularly the United Nations High Commissioner for Refugees (UNHCR). The Commission should take responsibility both for monitoring and ensuring the visibility of funds channelled through NGOs and the United Nations. The Commission is moreover politically responsible for the ways in which its funds are spent by NGOs and the United Nations.
- (8) The effectiveness and consistency of Community, national and international prevention and intervention mechanisms should be ensured, both in order to prevent conflicts and to encourage all peaceful solutions to political conflicts and wars which result in population displacement.
- (9) The specialised bodies and agencies and NGOs have acquired considerable experience of helping uprooted people from implementing operations of this kind in the past.
- (10) Ideally, action to help uprooted people should form part of an approach that aims to move on from so-called subsistence to a stage in which they become self-sufficient or less dependent.

⁽¹⁾ OJ C 120 E, 24.4.2001, p. 163.

⁽²⁾ Opinion of the European Parliament of 5 July 2001 (not yet published in the Official Journal), and Decision of the Council of 16 October 2001.

⁽³⁾ OJ C 10, 16.1.1984, p. 278.

- (11) Effective, flexible and expeditious procedures need to be guaranteed for aid operations in this sphere; the Community should also ensure maximum transparency in the granting of aid, and strict controls on the use of appropriations.
- (12) Until 31 December 2000, the legal basis for Community action in this field was Council Regulation (EC) No 443/97 of 3 March 1997 on operations to aid uprooted people in Asian and Latin American developing countries ⁽¹⁾. The experience acquired during its application should be reflected in this Regulation.
- (13) This Regulation lays down, for its entire duration, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure ⁽²⁾, for the budget authority during the annual budgetary procedure.
- (14) 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 ⁽³⁾.
- (15) The protection of the Community's financial interests and the fight against fraud and irregularities form an integral part of this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

Purpose, scope and definitions

Article 1

The Community shall implement a programme of support and assistance to uprooted people in Asian and Latin American developing countries. The programme shall apply to the uprooted people and other persons referred to in Article 4 and contribute to their requirements not covered by humanitarian aid and carry out long-term activities aimed at the self-sufficiency and integration or reintegration of such persons. In particular, this programme must provide for the basic needs of those persons from the time a humanitarian emergency subsides to the adoption of a long-term solution to resolve their status.

⁽¹⁾ OJ L 68, 8.3.1997, p. 1. Regulation as amended by Regulation (EC) No 1880/2000 of the European Parliament and of the Council (OJ L 227, 7.9.2000, p. 1).

⁽²⁾ OJ C 172, 18.6.1999, p. 1.

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

The objectives of the assistance programmes shall include the establishment of democratic structures and the promotion of human rights.

Article 2

For the purposes of this Regulation:

- (a) 'uprooted people' means:
- (i) refugees, as defined in the Convention on the Status of Refugees concluded in Geneva on 28 July 1951 and the New York Protocol of 31 January 1967, or
 - (ii) displaced persons, who have been forced to seek refuge outside their region of origin owing to conflict situations but who do not enjoy refugee status, or
 - (iii) former refugees or displaced persons who have returned to their country or region of origin;
- (b) 'demobilised former soldiers' means former members of armed forces, be they regular or opposition forces, who have agreed to lay down their arms and reintegrate into civilian life.

Article 3

1. The Community shall give financial support to operations aimed in particular at:

- (a) the self-sufficiency and reintegration into the socio-economic fabric of uprooted people and demobilised former soldiers; aid to secure their integration or reintegration must have as its objective the promotion of sustainable production processes, and could include actions such as providing food aid, developing self-sufficiency by means of agricultural production, cattle farming and fish farming, developing infrastructure, setting up credit systems, basic education and vocational training and ensuring satisfactory health and hygiene standards;
- (b) aid to local host communities and resettlement areas to foster acceptance and integration of uprooted people and demobilised former soldiers;
- (c) helping those people voluntarily return to and settle in their countries of origin or other countries of their choice, if conditions permit;
- (d) supporting, where applicable, any measures to prevent conflict and/or reconcile parties to a conflict;
- (e) helping persons to recover their belongings or property rights and aid for the settlement of human rights violations against the people in question.

2. Particular attention should be paid to especially vulnerable groups such as women and children.

3. All groups concerned, including local host communities, shall be involved in evaluating needs and implementing the assistance programmes.

Article 4

The ultimate beneficiaries of the operations referred to in Article 3(1) shall be:

- (a) uprooted people in Asian and Latin American developing countries and persons from one of these countries provisionally settled in another developing country and, in duly substantiated exceptional cases, in another country;
- (b) demobilised former soldiers, in Asian and Latin American developing countries, plus their families and, where appropriate, their local communities;
- (c) the local population of the host territories particularly affected whose social, economic and administrative resources contribute to receiving and assisting uprooted people and demobilised former soldiers, for the purposes of longer-term projects designed to bring about the self-sufficiency, integration or reintegration of such persons.

Article 5

Operations carried out under this Regulation shall complement those provided for by other Community instruments governing short-term humanitarian aid and long-term development cooperation.

Article 6

1. In the context of the operations referred to in Article 3, Community support may include the financing of action to provide technical assistance, training and other services, supplies, works, studies (which should, as far as possible, be entrusted to or involve collaboration with consultants either of the host country or stationed there, and involve universities and research institutes), audits and evaluation and monitoring missions.

2. Community financing may cover investment expenditure, including the purchase of real estate, when the latter is necessary for the direct implementation of the operation and provided that ownership is transferred to the beneficiary's local partners or the final beneficiaries of the operation once the latter has come to an end. It may also cover, in duly substantiated cases and taking into account the fact that the project must, as far as possible, aim at medium-term viability, recurring expenditure (including administrative expenditure, maintenance and running costs), so that maximum use is made of the investments referred to in paragraph 1, the operation of which temporarily represents a burden for the partner.

CHAPTER II

Procedures for the implementation of the aid

Article 7

1. Community financing under this Regulation shall take the form of grants.

2. A financial contribution from the partners referred to in Article 10 shall be sought for each cooperation operation. This contribution will be requested having regard to the capacity of the partners concerned and the nature of each operation. In specific cases and when the partner is either a non-governmental organisation (NGO) or a community-based organisation, the contribution may be made in kind.

3. Opportunities may be sought for cofinancing with other donors, and especially with the Member States.

Article 8

1. The Commission shall be responsible for appraising, deciding or administering the operations covered by this Regulation in accordance with the budgetary and other procedures in force, in particular those laid down in Articles 2, 116 and 118 of the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾.

2. All operations backed by Community aid shall be implemented in accordance with the objectives set out in the Commission's financing decision.

Article 9

Operations financed by the Community under this Regulation shall be implemented by the Commission, either at the request of the partners or on its own initiative.

Article 10

1. Partners eligible for financial support under this Regulation shall be regional and international organisations, including United Nations agencies, NGOs, national, provincial and local administrations and agencies, community-based organisations, and public or private institutes and operators.

2. Community assistance is available to partners who have their main office in a Member State or a third country that is a recipient of Community assistance under this Regulation, provided that this office is the actual centre directing operations relating to their business activities. In exceptional cases, this office may be located in another third country.

Article 11

Without prejudice to the institutional and political context in which the partners conduct their activities, the following elements shall be taken into consideration for determining whether a partner may have access to Community financing:

- (a) its experience in the field of assistance to uprooted people;
- (b) its administrative and financial management capacity;
- (c) its technical and logistical capacity in relation to the planned operation;

⁽¹⁾ OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Council Regulation (EC, ECSC, Euratom) No 762/2001 (OJ L 111, 20.4.2001, p. 1)

- (d) where applicable, the results of operations previously carried out, particularly those that received Community financing;
- (e) its capacity to develop cooperation with other actors from civil society in the third countries concerned;
- (f) its commitment to defending, respecting and promoting human rights, democratic principles and humanitarian law.

Article 12

1. Assistance shall be granted to partners only if they undertake in writing to comply with the allocation and implementation conditions laid down by the Commission.

2. Where operations are the subject of financing agreements between the Community and countries which benefit from operations financed under this Regulation, the agreements shall stipulate that the payment of taxes, duties and charges shall not be financed by the Community.

3. Any financing agreement or contract concluded under this Regulation shall stipulate that the Commission, the Court of Auditors and the European Anti-Fraud Office (OLAF) may carry out, if necessary, on-the-spot checks according to the usual arrangements laid down by the Commission under the provisions in force, particularly those in the Financial Regulation applicable to the general budget of the European Communities.

4. The necessary measures shall be taken to emphasise the Community character of aid provided under this Regulation.

Article 13

1. Participation in invitations to tender and the award of contracts shall be open on equal terms to all natural and legal persons of the Member States and of the host country. It may be extended to operators in other developing countries and, in exceptional cases, to other third countries.

2. Supplies shall originate in the host country, other developing countries or the Member States. In exceptional cases supplies may originate elsewhere.

Article 14

1. In order to secure the objectives of consistency and complementarity referred to in the Treaty and to ensure maximum effectiveness of the operations provided for in this Regulation, these shall be subject to on-the-spot operational

coordination and shall form an integral part of the country strategy process.

2. The Commission, in liaison with the Member States, may take any initiative necessary for ensuring proper coordination with the other donors concerned, in particular those forming part of the United Nations system, including the Office of the High Commissioner for Refugees.

CHAPTER III

Implementation of operations

Article 15

1. The financial framework for the implementation of this Regulation for the period from 2001 to 2004 is hereby set at EUR 200 million.

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

Article 16

Decisions concerning operations for which financing under this Regulation exceeds EUR 4 million and any changes to these operations that entail a cost overrun of more than 20 % of the amount initially fixed for the operation concerned shall be adopted in accordance with the procedure referred to in Article 18(2).

Article 17

1. The Commission shall be authorised to approve, without recourse to the procedure referred to in Article 18(2), any supplementary commitments needed for covering expected or real cost overruns in connection with the operations, where the overrun or additional requirement is 20 % or less of the initial commitment laid down by the financing decision.

2. The Commission shall inform the committee referred to in Article 18(1) succinctly of the financing decisions which it intends to take with regard to operations of less than EUR 4 million in value. This information shall be made available not later than one week before the decision is taken.

Article 18

1. The Commission shall be assisted by the committee instituted under Article 15 of Council Regulation (EEC) No 443/92 ⁽¹⁾.

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 laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

⁽¹⁾ OJ L 52, 27.2.1992, p. 1.

CHAPTER IV

Reporting and final provisions*Article 19*

1. An exchange of views shall take place once a year on the basis of a presentation by the representative of the Commission of the strategic guidelines for the operations to be carried out in the years ahead, within the Committee referred to in Article 18(1). The guidelines shall include, as far as possible, measurable objectives and deadlines for specific actions. These guidelines shall be drawn up following consultation with departments responsible, in the field or at headquarters, for programming, implementation and evaluation.

2. After each budget year, the Commission shall submit, in its annual report on Community development policy to the European Parliament and to the Council, information on the operations financed in the course of that year and the Commission's conclusions on the implementation of this Regulation over the previous budget year. The summary shall in particular provide information about the strengths and weaknesses of operations, those with whom contracts have been concluded as

well as the results of any independent evaluations of specific operations.

3. At the latest one year before the expiry of this Regulation, the Commission shall submit an independent overall assessment report on the implementation of this Regulation to the European Parliament and the Council with a view to establishing whether its objectives have been achieved and providing guidelines for improving the effectiveness of future operations. The report shall assess the effectiveness of action taken following performance audits and independent evaluations.

Article 20

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

It shall apply until 31 December 2004.

The renewal of this Regulation will be dependent on the results of the independent overall assessment report referred to in Article 19(3) and the possibilities for integrating this Regulation into a single framework Regulation for Asia and Latin America.

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

Done at Luxembourg, 29 October 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

L. MICHEL
