



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.07.1997
COM(97) 420 final

Proposal for a
COUNCIL REGULATION (EC)

**amending Regulation (EC) No 1628/96 of 25 July 1996 relating to aid
for Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia
and the former Yugoslav Republic of Macedonia**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The regulation concerning aid for reconstruction to ex-Yugoslavia contains an annex concerning the award of contracts. This annex will not be applied before the 1st January 1998 and may be amended by the Council acting by a qualified majority on a proposal from the Commission (cf. Art. 11, 3rd alinea of the the regulation).

The Commission may put forward a proposal from 1st July 1997.

During negotiations in the working group of the Council on 5th June 1996 the annex was discussed in detail and an agreement was reached on a text (Doc.7545/96). However, the text did not find unanimity on the level of the Council.

The present amendment and the statement of the Commission correspond to the result of the working group (see annexes I and II).

The proposal is based on Article 11 of the Regulation which states that "this annex may be amended by the Council acting by qualified majority".

The Council is invited to:

1. adopt the annexed proposition;
2. take note of the annexed statement of the Commission.

ANNEX I

Proposal for a COUNCIL REGULATION (EC)

amending Regulation (EC) No 1628/96 of 25 July 1996 relating to aid for Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation 1628/96, and in particular Article 11, which states that the annex to the said regulation may be amended by the Council acting by a qualified majority on a proposal from the Commission, which the latter may put forward from 1 July 1997,

Having regard to the proposal from the Commission,

Whereas the Annex to Regulation No 1628/96 contains rules governing the award of contracts by tendering, in particular restricted tendering, for projects in the field referred to in the second, sixth and seventh indents of Article 4(2),

Whereas Article 11 of the Regulation requires the Commission to follow those rules as of 1 January 1998,

Whereas the Commission put forward a proposal for an amendment on,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to the Regulation shall be replaced by the following:

1. The Commission shall chair all evaluation committees and shall appoint a sufficient number of evaluators before invitations to tender are issued. One evaluator should come from the recipient institution of the country concerned. All evaluators shall sign a declaration of impartiality.
2. Companies, organizations or institutions which have expressed interest in a project in writing shall be informed whether or not they have been included on the short-list. Unsuccessful tenderers shall be informed by letter of their rejection.”

Article 2

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

It shall apply until 31 December 1999.

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

ANNEX II

STATEMENT BY THE COMMISSION

1. Any natural or legal person involved in the preparation of a project shall be excluded from participation in its implementation. If any participating tenderer employs such persons, in any capacity, within six months of the termination of their involvement in the tender process that tenderer may be excluded from participation in the project. Any tenderer included in a short-list shall be excluded from participation in the evaluation of that tender.

2. A minimum period of 30 days shall elapse between the Committee's final opinion and the issue of the invitation to tender. In emergencies, however, the Commission may reduce this period, provided that a detailed explanation is supplied to the Committee.

An invitation to tender shall allow a time-limit of 30 days from the date of publication/dispatch of the letter of invitation. In emergencies this period may be reduced but it may never be less than 20 days.

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