



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

on operations to aid uprooted people in Asian and Latin American developing countries

(presented by the Commission)

EXPLANATORY MEMORANDUM

The cooperation and development policy referred to in Article 177 of the Treaty establishing the European Community highlights the need to help people who have felt obliged to leave their place of residence as a result of serious threats to their personal safety.

By the same token, it is essential that aid instruments be developed that address the needs of host communities or those in places to which refugees return, within or outside the country concerned.

The aims of budget headings B7-302 and B7-312 are precisely that: to help uprooted people (refugees, displaced persons and returnees) in Asia and Latin America by creating the best possible conditions for integration or reintegration.

The overall trend in recent years has been to fewer major migrations, due to saturation of third countries' ability to take in refugees, the chief consequence of which has been that operations have been geared more to return, reintegration, rehabilitation and reconstruction.

With the spread of democracy and peace in Latin America, the relevant budget heading (B7-312) has not been used in 2000 and is very unlikely to be used in the years to come. However, it seems prudent to retain the same geographical coverage for the Regulation concerned so that the Community can still act in the event of crisis-related migration.

Operations under this Regulation belong basically to the intermediate, rehabilitation phase in the emergency aid/rehabilitation/development continuum, coming between humanitarian crisis response and development cooperation. They are designed gradually to take over from emergency aid and facilitate the transition to a development strategy.

They therefore form part of an overall rehabilitation strategy for people who are or have been affected by internal or external conflict. In this context, coordination, consistency and complementarity with other aid instruments and the policies of Member States and the international community remains essential.

Having expired on 31 December 1999, Regulation (EC) No 443/97 (which governed these operations from 1997 to 1999) was extended until 31 December 2000 by Regulation No 1880/2000 of 17 July 2000.

There is now a need for a new legal instrument enabling operations to continue after 31 December 2000 for an indefinite period.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL

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 of 28 July 1951 relating to the Status of Refugees, the New York Protocol of 31 January 1967 and many resolutions.
- (2) The 1948 Universal Declaration of Human Rights, the 1966 International Treaty on Economic, Social and Cultural Rights, the 1979 Convention on the Elimination of all Forms of Discrimination against Women and the 1989 Convention on Children's Rights also addresses 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) Links and synergies between emergency aid, rehabilitation and development aid must be strengthened to improve complementarity and ensure consistency in the Community's operations.
- (6) Support programmes for uprooted people and demobilised former soldiers are an integral part of an overall rehabilitation strategy for Latin American and Asian 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.

¹ O J C

² O J C

³ O J C 10, 16.1.1984, p. 278.

- (7) For the countries in question, this type of aid is a necessary pre-condition for development and therefore contributes significantly to the objectives of the Community's cooperation policy.
- (8) The specialised bodies and agencies and NGOs have acquired considerable experience of helping uprooted people from implementing operations of this kind in the past.
- (9) 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. Aid to help them settle or resettle themselves should take the form of measures to develop self-sufficiency through agricultural production, livestock rearing, fish farming, setting up credit facilities, basic education and vocational training, and at ensuring decent levels of health and hygiene.
- (10) Until 31 December 2000, the legal basis for Community action in this field is Council Regulation (EC) No 443/97 of 3 March 1997 on operations to aid uprooted people in Asian and Latin American developing countries,⁴ as amended by Regulation (EC) No 1880/2000.⁵
- (11) This Regulation should enable the Community to continue its operations in these fields for an indefinite period.
- (12) Since the measures necessary for the implementation of this Regulation are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission,⁶ they should be adopted by use of the management procedure provided for in Article 4 of that Decision,

HAVE ADOPTED THIS REGULATION:

Chapter I

Purpose, scope and definitions

Article 1

The Community shall implement a programme of support and assistance to the persons referred to in Article 4 to contribute to their urgent requirements not covered by humanitarian aid and to carry out longer-term projects and programmes 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 longer-term solution to resolve their status.

⁴ OJ L 68, 8.3.1997, p. 1.

⁵ OJ L 227, 7.9.2000, p. 1.

⁶ OJ L 184, 17.7.1999, p. 23.

Article 2

For the purposes of this Regulation:

- (a) “refugees” are those persons defined as such in the Convention on the Status of Refugees adopted on 28 July 1951 by the United Nations Conference on the Status of Refugees and Stateless Persons;
- (b) “displaced persons” are persons who have been forced to seek refuge outside their region of origin owing to conflict situations but who do not enjoy refugee status as defined by the 1951 Convention;
- (c) “returnees” are former refugees or displaced persons who have returned to their country or region of origin;
- (d) “demobilised former soldiers” are 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 as such (refugees, displaced persons and returnees) and demobilised former soldiers;
 - (b) aid to local host communities and resettlement areas to foster acceptance and integration of uprooted persons;
 - (c) helping those people return to and settle in their countries of origin or third countries;
 - (d) support, where applicable, for any operation to reconcile parties to a conflict;
 - (e) operations to help persons recover their belongings or property rights and aid for the legal settlement of human rights violations against the people in question.
2. 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 as such (refugees, displaced persons and returnees) in Latin American and Asian developing countries and persons from one of these countries provisionally settled in another developing country and, in duly substantiated exceptional cases, in another third country;

- (b) demobilised former soldiers of regular armies and armed opposition movements, 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 development cooperation.

Article 6

- 1. In the context of the operations referred to in Article 3, Community support may include the financing of studies (which shall, as far as possible, be carried out by consultants of the host country), technical assistance, training and other services, supplies, works, audits and evaluation and monitoring missions.
- 2. Community financing may cover both investment expenditure, excluding the purchase of real estate, and, 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 by the Financial Regulation applicable to the general budget of the European Communities.
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;
- (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 and democratic principles.

Article 12

1. Assistance shall be granted to partners only if they give a contractual agreement 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 and the Court of Auditors may carry out 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 other developing countries and, in duly substantiated exceptional cases, to other third countries.
2. Supplies shall originate in the Member States, the host country, or other developing countries. In duly substantiated 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 these operations as a whole, the Commission may take all necessary coordination measures, including:
 - (a) establishing a system for the systematic exchange and analysis of information on the operations financed and those which the Community and the Member States propose to finance;
 - (b) on-the-spot coordination of the implementation of operations through regular meetings and exchanges of information between the representatives of the Commission and the Member States in the recipient country.
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

The budgetary authority shall determine the appropriations available for each financial year taking account of the principles of sound financial management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

Article 16

Decisions concerning operations for which financing under this Regulation exceeds 4 million euro 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. Where the supplementary commitment referred to in paragraph 1 is less than 8 million euro, the committee referred to in Article 18(1) shall be informed of the Commission's decision. Where the supplementary commitment is greater than 8 million euro but less than 20%, the committee will be asked to give its opinion.
3. 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 4 million euro 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 443/92.⁷
2. Where reference is made to this paragraph, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply, in compliance with Article 7 and Article 8 thereof.
3. The period provided for in Article 4(3) of Decision 1999/468/EC shall be one month.

⁷ 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 general guidelines for the operations to be carried out in the year ahead, within the Committee referred to in Article 18(1).
2. After each budget year, the Commission shall submit an annual report to the European Parliament and to the Council, summarising 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 those with whom contracts have been concluded. The annual report shall also summarise any independent evaluations of specific operations.
3. Every three years, the Commission shall submit an evaluation 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.

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*.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

FINANCIAL STATEMENT

1. TITLE OF OPERATION

Proposal for a Regulation of the European Parliament and the Council on operations to aid uprooted people in Asian and Latin American developing countries.

2. BUDGET HEADING(S) INVOLVED

B7-302 AID TO UPROOTED PEOPLE IN ASIAN COUNTRIES

B7-312 AID TO UPROOTED PEOPLE IN LATIN AMERICAN COUNTRIES

3. LEGAL BASIS

Article 179(1) of the EC Treaty, in conjunction with Article 251 thereof.

4. DESCRIPTION OF OPERATION

4.1 General objective

The general objective of the operation is to implement a programme of support and assistance to uprooted people to contribute to the urgent requirements not covered by humanitarian aid and for the longer term realisation of projects and action programmes aimed at the self-sufficiency and integration or reintegration of such people.

4.2 Period covered and arrangements for renewal

The Regulation is for an indefinite period.

5. CLASSIFICATION OF EXPENDITURE OR REVENUE

5.1 Non-compulsory expenditure

5.2 Differentiated appropriations

5.3 Type of revenue involved

6. TYPE OF EXPENDITURE OR REVENUE

– *Financial support under this Regulation is in the form of grants: efforts should be made to agree joint financing with other donors, NGOs and the private sector.*

– *Interest subsidy: No*

- *Should the operation prove an economic success, is there provision for all or part of the Community contribution to be reimbursed ? No*
- *Will the proposed operation cause any change in the level of revenue ? No*
- *Re-lending: None*

7. FINANCIAL IMPACT

7.1 Method of calculating total cost of operation (link between individual costs and total cost)

7.2 Itemised breakdown of cost

This annual breakdown is indicative and without prejudice to the outcome of the budgetary procedure.

Commitment appropriations in million euro (at current prices)

Breakdown	2001	2002	2003	2004	2005	2006	Total
B7-312	p.m.						
B7-302	40	40	40	40	40	40	240*
Total							

* includes 2 million euro every three years for consultants in charge of local coordination.

7.3 Support expenditure, studies, consultants meetings, publications and information; technical and administrative assistance expenditures included in Part B of the Budget

Commitment appropriations in million euro (at current prices)

	Year n	n + 1	n + 2	n + 3	n + 4	n + 5	Total
- Studies	0.3	0.3	0.3	0.3	0.3	0.3	1.8
- Consultants meetings	0.1	0.1	0.1	0.1	0.1	0.1	0.6
- Technical assistance	2.0	-	-	2.0	-	-	4.0
-Information and publications	0.11	0.11	0.11	0.11	0.11	0.11	0.66
Total	1.51	0.51	0.51	1.51	0.51	0.51	5.06

In the absence of a heading B7-302A, expenditures are to be assigned to heading B7-300A for administrative expenditures under heading B7-302 (Asia). Heading B7-312 (Latin America) contains a token entry (p.m.) for 2000.

7.4 Schedule of commitment / payment appropriations

The following table shows payments under the 2001-2006 budgets, excluding those for execution in that period under a previous year's budget.

EUR million

Commitment appropriations	2001	2002	2003	2004	2005	2006	Total
(B7-302)	40	40	40	40	40	40	
(B7-312)	p.m.						
Payment appropriations							
2000							
2001	10						
2002	20	10					
2003	10	20	10				
2004		10	20	10			
2005			10	20	10		
2006				10	20	10	
					10	20	
						10	
Total	40	40	40	40	40	40	

8. FRAUD PREVENTION MEASURES

- The administrative monitoring of contracts and payments will be handled by the Commission from Brussels (Common Service for External Relations - SCR). Under the policy of administrative deconcentration, Commission Delegations will be called upon progressively to take on all or part of this work.
- Project implementation will be monitored at all stages of the project cycle (selection, contracts, performance of contracts, payments) by the Commission from Brussels and in the Delegations. Checks will focus on respect of contractual obligations and will be based on the principles of cost/benefit analysis and sound financial management.

- In addition, SCR, DG Audit, OLAF and the Court of Auditors will carry out audits and checks, including some on-the-spot, on expenditures authorised under the programme and the satisfactory implementation of operations. Routine financial audits, particularly those conducted in the lifetime of the project, will complement the fraud prevention measures.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

9.1 Specific and quantified objectives; target population

- Given the volatile nature of the situations that these operations seek to address, it is impossible to quantify specific objectives.
- The target populations are uprooted people (refugees, displaced persons and returnees) and demobilised soldiers in Asia and Latin America.

9.2 Grounds for the operation

Need for Community financial aid

A link needs to be provided between humanitarian aid and rehabilitation or development operations by helping these groups in the very delicate transitional phase often following an armed conflict.

Choice of ways and means

Ways and means are chosen in the light of the situations where it has been decided to take action. It is essential that a high degree of flexibility be retained in this respect.

As far as possible, the Commission will encourage the NGOs likely to qualify for support from the Community budget under this Regulation to form consortia.

Main factors of uncertainty which could affect the specific results of the operation

Significant changes in the security situation in the areas concerned.

9.3 Monitoring and evaluation of the operation

Operations will be monitored by the various Commission departments in Brussels (particularly the SCR) and the Delegations. Independent evaluations (every three years) are provided for in Article 19(3) of the Regulation.

10. ADMINISTRATIVE EXPENDITURE (PART A OF SECTION III OF THE GENERAL BUDGET)

This section of the Financial Statement must be sent to DG Admin and DG Budg; DG Admin will pass it on to DG Budg along with its opinion.

10.1 Effect on the number of posts (5)

The requirements in staff and administrative resources must be covered by the amount allocated to the operating DG.

Type of post		Staff required to manage the operation (1)		Source	Duration
		<u>Permanent posts</u>	<u>Temporary posts</u>		
Officials or temporary staff	A	1		5	12 months
	B	3			
	C	1			
Other resources			6 (2)	6 (3)	
Total		5	6	11	

(1) DG Relex and SCR.

(2) 3 A-grade and 3 B-grade auxiliary staff.

(3) including 1 A-grade and 3 B-grade additional auxiliary staff

10.2 Overall financial impact of human resources

	EUR	Method of calculation
Officials	540 000	5 man/years x EUR 108 000 x 12 months (A1, A2, A4, A5 and A7)
Temporary staff		
Other resources (heading A-7000 - auxiliary staff)	648 000	6 man/years x EUR 108 000 x 12 months (A1, A2, A4, A5 and A7)
Total	1 188 000	

Amounts reflect the total cost of the posts for the entire duration of the operation if it is of specified duration, and for 12 months if it is of unspecified duration.

10.3 Increase in other administrative expenditure as a result of the operation

Budget heading	EUR	Method of calculation
A-7010	36 000	6 people x 2 missions/year x EUR3 000
Total	36 000	

Amounts reflect the total cost of the posts for the entire duration of the operation if it is of specified duration, and for 12 months if it is of unspecified duration.



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