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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1484/97

of 22 July 1997

on aid for population policies and programmes in the developing countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130w thereof,

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

Acting in accordance with the procedure laid down in Article 189c of the Treaty (2),

(1) Whereas the capacity of most developing countries to achieve sustainable human development is hampered by many obstacles, one of them being the high rate of population growth; whereas these countries have adopted national population programmes;

(2) Whereas the International Conference on Population and Development held in Cairo in 1994 adopted a programme of action;

(3) Whereas the Council, in its resolution of 11 November 1986 concerning population and development and that of 18 November 1992 concerning family planning and cooperation with the developing countries, recognized the urgent need to satisfy unmet demand for family-planning services, at the same time stressing the need to help the developing countries implement broad-based population programmes encompassing all the different factors determining control over fertility;

(4) Whereas the European Parliament hearing of 25 November 1993 highlighted the complex relationship between population and development; whereas, up to a point, population growth may promote economic development; whereas, however, the very high rates of growth observed in a number of developing countries make it impossible to satisfy the needs thus generated and to open up prospects for sustainable development, notably as far as the environment is concerned;

(5) Whereas a more moderate demographic development would be promoted through the following:

— a fairer distribution of income among different groups in a society,

— an economic policy which makes it possible for poor women and men to develop a diversified livelihood,

— investments in infrastructure with importance to people's health, such as clean water, improved sewerage systems and acceptable housing,

— a health policy which improves the access to health services for the poor, and

— improved access and quality for general education and training for women and girls;

(6) Whereas a number of developing countries have entered a phase of demographic transition characterized by a significant reduction in the fertility rate, which points at a change in attitude conducive to a reduction in family size; whereas other developing countries have not entered this phase and should therefore receive special assistance;

(7) Whereas individual freedom of choice for women, men and, in particular, adolescents through adequate access to information and services in matters concerning their reproductive rights is a significant element of progress and development;

(1) OJ No C 310, 22. 11. 1995, p. 13, and OJ No C 323, 29. 10. 1996, p. 7.

(2) Opinion of the European Parliament of 24 May 1996 (OJ No C 166, 10. 6. 1996, p. 252), Council Common Position of 22 November 1996 (OJ No C 6, 9. 1. 1997, p. 8) and Decision of the European Parliament of 13 March 1997 (OJ No C 115, 14. 4. 1997, p. 133).

(8) Whereas the Community has been helping to finance specific measures and pilot schemes in pursuit of these objectives since 1990; whereas it is time for the Community to step up its cooperation in this particular area, in accordance with the programme of action of the said Cairo International Conference;

(9) Whereas the Community upholds the right of individuals to decide on the number and spacing of their children; whereas it denounces any violation of human rights in the form of compulsory abortion, compulsory sterilization, infanticide, rejection, abandonment and abuse inflicted on unwanted children as a means of curbing population growth;

(10) Whereas no support is to be given under this Regulation to incentives to encourage sterilization or abortion nor to the improper testing of contraception methods in developing countries;

(11) Whereas the Community has undertaken to follow up the aforementioned Cairo International Conference, notably by increasing its financial support for population programmes in the developing countries;

(12) Whereas, when cooperation measures are implemented, the decision adopted at the Cairo International Conference, according to which abortion can never be promoted as a family-planning method, has to be rigorously observed;

(13) Whereas the recipient countries must be helped to introduce population programmes that are compatible with sustainable development and to develop strategies aimed at giving women the power to decide and achieving equality between women and men, which are determining factors in enabling women to exercise choice over child-bearing, uptake of family planning and control over their own reproductive health, through measures in a variety of social, economic and cultural sectors, and in particular the key sectors of education and health;

(14) Whereas, to be truly effective, such population programmes must be part of an overall policy to combat poverty and counter the threats on the environment;

(15) Whereas new operations of this kind will be effective only if they are accompanied by sustainable development enabling the harmonious and progressive integration of the developing countries into the world economy;

(16) Whereas non-governmental organizations and private operators can play an essential role in ensuring the success of health, education and family-planning policies, in particular among women, who are central to any sustainable human development policy, and adolescents;

(17) Whereas the measures taken under this Regulation are to be funded by grants from the general budget of the European Communities;

(18) 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;

(19) Whereas administrative rules and procedures must be laid down for cooperation in this field,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall conduct cooperation in support of population policies and programmes in the developing countries.

Article 2

Measures taken under this Regulation shall be directed primarily at those countries which are furthest away from the criteria defined by the Cairo International Conference on Population and Development, at the poorest and least developed countries and at the most disadvantaged sections of the population of developing countries.

Article 3

The assistance provided under this Regulation shall complement and reinforce assistance provided under other instruments of development cooperation in the education and health sectors with a view to taking population issues fully into account and to integrating them in Community programmes.

Article 4

1. In operations funded in the course of the cooperation referred to in Article 1, account shall be taken of the following priority objectives:

— enabling women, men and adolescents to make a free and informed choice about the number and spacing of their children,

— contributing to the creation of a socio-cultural, economic and educational environment conducive to the full exercise of that choice, especially for women and adolescents, and in particular through the condemnation and eradication of all forms of sexual violence, mutilation and abuse which affect their dignity and health,

— helping develop or reform health systems in order to improve the accessibility and quality of reproductive health care for women and men including adolescents, thereby appreciably reducing the risks to the health of women and children.

2. Community aid may be granted to projects involving activities in the following areas:

— support for the establishment, development and increased availability of reproductive health care services as part of policies and programmes implemented by governments, international bodies, NGOs and private operators, particularly targeting groups for whom the issue is especially important, such as adolescents, pregnant women and other groups as locally determined,

— help with the drafting, application or financing of policies which contribute to the better reproductive health of women and girls,

— the improvement of reproductive health care services, encompassing safe pregnancies, perinatal care, family planning, prevention and treatment of sexually transmitted diseases, including AIDS, in terms of infrastructure, equipment, supplies, training or research,

— support for information, education and awareness campaigns aimed at promoting better reproductive health and an understanding of population issues, including the wider social benefits of speeding up the demographic transition,

— family-planning policy and services including information on safe and effective family-planning methods,

— the development of grassroots structures, the voluntary sector, local NGOs and south-south cooperation for the implementation of programmes, the exchange of experience and support for cooperation networks between partners.

Article 5

The cooperation partners eligible for financial support under this Regulation shall be regional and international organizations, local and Member State based NGOs, national, provincial and local government departments and agencies, community-based organizations including women's organizations, institutes and public and private operators.

Article 6

Cooperation initiatives shall be implemend on the basis of dialogue with the national, regional and local authorities concerned so as to avoid programmes which are coercive, discriminatory or prejudicial to fundamental human rights. Account shall be taken of the economic, social and cultural background of the sections of population concerned, respecting universal human rights.

Women in particular shall be invited to take part in the design, planning, implementation and evaluation of all population projects and programmes.

Article 7

1. The instruments to be employed in the course of operations effected pursuant to Article 2 shall include studies, technical assistance, training or other services, supplies and works, along with audits and evaluation and monitoring missions.

2. According to the needs of the operations concerned, Community financing may cover both capital investment, other than the purchase of real estate, and operating costs in foreign or local currency. However, with the exception of training programmes, operating costs may normally be covered only during the start-up phase and on a degressive basis.

3. A financial contribution from the partners defined in Article 5 shall be sought for each cooperation operation. Their contribution shall be requested within the limits of the possibilities available to the parties concerned and depending on the nature of the operation concerned.

4. A financial contribution from the local partners, particularly in respect of operating costs, shall be sought as a matter of priority in the case of projects intended to launch long-term activities, so as to ensure the viability of such projects once Community funding comes to an end.

5. Opportunities may be sought for cofinancing with other fund providers, and especially with Member States.

6. The Commission shall ensure that the Community character of the aid provided under this Regulation is highlighted.

7. In order to achieve the objectives of consistency and complementarity referred to in the Treaty and with the aim of guaranteeing optimum effectiveness of all the operations concerned, the Commission may take all necessary coordination measures, including in particular:

(a) the establishment of a system for the systematic exchange and analysis of information on 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 exchange of information between representatives of the Commission and of the Member States in the beneficiary country.

8. In order to obtain the greatest possible impact globally and nationally, the Commission, in liaison with the Member States, shall take any initiative necessary for ensuring proper coordination and close collaboration with the beneficiary countries and the providers of funds and other international agencies involved, in particular those forming part of the United Nations system, and more specifically the United Nations Population Fund.

Article 8

Financial support under this Regulation shall take the form of grants.

Article 9

The financial reference amount for the implementation of this programme for the period 1998-2002 shall be ECU 35 million.

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

Article 10

1. The Commission shall be responsible for appraising, approving and managing operations covered by this Regulation in accordance with the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation of 21 December 1977 (1) applicable to the general budget of the European Communities.

2. Projects and programme appraisal shall take into account the following factors:

— effectiveness and viability of operations,

— cultural, social, gender and environmental aspects,

— institutional development necessary to achieve project goals,

— experience gained from operations of the same kind.

3. Decisions relating to grants of more than ECU 2 million for individual operations financed under this Regulation and any changes resulting in an increase of more than 20 % in the sum initially approved for such an operation shall be adopted under the procedure laid down in Article 11.

The Commission shall inform the Committee referred to in Article 11 succinctly of the financing decisions which it intends to take with regard to projects and programmes of less than ECU 2 million in value. The information shall be made available not later than one week before the decision is taken.

4. The Commission shall be authorized to approve, without recourse to the opinion of the Committee provided for in Article 11, any supplementary commitments needed for covering expected or real cost overruns in connection with the operations, where the overrun or additional requirement is less than, or equal to, 20 % of the initial commitment fixed by the financing decision.

5. All financing agreements or contracts concluded under this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks according to the usual procedures laid down by the Commission under the rules in force, and in particular those of the Regulation referred to in paragraph 1.

6. Where operations are the subject of financing agreements between the Community and the recipient country, such agreement shall stipulate that the payment of taxes, duties or any other charges is not to be covered by the Community.

7. Participation in invitations to tender and the award of contracts shall be open on equal terms to natural and legal persons of the Member States and of the recipient country. It may be extended to other developing countries.

8. Supplies shall originate in the Member States, the recipient country or other developing countries. In exceptional cases, where circumstances so warrant, supplies may originate elsewhere.

9. Particular attention shall be given to:

— the pursuit of cost-effectiveness and sustainable impact in project design,

— the clear definition and monitoring of objective and indications of achievement for all projects.

(1) OJ No L 356, 31. 12. 1977, p. 1. Regulation as last amended by Regulation (EC) No 2335/95 (OJ No L 240, 7. 10. 1995, p. 12).

Article 11

1. The Commission shall be assisted by the geographically-determined committee competent for development.

2. 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.

3. 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, in the framework of a joint meeting of the committees pursuant to paragraph 1.

Article 12

1. At the end of each budget year, the Commission shall present a report to the European Parliament and the Council comprising a summary of the operations financed in the course of that year and evaluating the implementation of this Regulation over that period.

The summary shall in particular contain information on those with whom contracts have been concluded.

2. The Commission shall regularly assess operations financed by the Community with a view to establishing whether the objectives aimed at by such operations have been achieved and to provide guidelines for improving the effectiveness of future operations. The Commission shall submit to the committee referred to in Article 11 a summary of the assessments made which, if appropriate, may be examined by the committee. The assessment reports shall be made available to any Member States requesting them.

3. The Commission shall inform the Member States, at the latest one month after its decision, of the operations and projects approved, stating their cost and nature, the recipient country and partners.

Article 13

1. 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 be applicable until 31 December 2002.

2. Three years after this Regulation enters into force, the Commission shall submit to the European Parliament and the Council an overall assessment of operations financed by the Community under this Regulation, which may include suggestions regarding the future of this Regulation and, where necessary, proposals for amending or prolonging it.

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

Done at Brussels, 22 July 1997.

For the Council

The President

J. POOS