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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2046/97

of 13 October 1997

on north-south cooperation in the campaign against drugs and drug addiction

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),

Whereas the impact on the structures of a developing society of an economy based on the production of drugs, or which derives a substantial revenue from them, undermines a country's smooth integration into the world economy;

Whereas the breakdown of social structures in developing countries due to drug consumption and the related industry is detrimental to sustainable social development and the attainment of the goals of Community policy in the sphere of development cooperation as defined in Article 130u of the Treaty;

Whereas as part of the effort to combat the supply of drugs it is essential, in particular, to effect a radical reduction of poverty in the south and to offer the population a lawful alternative to the growing of illegal crops;

Whereas institutional support should be given to those developing countries which so request so that they can combat drugs more effectively;

Whereas in a communication to the Parliament and to the Council dated 23 June 1994, the Commission presented its guidelines for a European Union plan of action on drugs for 1995-1999, including measures at international level;

Whereas Parliament stated its views on the guidelines in its Opinion on the communication, adopted on 15 June 1995;

Whereas the Fourth ACP-EC Convention and the cooperation, association and partnership agreements concluded by the European Community with developing countries contain clauses on cooperation to curb drug abuse and drug trafficking, the monitoring of trade in precursors, chemical products and psychotropic substances and the exchange of relevant information, including measures in the field of money laundering; whereas there is a relationship between the campaign against drugs and drug addiction and the aims of the cooperation policy pursued by the Community and its developing-country partners;

Whereas the international community's strategy to curb drug abuse and drug trafficking is based on universal accession to the Single Convention on narcotic drugs of 1961, as amended by the Protocol of 1972, the Convention on psychotropic substances of 1971 and the International Convention against illicit traffic in narcotic drugs and psychotropic substances of 1988, and on the systematic implementation of those conventions at national and international level;

Whereas the European Community is a party to the Convention of 1988, in particular by virtue of Article 12 of that Convention, and has adopted Community legislation based on the recommendations of the Chemicals Action Task Force set up by the G7 and the President of the Commission in 1989, the effectiveness of which would be generally enhanced by the adoption of the relevant legislation and procedures in other parts of the world;

Whereas effective action against drugs must also encompass measures against the laundering of money from drug trafficking, such as the adoption of a suitable legal framework and appropriate mechanisms in the countries concerned;

Whereas human rights must be duly respected in implementing measures under this Regulation;

(1) OJ C 242, 19. 9. 1995, p. 8.
(2) Opinion of the European Parliament of 19 April 1996 (OJ C 141, 13. 5. 1996, p. 252), Council Common Position of 22 November 1996, (OJ C 6, 9. 1. 1997, p. 1) and Decision of the European Parliament of 13 March 1997 (OJ C 115/97, 14. 4. 1997, p. 127).

Whereas the Member States of the European Community have endorsed the policy statement and general plan of action adopted by the UN General Assembly at its 17th special session;

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 period 1998-2000, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

In the framework of its development cooperation policy and taking account of the harmful effects on development efforts of the production, trading and consumption of drugs, the Community shall carry out cooperation activities in the field of drugs and drug addiction in developing countries, giving priority to those which have demonstrated political will at the highest level to solve their drug problem. The existence of such will may be demonstrated *inter alia* by ratification of the Single Convention of 1961 as amended by the Protocol of 1972, the Convention of 1971 and the Convention of 1988. Commitment on the part of developing countries shall take the form, *inter alia*, of the implementation of domestic legislation against laundering of money generated through illicit drugs.

Article 2

The assistance provided under this Regulation shall complement and reinforce assistance provided under other instruments of development cooperation.

Article 3

The Community shall give priority at the request of a partner country to supporting the preparation of a national drug control master plan, in close consultation with the United Nations International Drug Control Programme (UNDCP). These plans will identify objectives, strategies and priorities in the campaign against drugs and the related resource requirements (including financial requirements), thus establishing an integrated, multidisciplinary and multisectoral approach designed to maximize the efficiency of national drug control programmes and international assistance.

The prevention of drug addiction, together with demand reduction, shall be addressed in a consistent policy comprising education and objective information about the consequences of addiction, targeted especially at young people.

Community cooperation shall take place in a spirit of dialogue reflecting the genuine cultural differences which affect the perception of drug-related problems, this being crucial to ensure the social and political viability of drug control strategies.

Article 4

Preferably operating within the strategic framework established by the national plans, the Community shall also support specific operations capable of a measurable impact (i.e. effective and tangible results within a time-limit set in advance) in the following areas:

— development of institutional capacity, in particular for the implementation of:

  — National Drug Control Plans by developing countries,

  — agreements between the Community and certain developing countries, in particular to combat the diversion of chemical precursors and to curb money laundering,

— demand reduction, in particular through analysis of local patterns, the introduction of measures to control trade in and consumption of narcotics and psychotropic substances, treatment and reintegration of drug addicts, as well as risk limitation. These measures must be integrated into policies on health and education, development and combating poverty and social and economic exclusion,

— promotion of pilot alternative development projects, conceived as a process by which the production of illicit drug crops is eventually both combatted and eliminated through appropriate rural development measures in the context of sustained national economic growth. These projects shall comprise social and economic measures which take into account factors contributing to illicit production as well as measures which may facilitate improved use of commercial preferences. In this connection, it shall be systematically examined whether it is possible to make more use of other Community financial instruments (e.g. ALA) and the European Development Fund for alternative development projects,

— financing of studies, seminars and fora for the exchange of experience in the above fields.

Particular attention shall be paid to the participation of local people and target groups in identifying, planning and carrying out operations.

The Community shall only finance projects in which respect for human rights is guaranteed.

Article 5

The cooperation partners eligible for financial support under this Regulation shall be regional and international organizations, in particular UNDCP, local- and Member State-based non-governmental organizations, national, provincial and local government departments and agencies, community-based organizations, institutes and public and private operators.

Article 6

1. The instruments to be employed in the course of the operations referred to in Articles 3 and 4 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 will 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 will 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 these operations, the Commission may take all necessary coordination measures, including in particular:

(a) 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 UNDCP.

Article 7

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

Article 8

The financial reference amount for the implementation of this programme during the period 1998-2000 shall be ECU 30 million.

Annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspectives.

Article 9

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 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 10.

The Commission shall inform the Committee referred to in Article 10 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 10, 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 Financial Regulation applicable to the general budget of the European Communities.

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 warrant, supplies may originate elsewhere.

9. Particular attention will be given to:

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

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

Article 10

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 referred to in paragraph 1.

Article 11

1. At the end of each budget year, the Commission shall present a report to Parliament and the Council summarizing 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 about 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 providing guidelines for improving the effectiveness of future operations. The Commission shall submit to the Committee referred to in Article 10 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 12

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

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 together with suggestions regarding the future of this Regulation and, where necessary, proposals for amending or terminating it.

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

Done at Luxembourg, 13 October 1997.

For the Council

The President

J.-C. JUNCKER