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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 550/97
of 24 March 1997
on HIV/AIDS-related operations in 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 referred to in Article 189c of the Treaty (2),

Whereas the budgetary authority decided, in the framework of the 1988 budget, to create a budget heading designed to support the fight against the HIV/AIDS epidemic whereby it would seek to develop innovative measures complementing those already implemented at other levels;

Whereas the Commission, in its communication of 7 January 1994 to the Council and the European Parliament on HIV/AIDS in the developing countries, outlined the policy principles and strategic priorities needed to enhance the effectiveness of action by the Community and the Member States in that field;

Whereas HIV/AIDS is no longer an emerging epidemic, but has become a pandemic spread throughout the whole world, and is evolving with different social and political implications, depending on the regions and/or countries in question, and thus requires an appropriate structural and multisectoral response which is beyond the financial and human resources of most developing countries;

Whereas the Council, in its Resolution of 6 May 1994, emphasized the gravity of the HIV/AIDS epidemic and the need to step up efforts to give more support to the developing countries' national strategies; whereas it identified, as priorities for such support, strategies aimed at more effective prevention of transmission based on education, the promotion of sexual and reproductive health and transfusion safety, along with strategies to help the HIV-positive and the sick, in particular by strengthening health systems and combating discrimination and social exclusion;

Whereas the European Parliament and the EC-ACP Joint Assembly, in their respective Resolutions adopted on 14 April 1986 and 15 February 1993, also underlined the need to take greater account of causes and factors such as poverty in the spread of the epidemic, and of the economic and social consequences of HIV/AIDS, notably through measures designed to enhance the status of women and help local communities care for families and individuals affected by the pandemic;

Whereas both the European Parliament and the Council have called for increased Community involvement in this field;

Whereas the effectiveness of programmes to support national strategies to combat HIV/AIDS depends on improved coordination of aid both at European level and with other donors and UN agencies, in particular Unaids, and on the use of flexible procedures tailored to the specific nature of the activities and the partners concerned; whereas the European Parliament and Council Resolutions call for efforts in that direction;

Whereas administrative rules and procedures should be established for cooperation in the field of HIV/AIDS;

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 (3) is included in this Regulation for the period 1997 to 1999 without thereby affecting the powers of the budgetary authority as they are defined by the Treaty,

(1) OJ No C 252, 28. 9. 1995, p. 4.
(2) Opinion of the European Parliament of 9 May 1996 (OJ No C 152, 27. 5. 1996, p. 44), Council Common Position of 27 June 1996 (OJ No C 264, 11. 9. 1996, p. 21) and Decision of the European Parliament of 12 November 1996 (OJ No C 362, 2. 12. 1996, p. 43).
(3) OJ No C 102, 4. 4. 1996, p. 4.

HAS ADOPTED THIS REGULATION:

Article 1

1. The Community shall implement a programme to assist the developing countries (hereinafter 'the programme') in their efforts to minimize the spread of the HIV/AIDS epidemic and help them cope with its impact on health and social and economic development.

The programme shall be directed primarily at the poorest and least developed countries and the most disadvantaged sections of the population of developing countries.

The Community shall give priority to pursuing the following aims:

(a) reducing the transmission of HIV/AIDS and the spread of other diseases capable of being transmitted sexually or perinatally;

(b) reinforcing health and social services so that they can cope with the growing demands of the spreading epidemic;

(c) helping governments and communities to assess the epidemic's impact on different economic sectors and social groups, and to define and implement strategies to cope with it;

(d) developing scientific understanding of the epidemic and of the impact of measures, with a view to improving their quality, while excluding basic research;

(e) combating discrimination against, and the social and economic exclusion of, persons infected with HIV/AIDS.

2. To attain the objectives referred to in paragraph 1, the Community shall support a series of measures which shall take into account the following fundamental policy principles, namely, they shall:

(a) be adapted to the risk arising from the socio-economic environment and to the requirements of vulnerable groups as determined by individual behaviour and socio-economic and demographic factors;

(b) be gender-specific;

(c) be based on respect for the rights of the individual and provide social training for the persons concerned;

(d) increase the motivation of individuals and communities and enable them to assume their responsibilities and become more self-reliant;

(e) be integrated into health, education and other policies;

(f) be adapted to the various stages of development of the epidemic;

(g) encourage both political and financial commitment by governments to respond to HIV/AIDS.

Article 2

The measures to be taken to achieve the priority objectives mentioned in Article 1 shall support strategies developed at international, regional and national level with the beneficiary countries and shall include, as regards each objective:

1. reducing the transmission of HIV/AIDS and the spread of other diseases capable of being transmitted sexually or perinatally through:

   (a) information and education on sexual and reproductive health and rights as regards reproduction; special attention shall be given to making the measures specially adapted and accessible to the target groups, notably people in high-risk environments and the most socially and economically vulnerable individuals and communities, in particular women and young people. Such measures shall also include dialogue with religious communities;

   (b) greater efficiency in reducing the transmission of HIV and sexually transmitted diseases (STD), inter alia through the promotion of better screening and treatment methods for such diseases;

   (c) improved availability and use of different means and methods of protection, including the safety of blood transfusions and other forms of injection;

   (d) support for the HIV/AIDS problem to be taken into account in development policies and strategies;

   (e) support for measures that aim to increase women's power of decision in all areas of sexuality and reproductive health, to enable them to encourage the widespread use of different means and methods of protection against HIV/STD infection and transmission, act accordingly and protect the health of unborn children and to increase awareness of, and responsibility for, these issues in the population, especially the male population;

2. reinforcing health and social services so that they can cope with the growing demands of the spreading epidemic through:

   (a) strengthening health services, particularly primary health services, by taking steps to increase national, regional and local capacities to develop preventive activities and care and to improve access for the most vulnerable;

(b) studying ways and means of improving access to treatment for people infected with HIV in the poorest countries. This study should be conducted in close collaboration with the United Nations agencies, concerned NGOs, pharmaceutical laboratories and the Member States of the European Union;

(c) strengthening capacities with regard to blood transfusion and nosocomial safety;

(d) improved training for medical and paramedical personnel;

(e) improved notification and statistical systems for epidemiological monitoring;

3. helping governments and communities to assess the epidemic's impact on different economic sectors and social groups and to define and implement strategies to cope with it through:

(a) technical back-up to help governments analyse the social and economic impact of the epidemic and develop and implement suitable strategies in the sectors concerned;

(b) technical and financial support to enable non-governmental organizations (NGOs) and local communities to optimize their contribution to prevention and care, notably through help with the formation of networks intended to improve the effectiveness of efforts and to reinforce the information, coordination and collaboration of all protagonists;

(c) encouragement of participation by local communities in developing local strategies for information, sex education programmes and funding;

4. developing scientific understanding of the epidemic and of the impact of measures, with a view to improving their quality, while excluding basic research, through:

(a) the development of scientific training through better monitoring of programmes based on relevant indicators, and the strengthening of applied medical, sociological, and anthropological research;

(b) support for the exchange of information on experience gained;

5. combating discrimination against, and the social and economic exclusion of, persons infected with HIV/AIDS by:

(a) promoting respect for the rights of the individual, and in particular rights as regards reproduction;

(b) encouraging non-discrimination and combating the stigma attaching to those living with the virus, in particular by public information campaigns and the setting-up of an appropriate legislative framework.

Article 3

The agents of cooperation eligible for financial support under this Regulation include:

— national, regional and local government departments and agencies,

— local authorities and other decentralized bodies, including traditional social structures,

— regional organizations and international organizations,

— research institutes and universities,

— local communities and the private sector, including NGOs, women's organizations and groups and grassroots associations able to contribute whatever expertise they have to the design, implementation and monitoring of the priority strategies in the HIV/AIDS field described in Article 2.

Article 4

1. The instruments to be employed in the course of the activities referred to in Article 2 shall include studies, technical assistance, training or other services, supplies and works, as well as audits and evaluation and monitoring missions. Priority shall be given to enhancing national capacity, particularly through training with a view to long-term viability.

2. Community financing may cover both investment expenditure, with the exception of the purchase of buildings and, since the project must, as far as possible, aim at medium-term viability, recurrent expenditure (which includes administrative expenditure, maintenance and running costs).

3. A contribution from the partners defined in Article 3 shall be sought for each cooperation operation. Their contribution shall be requested according to their means and the nature of the operation concerned.

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

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

6. 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) 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.

7. 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 Unaids.

Article 5

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

Article 6

The financial reference amount for the implementation of this programme during the period from 1997 to 1999 shall be ECU 45 million.

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

Article 7

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

2. Decisions relating to grants of more than ECU 2 million for individual operations financed under this Regulation shall be adopted in accordance with the procedure laid down in Article 8.

The Commission shall inform the Committee referred to in Article 8 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.

3. The Commission shall be authorized to approve, without recourse to the opinion of the Committee provided for in Article 8, 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.

4. 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, in particular those in the Financial Regulation applicable to the general budget of the European Communities.

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

6. 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 recipient country. It may be extended to other developing countries and, in duly justified exceptional cases, to other third countries.

7. Supplies shall originate in the Member States, the recipient country or other developing countries. In duly justified exceptional cases supplies may originate elsewhere.

8. 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 indicators of achievement for all projects.

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

Article 8

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.

Article 9

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 Article 8 (1).

Article 10

1. After each budget year, the Commission shall submit an annual report to the European 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 provide 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 provide guidelines for improving the effectiveness of future operations. The Commission shall submit to the Committee referred to in Article 8 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 11

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 it.

Article 12

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, 24 March 1997.

For the Council

The President

H. VAN MIERLO