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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1658/98

of 17 July 1998

on co-financing operations with European non-governmental development organisations (NGOs) in fields of interest to 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],

Whereas the Commission, in its communication to the Council of 6 October 1975, put forward guidelines on relations with non-governmental development organisations (NGOs), together with general conditions and procedures for the use of funds intended for development operations by such organisations;

Whereas the budgetary authority introduced into the 1976 budget an item for co-financing with NGOs and has since steadily increased the volume of such funding (from ECU 2,5 million in 1976 to ECU 174 million in 1995) on the basis of the Commission's annual reports on the use of these resources;

Whereas at its meeting on 28 November 1977, the Council approved the general conditions and procedures proposed by the Commission;

Whereas the European Parliament, in its Resolution of 14 May 1992 on the role of NGOs in development cooperation [3], reaffirmed the specific and irreplaceable role of NGOs and the usefulness and effectiveness of their development operations, emphasising in particular the key role of NGOs' work on behalf of marginal social groups in developing countries, the need to preserve the NGO's freedom of action, and the vital role of NGOs in promoting human rights and the development of grassroots democracy;

Whereas, in its Resolution of 27 May 1991 on cooperation with the NGOs, the Council underlined the importance of the autonomy and independence of NGOs; whereas it recognised, moreover, that the Community system of cooperation with the NGOs was necessarily complementary to similar efforts at national level and recognised the need for flexibility in procedures and their application;

Whereas, in its conclusions of 18 November 1992, the Council noted with satisfaction the criteria by the Commission when selecting development and education projects for co-financing, notably strengthening the fabric of democracy and respect for human rights in the developing countries, and particularly welcomed the fact that the Commission had made it clear that the main criterion remained the quality of the project, an approach which it backed unreservedly;

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[1] OJ No C 251, 27.09.1995, p. 18.

[2] Opinion of the European Parliament of 15 December 1995 (OJ C 17, 22.1.1996, p. 455), common position of the Council of 7 July 1997 (OJ C 307, 8.10.1997, p. 1) and Decision of the European Parliament of 18 December 1997 (OJ C 14, 19.1.1998, p. 124).

[3] OJ C 150, 15.6.1992, p. 273.

Whereas administrative procedures should be established for co-financing operations with European NGOs in fields of interest to the developing countries,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Community shall co-finance operations in the field with European non-governmental development organisations (NGOs), as defined in Article 3, to meet the basic needs of disadvantaged people in developing countries. Priority shall be assigned to proposals for operations based on an initiative by partners in developing countries. Such operations shall be proposed by European NGOs and conducted in cooperation with their partners in the developing countries and shall be aimed at poverty alleviation as well as at enhancing the target group's quality of life and own development capacity.

2. The Community shall also co-finance with European NGOs, as defined in Article 3, public awareness and information operations in Europe about development problems in the developing countries and their relations with the industrialised world. Such operations shall be proposed by European NGOs and shall be designed to mobilise public support in Europe for development and for strategies and operations benefiting people in the developing countries.

3. The Community shall also co-finance operations designed to reinforce cooperation and coordination between NGOs from the Member States, and between NGOs from the Member States and the Community Institutions.

Article 2

1. The operations co-financed in the developing countries under Article 1(1) shall in particular concern local social and economic development in rural and urban areas, the development of human resources, particularly by means of training, and institutional support for local partners in the developing countries.

Within those fields of activity, though the quality of the operation is paramount, particular attention shall be given to operations connected with:

— the strengthening of civil society and participatory development, and the promotion and defence of human rights and democracy,

— the role of women in development,

— sustainable development.

Particular attention shall also be paid to:

— the protection of threatened cultures, especially endangered indigenous cultures,

— the protection and improvement of the circumstances and of the rights of children in the developing countries.

2. Public awareness and information operations in all Member States, to be implemented under Article 1(2), shall be targeted at clearly-defined groups, deal with clearly defined issues, be founded on a balanced analysis and a sound knowledge of the issues and groups targeted, and involve a European dimension.

Though the quality of operation is paramount, special attention shall be given to public awareness operations which:

— highlight the interdependence of the Member States and the developing countries,

— seek to mobilise support for more equitable North-South relations,

— encourage cooperation between NGOs,

— enable partners in the developing countries to play an active part.

3. The operations designed to reinforce coordination between NGOs from the Member States and with the Community Institutions, to be implemented under Article 1(3), shall, *inter alia*, concern the development of appropriate exchange and communication networks.

4. In determining whether a proposed operation is suitable for Community co-financing the criterion shall be its expected developmental impact in the developing country or countries concerned. Attention shall be paid to:

— the sustainable impact in project design,

— the clear definition and monitoring of objectives and indicators of achievement for all projects,

— consistency with other development actions of decentralised agents, while avoiding incompatibility with other instruments of Community cooperation.

Article 3

1. The agents of cooperation eligible for co-financing under this Regulation shall be NGOs satisfying the following conditions:

— they must be constituted as autonomous non-profit-making organisations in a Member State in accordance with the laws of that State,

— they must have their headquarters in a Member State and the headquarters must be the main centre for decisions relating to the co-financed operations,

— the majority of their funding must originate in Europe.

2. In determining whether an NGO is eligible for co-financing, account shall also be taken of:

— its capacity to mobilise genuine solidarity on the part of the European public for its development activities;

— the priority it accords to development and its experience in that field,

— its administrative and financial management capacities,

— where possible, its knowledge of the sector and country concerned,

— its ability to support the development operations proposed by the partners in the developing countries and the nature and scope of its links with similar organisations in the developing countries.

Article 4

1. Community co-financing for the operations referred to in Article 1 may cover, in foreign or local currency:

— investment spending;

— operational spending linked with investment, while ensuring that projects remain viable after external aid comes to an end;

— any spending necessary for the smooth implementation of the co-financed operations, including the administrative costs of NGOs or NGO networks.

In the specific instance in which exchange rates alter by an exceptionally large margin to the detriment of the final beneficiaries of the projects in developing countries, the Commission may, at the request of the NGO concerned, take appropriate measures to neutralise the effects of the alteration.

2. An NGO with which a co-financing contract is concluded shall notify its partners of the Community's contribution to the operation.

3. The NGO shall systematically encourage the developing-country agencies or partners ultimately benefiting from an operation to contribute in kind or financially, according to their means and the specific nature of the operation concerned.

Article 5

Community co-financing under this Regulation shall take the form of grants, including contributions to working capital for microcredit projects.

In the case of microcredit projects co-financed with European NGOs which provide that the local partner in developing countries fully or partly constitute and administer working capital, the amount of mini-loans reimbursed by the final beneficiaries to the working capital may be used again for further mini-loans to other final beneficiaries.

Article 6

1. The Commission shall appraise, decide and administer the co-financing of operations covered by this Regulation according to 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, taking account of the nature and specific features of NGOs, and particularly their financial contribution to the operations in question.

As a rule, the decision as to whether an operation is to be supported should be taken within six months of the date of receipt of the application. If, in examining the file, it emerges that the application is incomplete, the six-month period shall run from the date of receipt of the information required. If the decision is negative, verifiable reasons shall be given to the NGO concerned.

2. All co-financing 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.

3. The Community contribution shall not, as a rule, exceed 50 % of the total cost or 75 % of total contributions, except in exceptional cases. Even in such

cases, NGOs shall make a significant contribution to projects and the Community contribution shall not exceed 85 % of the total financial contributions.

4. Decisions on the Community co-financing of projects and programmes (multiannual programmes, consortium operations, block grants) exceeding ECU 2 million shall be adopted under the procedure laid down in Article 9.

5. Every three months, the Commission shall inform the Member States of the co-financing projects and programmes approved, indicating their amounts, nature, the beneficiary country and partner. That information shall be accompanied by an Annex setting out clearly those projects or programmes which exceed ECU 1 million.

Article 7

1. During the second six months following each budget year the Commission shall report to the European Parliament and the Council, giving information on the NGOs benefiting from co-financing, summarising the operations financed in the course of the previous budget year, evaluating the implementation of this Regulation in that period and proposing general guidelines for the following year. Where block grants are concerned, the annual report shall contain a list of the recipient NGOs, while a list of the projects financed with these block grants shall appear in the report for the following year. The report shall set out the conclusions of any independent evaluations performed.

2. The Commission, acting in accordance with the procedure laid down in Article 10, shall adopt the decisions on the general guidelines for the following year and the revision of the general conditions.

Article 8

The Commission shall be assisted by a Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

Article 9

1. Where the procedure laid down in this Article is to be followed, the Commission shall be assisted by the Committee set up under Article 8.

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.

3. (a) The Commission shall adopt the measures envisaged, which shall apply immediately.

(b) However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event:

— the Commission shall defer application of the measures which it has decided for a period of one month as from the date of communication,

— the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

Article 10

1. Where the procedure laid down in this Article is to be followed, the Commission shall be assisted by the Committee set up under Article 8.

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.

3. (a) The Commission shall adopt the measures envisaged, which shall apply immediately.

(b) However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event:

— the Commission may defer application of the measures which it has decided for a maximum period of one month from the date of such communication,

— the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

Article 11

The Commission shall regularly evaluate operations co-financed by the Community in order to establish whether their objectives have been attained and with a view to providing guidelines for improving the efficiency

of future operations. The Commission shall submit to the Committee referred to in Article 8 a summary of the evaluations; if necessary, the evaluations may be examined by the Committee. The evaluation reports shall be available to the Member States on request.

Article 12

Three years after this Regulation enters into force, the Commission shall submit to the European Parliament and the Council an overall evaluation of the 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 13

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, 17 July 1998.

For the Council

The President

W. RUTTENSTORFER