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COUNCIL REGULATION (EC) No 2666/2000

of 5 December 2000

on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia, repealing Regulation (EC) No 1628/96 and amending Regulations (EEC) No 3906/89 and (EEC) No 1360/90 and Decisions 97/256/EC and 1999/311/EC

(OJ L 306, 7.12.2000, p. 1)

Corrected by:

►**C1** Corrigendum, OJ L 38, 8.2.2001, p. 51 (2666/2000)

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) The Community provides assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia.

(2) Most of this Community assistance is currently provided under Council Regulation (EC) No 1628/96 of 25 July 1996 relating to aid for Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia (OBNOVA) [2] and under Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe (PHARE) [3]. This means that the Community assistance is subject to different sets of procedures, which encumbers management. In the interests of efficiency it is therefore desirable to establish a single legal framework for this assistance, as requested by the European Council at its meeting in Helsinki on 10 and 11 December 1999. It is therefore appropriate to repeal Regulation (EC) No 1628/96 and to amend Regulation (EEC) No 3906/89. However, in order to ensure the continuity of the activities of the European Agency for Reconstruction, the provisions of Regulation (EC) No 1628/96 which concern the establishment and operation of the Agency should be incorporated into a new Regulation, which should enter into force on the date of that repeal.

(3) The European Council, meeting in Lisbon on 23 and 24 March 2000, confirmed that its overall objective remained the fullest possible integration of the countries of the region into the political and economic mainstream of Europe and that the stabilisation and association process was the centrepiece of its policy in the Balkans.

(4) The European Council, meeting in Feira on 19 and 20 June 2000, recognised the countries concerned by the stabilisation and association process to be potential candidates for EU membership.

(5) The existing Community assistance should be expanded and redirected to adjust it to the European Union's political objectives for the region and, particularly, to contribute to the stabilisation and association process and increase the responsibility of recipient countries and entities in relation to that process.

(6) To that end Community assistance will be focused mainly on building up an institutional, legislative, economic and social framework directed at the values and models subscribed to by the European Union and on promoting a market economy, with due regard for priorities agreed with the partners concerned.

(7) A precondition for receiving assistance is that the recipients respect democratic principles, the rule of law, human and minority rights, fundamental freedoms and the principles of international law.

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[1] Opinion delivered on 15 November 2000 (not yet published in the Official Journal).

[2] OJ L 204, 14.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 2454/1999 (OJ L 299, 20.11.1999, p.1).

[3] OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 1266/1999 (OJ L 161, 26.6.1999, p. 68).

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(8) The regional dimension of Community assistance should be given special attention, with a view to stepping up regional cooperation and supporting the European Union's role as a driving force within the Stability Pact.

(9) In view of the political situation in some areas and the nature of the various entities that have responsibility for implementing assistance there, it is desirable to provide that the assistance can be supplied in some cases directly to recipients other than the State.

(10) To make Community assistance more effective and ensure it is properly implemented, the Commission should adopt general guidelines, in accordance with the management procedure laid down in this Regulation, taking into account the objectives of reform of external aid.

(11) To promote cooperation within the region, provision should be made for the candidate countries and, on a case-by-case basis, the countries covered by the TACIS and MEDA programmes to participate in the tendering procedures and contracts.

(12) Provision should be made for checks and for the protection of the Community's financial interests, inter alia by enabling the Commission, including the European Fraud Prevention Office (OLAF), and the Court of Auditors to exercise their respective powers pursuant to Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities [1] and Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests [2].

(13) The Community assistance should be governed by a strategy framework and by annual and multiannual programming, which will be put to the management committee set up by this Regulation for an opinion. This will situate the assistance within a medium-term outlook and will make it possible to ensure that it complements and remains consistent with that of the Member States.

(14) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [3].

(15) In the case of the Federal Republic of Yugoslavia, provision should be made for the Commission to be able to delegate implementation of assistance programmes to the European Agency for Reconstruction.

(16) In the light of the scope of this Regulation, consequent changes will need to be made to Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe (PHARE) [4], to Council Decision 97/256/EC of 14 April 1997 granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern European countries, Mediterranean countries, Latin American and Asian countries, South Africa, the Former Yugoslav Republic of Macedonia and Bosnia and Herzegovina) [5], to Council Decision 1999/311/EC adopting the third phase of the trans-European cooperation scheme for higher education (Tempus III) (2000 to 2006) [6] and to Council Regulation (EEC) No 1360/90 of 7 May 1990 establishing a European Training Foundation [7].

(17) The operations covered by this Regulation are part of the Community's Western Balkans policy and are needed to implement one of the Community's objectives.

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(1) OJ L 292, 15.11.1996, p. 2.
(2) OJ L 312, 23.12.1995, p. 1.
(3) OJ L 184, 17.7.1999, p. 23.
(4) OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 1266/1999 (OJ L 161, 26.6.1999, p. 68).
(5) OJ L 102, 19.4.1997, p. 33. Decision as last amended by Decision 98/729/EC (OJ L 346, 22.12.1998, p. 54).
(6) OJ L 120, 8.5.1999, p. 30. Decision as amended by Decision 2000/460/EC (OJ L 183, 22.7.2000, p. 1).
(7) OJ L 131, 23.5.1990, p. 1. Regulation as last amended by Regulation (EC) No 1572/98 (OJ L 206, 23.7.1998, p. 1).

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(18) The Treaty does not provide, for the adoption of this Regulation, powers other than those under Article 308,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Community shall provide assistance, hereinafter referred to as 'Community assistance', to Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia.

2. The following shall be directly eligible for Community assistance: the State, entities under United Nations jurisdiction and administration, federal, regional and local bodies, public and semi-public bodies, the social partners, organisations providing support to businesses, cooperatives, mutual societies, associations, foundations and non-governmental organisations.

3. Authorities established by the international community to act as the civil administration in some areas, such as the High Representative in Bosnia and Herzegovina and the United Nations Interim Administration Mission in Kosovo (UNMIK), shall be duly consulted on implementation of the Community assistance in their areas. Any programmes or projects they implement shall be eligible for Community assistance under this Regulation, except in the case of those entities' running costs; where appropriate, such costs may draw on a grant provided under Council Regulation (EC) No 1080/2000 of 22 May 2000 on support for the United Nations Interim Mission in Kosovo (UNMIK) and the Office of the High Representative in Bosnia and Herzegovina (OHR) ([1]).

4. The financial reference amount for the implementation of this programme for the period 2000 to 2006 shall be EUR 4 650 million.

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

Article 2

1. The main purpose of the Community assistance is to support participation by the recipient countries in the stabilisation and association process.

2. The Community assistance shall *inter alia* be for:

(a) reconstruction, aid for the return of refugees and displaced persons, and stabilisation of the region;

(b) the creation of an institutional and legislative framework to underpin democracy, the rule of law and human and minority rights, reconciliation and the consolidation of civil society, the independence of the media and the strengthening of legality and of measures to combat organised crime;

(c) sustainable economic development and market-economy-orientated economic reform;

(d) social development, with particular reference to poverty reduction, gender equality, education, teaching and training, and environmental rehabilitation;

(e) the development of closer relations among recipient countries, between them and the European Union and between them and countries which are candidates for accession to the European Union, in coordination with other instruments for cross-border, transnational and regional trans-boundary cooperation with non-member countries;

(f) fostering regional, transnational, cross-border and interregional cooperation among the recipient countries, between them and the European Union and between the recipient countries and other countries of the region.

3. The Community assistance shall be implemented by financing investment and institution-building programmes in accordance with the programming principles set out in the general guidelines adopted by the Commission in accordance with the procedure referred to in Article 10(2).

([1]) OJ L 122, 24.5.2000, p. 27.

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Article 3

1. Save in exceptional, duly substantiated cases, Community assistance shall be provided as follows:

(a) a strategic framework ('country strategic paper'), for the period 2000 to 2006, which shall serve to set long-term objectives for assistance and priority fields of action in recipient countries. For this purpose, due account shall be taken of all relevant assessments. The strategic framework shall be revised if exceptional events so require or in the light of the results of the assessment provided for in Article 12;

(b) on the basis of the strategic framework referred to in point (a), multiannual indicative programmes shall be drawn up, for three-year periods, for each country receiving Community assistance. They shall reflect priorities set under the stabilisation and association process and priorities identified and agreed with the partners concerned. Such programmes shall describe the reforms to be carried out by partners in priority sectors and include an assessment of progress made in doing so. They shall give indicative amounts (overall and for each priority sector) and set out criteria for funding the programme concerned. They shall be updated each year as necessary. They may be amended in the light of experience and progress in implementing stabilisation and association agreements, particularly as regards regional cooperation;

(c) annual action programmes, based on the multiannual indicative programmes referred to in point (b), shall be drawn up for each country receiving Community assistance. They shall set out, as precisely as possible, for a given operational year, the aims being pursued, the fields of action and the budget provided. The annual action programmes shall contain a detailed list of projects to be financed and specify the relevant amounts.

2. The strategic framework, the multiannual indicative programmes and the annual action programmes referred to in paragraph 1 shall be adopted in accordance with the procedure referred to in Article 10(2).

Any amendments shall be adopted in accordance with the same procedure.

Article 4

1. Where Community assistance for the Federal Republic of Yugoslavia is implemented by the European Agency for Reconstruction, in accordance with Council Regulation (EC) No 2667/2000 of 5 December 2000 on the European Agency for Reconstruction [1]:

(a) the strategic framework, multiannual indicative programme and annual action programme referred to in Article 3 covering Community assistance implemented by the Agency shall be adopted in accordance with the procedure referred to in Article 10(2). The utmost account shall be taken of recommendations made by the Agency's Governing Board, in accordance with Article 2(2) of Regulation (EC) No 2667/2000;

(b) the draft annual action programmes shall be submitted to the Commission by the Agency's Director. The Governing Board of the Agency shall be consulted on the implementation of the annual action programme, as laid down in Article 4 of Regulation (EC) No 2667/2000.

2. The procedure laid down in Article 10(2) shall also be used to adopt programmes of assistance for the Federal Republic of Yugoslavia which are not to be implemented by the Agency and are therefore not included in the annual action programme.

Article 5

1. Respect for the principles of democracy and the rule of law and for human and minority rights and fundamental freedoms is an essential element for the application of this Regulation and a precondition of eligibility for Community assistance. If these principles are not respected, the Council, acting by qualified majority on a proposal from the Commission, may take appropriate measures.

[1] See page 7 of this Official Journal.

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2. Community assistance shall also be subject to the conditions defined by the Council in its Conclusions of 29 April 1997, in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms.

Article 6

1. Community assistance shall be in the form of grants.

2. Community financing may be used to cover expenditure on preparing, implementing, monitoring, checking and evaluating projects and programmes and on information.

3. Community financing may be used for co-financing, which should be sought whenever feasible. Co-financing of investment projects financed by guaranteed loans from the European Investment Bank may, in exceptional cases, take the form of interest rate subsidies.

4. Community financing may cover the grant part of ad hoc exceptional financial assistance decisions which are taken by the Council on the basis of Article 308 of the Treaty.

5. Community financing may not be used for paying taxes, duties or charges or for acquiring immovable property.

Article 7

1. The Commission shall implement the Community assistance in accordance with the Council Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities [1].

2. In taking financing decisions under this Regulation and carrying out the assessments referred to in Article 12, the Commission shall have regard to the principles of sound financial management, in particular economy and cost-effectiveness, as laid down in the Financial Regulation.

3. Participation in invitations to tender and contracts shall be open on equal terms to all natural and legal persons from Member States, States which are recipients under this Regulation and candidate countries for accession to the European Union.

Participation by countries which are recipients under the TACIS and MEDA programmes shall also be authorised by the Commission on a case-by-case basis.

4. In the case of co-financing, the Commission may authorise participation in invitations to tender and contracts by nationals of other countries on a case-by-case basis.

5. The Commission shall provide information on invitations to tender, procurement, contracts and financing agreements, as laid down in the Annex hereto.

Article 8

1. Financing decisions and any agreements or contracts resulting therefrom shall expressly provide for monitoring and financial control by the Commission, including OLAF, and audits by the Court of Auditors, if necessary on the spot.

2. In addition, the Commission may carry out on-the-spot checks and inspections in accordance with Regulation (Euratom, EC) No 2185/96. Measures taken by the Commission in accordance with the procedure referred to in Article 10(2) shall provide for adequate protection of the financial interests of the Community as required by Regulation (EC, Euratom) No 2988/95.

Article 9

1. Financing decisions not covered by multiannual indicative programmes and annual action programmes shall be individually adopted by the Commission in accordance with the procedure referred to in Article 10(2).

[1] OJ L 356, 31.12.1977, p. 1.

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2. Decisions amending Decisions adopted in accordance with the procedure referred to in Article 10(2) shall be adopted by the Commission where they do not comprise substantial changes to the nature of the original programmes and actions and, as regards the financial element, where they do not exceed 20 % of the total amount allocated for the programme or action in question, subject to a limit of EUR 4 million. The CARDS Committee referred to in Article 10 shall be notified of all amended decisions.

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Article 10

1. The Commission shall be assisted by a management committee, hereinafter referred to as 'the CARDS Committee'.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 45 days.

3. The Committee shall adopt its rules of procedure.

4. The Committee may examine any other question concerning this Regulation which is submitted to it by the Chairman, whether or not at the request of the representative of a Member State, and in particular any question relating to the programming or general implementation of measures or to co-financing.

Article 11

1. In the interests of making the Community assistance cohesive and more efficient and complementary, the Member States and the Commission shall exchange any relevant information on the operations they intend to implement.

2. In liaison with the Member States and on the basis of a regular mutual exchange of information, including on the spot, particularly as regards strategy papers, multiannual indicative programmes and annual action programmes and the preparation of projects and monitoring of their implementation, the Commission shall ensure effective coordination of the assistance efforts made by the Community, including the EIB, and by each Member State, in order to make their cooperation programmes more consistent and complementary. In addition, it shall encourage coordination and cooperation with international financial institutions, United Nations cooperation programmes and other donors. Practical arrangements for on-the-spot coordination shall be covered by guidelines to be approved by the CARDS Committee.

Article 12

Every year the Commission shall submit to the European Parliament and the Council a progress report on the Community assistance. That report shall contain information on the action financed during the year and on the findings of monitoring work and shall give an assessment of the results achieved in the implementation of the strategic framework, the multiannual indicative programmes and the annual action programmes referred to in Article 3(1).

Article 13

1. The Council shall review this Regulation before 31 December 2004.

2. For that purpose, not later than 30 June 2004, the Commission shall submit to the Council an evaluation report, together with proposals for the future of this Regulation and for any amendments needing to be made to it.

Article 14

1. Regulation (EC) No 1628/96 is hereby repealed.

2. In the Annex to Regulation (EEC) No 3906/89, the names 'Bosnia and Herzegovina', 'Albania', 'Croatia', 'the Former Yugoslav Republic of Macedonia' and 'Yugoslavia' shall be deleted.

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Article 15

Regulations (EEC) No 3906/89 and (EC) No 1628/96 shall nevertheless remain applicable to projects and programmes for which the procedures leading to the Commission financing decision have been started but have not yet been completed at the time of entry into force of this Regulation.

Article 16

The first paragraph of Article 1 of Regulation (EEC) No 1360/90 shall be replaced by the following:

'This Regulation hereby establishes the European Training Foundation (hereinafter referred to as the "Foundation"), whose objective shall be to contribute to the development of the vocational training systems of:

— the countries of Central and Eastern Europe designated as eligible for economic aid by the Council in Regulation (EEC) No 3906/89 or in any subsequent relevant legal act,

— the new independent States of the former Soviet Union and Mongolia which are the beneficiaries of the programme to assist economic reform and recovery pursuant to Regulation (Euratom, EC) No 1279/96 or any subsequent relevant legal act,

— the Mediterranean non-member countries and territories which are the beneficiaries of the financial and technical measures to accompany the reform of their economic and social structures pursuant to Regulation (EC) No 1488/96 or any subsequent relevant legal act, and

— the countries which are beneficiaries under Regulation (EC) No 2666/2000 (*) or any subsequent relevant legal act.

Those countries shall be hereinafter referred to as the "eligible countries".

(*) OJ L 306, 7.12.2000, p. 1.'

Article 17

The second subparagraph of Article 1a(5) of Decision 97/256/EC shall be replaced by the following:

'Financial decisions relating to this Decision shall be adopted in accordance with the procedures laid down in Regulation (EC) No 2666/2000 (*).

(*) OJ L 306, 7.12.2000, p. 1.'

Article 18

The first paragraph of Article 2 of Decision 99/311/EC shall be replaced by the following:

'Tempus III concerns the countries which are beneficiaries under Regulation (EC) No 2666/2000 (*) and the new independent States of the former Soviet Union and Mongolia mentioned in Regulation (EC, Euratom) No 99/2000 (**) (which replaces the old TACIS programme). These countries are hereinafter referred to as "eligible countries".

(*) OJ L 306, 7.12.2000, p. 1.
(**) OJ L 12, 18.1.2000, p. 1.'

Article 19

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

It shall apply until 31 December 2006.

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

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ANNEX

Information on invitations to tender, procurement, contracts and financing agreements referred to in Article 7(5)

1. The Commission, acting in liaison with the Member States, shall provide all interested businesses, organisations and institutions in the Community, at their request, with the necessary documentation on the general aspects of programmes referred to in this Regulation and the conditions for participation in those programmes, making appropriate use of the Internet.

2. The Commission shall notify the CARDS Committee and, where appropriate, the Governing Board of the European Agency for Reconstruction of the financing decisions adopted, which shall contain specific details of the contracts anticipated, including their likely value, the procedure for awarding them and the dates envisaged for invitations to tender. Those specific details shall be released on the Internet.

3. The results of invitations to tender, including information on numbers of tenders received as at the contract award date and names and addresses of successful tenderers, shall be published in the *Official Journal of the European Communities* and released on the Internet. The Commission shall supply the CARDS Committee and, where appropriate, the Governing Board of the European Agency for Reconstruction, every three months, with specific detailed information on contracts concluded in implementation of programmes and projects referred to in this Regulation.

4. The Commission shall forward financing agreements or similar documents to the CARDS Committee for information.