This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

►**B**

COUNCIL REGULATION (EC, EURATOM) No 99/2000
of 29 December 1999
concerning the provision of assistance to the partner States in Eastern Europe and Central Asia

(OJ L 12, 18.1.2000, p. 1)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 2112/2005 of 21 November 2005	L 344	23	27.12.2005

▼B

COUNCIL REGULATION (EC, EURATOM) No 99/2000

of 29 December 1999

concerning the provision of assistance to the partner States in Eastern Europe and Central Asia

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 Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

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

Having regard to the opinion of the European Parliament,

Whereas

(1) Pursuant to the European Council in Dublin and in Rome in 1990, the Community introduced a technical assistance programme in favour of economic reform and recovery in the former Union of Soviet Socialist Republics;

(2) Council Regulation (Euratom, EC) No 1279/96 of 25 June 1996 concerning the provision of assistance to economic reform and recovery in the New Independent States and Mongolia ([2]) laid down the conditions for the provision of such assistance and envisaged such an operation from 1 January 1996 to 31 December 1999;

(3) Such assistance has already generated significant impact on reform in the partner States in Eastern Europe and Central Asia listed in Annex I ('the partner States');

(4) A financial reference amount within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ([3]) is included in this Regulation for its entire duration, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty;

(5) Such assistance will be fully effective only in the context of progress towards free and open democratic societies that respect human rights, minority rights and the rights of the indigenous people, and towards market-oriented economic systems;

(6) Further assistance is required to promote nuclear safety in the partner States;

(7) The continued provision of assistance will contribute to the attainment of shared objectives, notably in the context of the Partnership and Cooperation Agreements and Economic Cooperation Agreements concluded with the partner States;

(8) Where applicable provisions of assistance under this Regulation will take due account of the Common Strategies adopted by the European Council;

(9) It is appropriate to establish priorities for this assistance which are determined, *inter alia*, by the common interests of the Community and the partner States;

(10) The assistance should take into account the differing needs and priorities of the principal regions covered by this Regulation;

(11) Experience has shown that Community assistance will be all the more effective when it is concentrated on a restricted number of areas within each partner State;

([1]) OJ C 37, 11.2.1999, p. 8.
([2]) OJ L 165, 4.7.1996, p. 1.
([3]) OJ C 172, 18.6.1999, p. 1.

▼B

(12) The development of inter-State economic links and trade flows conducive to economic reform and restructuring should be encouraged;

(13) Regional and subregional cooperation, particularly in relation to the Northern Dimension and in the Black Sea region, should be encouraged;

(14) Cross-border cooperation, particularly in the context of borders between the partner States and the European Union, between the partner States and Central and Eastern Europe, and between the partner States themselves, should be encouraged;

(15) The requirements of economic reform and restructuring now in progress, and the effective management of this programme, require a multi-annual approach;

(16) The long-term sustainability of reform will require due emphasis on the social aspects of reform and the development of the civil society;

(17) The integration of environmental aspects into the assistance is central to the long term sustainability of the economic reforms and development;

(18) The development of human resources, including education and training, has a significance for reform and restructuring;

(19) The quality of the assistance should be improved by selecting a proportion of projects on a competitive basis;

(20) In order properly to meet the most acute needs of the partner States at the present stage of their economic transformation, it is necessary to permit a certain amount of the financial allocation to be used for economically sound investment-financing, notably in the areas of cross-border cooperation, promotion of small and medium-sized enterprises (SMEs), environmental infrastructure and networks of strategic importance to the Community;

(21) Community assistance could, where appropriate, be more effective, efficient and visible when it is implemented on a decentralised basis;

(22) Effective competition amongst firms, organisations and institutions interested in participating in the initiatives financed by the programme should be ensured;

(23) Community assistance will be all the more effective when the commitment of the partner States is ensured;

(24) It is appropriate that the Commission be assisted in the implementation of Community aid by a committee made up of Member States' representatives;

(25) 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 ([1]);

(26) Procedures for tenders and the award of contracts should be in accordance with the Financial Regulation applicable to the General Budget of the European Union (the 'Financial Regulation');

(27) The provisions concerning tendering and the award of contracts as well as the principles governing the award of contracts should be applied until such time as legislation amending Title IX of the Financial Regulation enters into force, in order to provide the basis for implementing provisions that will apply to all Community external assistance programmes;

([1]) OJ L 184, 17.7.1999, p. 23.

▼B

(28) Along with natural and legal persons from the Member States and the partner States, participation in tenders should also be open to natural and legal persons from countries benefiting from the PHARE programme, and, where specific types of expertise are required, from Mediterranean countries;

(29) Progress reports on the implementation of the assistance programme should be established annually;

(30) The Treaties have not provided, for the adoption of this Regulation, powers other than those of Article 308 of the EC Treaty and Article 203 of the EAEC Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

A programme to promote the transition to a market economy and to reinforce democracy and the rule of law in the partner States listed in Annex I (hereinafter called 'the partner States') shall be implemented by the Community from 1 January 2000 to 31 December 2006 in accordance with the criteria laid down in this Regulation.

Article 2

1. The programme shall be based on the principles and objectives set out in the Partnership and Cooperation Agreements and Trade and Economic Cooperation Agreements, in the context of which the Community, its Member States and the partner States work together to support initiatives of common interest.

2. The programme shall aim to maximise impact through concentration on a limited number of significant initiatives, not precluding small-scale projects where such projects are appropriate. To this end, the indicative and action programmes referred to below shall cover at most three of the eligible cross-cutting areas of cooperation listed in Annex II. Where applicable, support for nuclear safety shall be provided in addition to the three areas. The programme shall take into account the differing needs and priorities of the principal regions covered by the Regulation and in particular the need to promote democracy and the rule of law.

3. Particular attention shall be paid:

— to the need to reduce environmental risks and pollution, including transboundary pollution,

— to the need to promote the sustainable use of natural resources, including energy resources, and

— to the social aspects of transition.

4. The programme shall aim to promote inter-State, inter-regional and cross-border cooperation between the partner States themselves, between the partner States and the European Union and between the partner States and Central and Eastern Europe.

Interstate and inter-regional cooperation shall primarily serve to assist the partner States to identify and pursue actions which are best undertaken on a multi-country, rather than a national level such as the promotion of networks, environmental cooperation and actions in the area of justice and home affairs.

Cross-border cooperation shall primarily serve to:

(a) assist border regions in overcoming their specific developmental problems;

(b) encourage the linking of networks on both sides of the border, e.g. border-crossing facilities;

(c) accelerate the transformation process in the partner States through their cooperation with border regions in the European Union or Central and Eastern Europe;

▼B

(d) reduce transboundary environmental risks and pollution.

5. In the area of nuclear safety, the programme shall focus on three priorities.

(a) Supporting the promotion of an effective nuclear safety culture in line with the principles of the Convention on nuclear safety, in particular through continuous support for regulatory bodies and, at the plant level, through on site-assistance, including equipment supplies, where such assistance is most needed;

(b) Supporting the development and implementation of spent fuel, decommissioning and nuclear waste management strategies, including in Northwest Russia in the context of wider international cooperation;

(c) Contributing to relevant EU supported international initiatives such as the G7/EU initiative on the closure of Chernobyl.

The programme shall also support the application of efficient safeguards of nuclear materials.

6. The programme shall take into account:

— the evolving and differing needs and priorities of partner States, individually and as regions, and among other considerations, the context of enlargement,

— absorptive capacity of partner States,

— progress towards democratic and market-oriented reform in partner States.

Measures shall be implemented taking into account the following criteria:

— the need for sustainable economic development,

— the social impact of reform measures,

— the promotion of equal opportunities for women,

— the sustainable use of natural resources and respect for the environment.

TITLE I

INDICATIVE AND ACTION PROGRAMMES

Article 3

1. The assistance shall be applied in the framework of national, multi-country and other programmes.

2. The national and multi-country programmes shall comprise indicative and action programmes.

3. Indicative programmes covering three to four year periods shall be established in accordance with the procedure referred to in Article 13(2). These programmes shall define the principal objectives of, and guidelines for, Community assistance in the areas of cooperation set out in Annex II and would, as far as possible, include indicative financial estimates. Before the establishment of indicative programmes, the Commission shall discuss with the Committee referred to in Article 13(1) the priorities to be identified with the partner States.

4. Action programmes based on the indicative programmes referred to in paragraph 3 shall be adopted on an annual or biannual basis in accordance with the procedure referred to in Article 13(2). These action programmes shall include a list of the projects to be financed within the areas of cooperation set out in Annex II. The content of the programmes shall be determined in sufficient detail, so as to enable the Committee referred to in Article 13(1) to deliver its opinion.

5. The measures outlined in the national action programmes shall be reflected in financing memoranda agreed between the Commission and each partner State. These shall be based on a dialogue addressing the

▼B

joint interests of the Community and the partner States, particularly in the context of the Partnership and Cooperation Agreements.

6. If circumstances require, the indicative and action programmes may be amended in accordance with the procedure referred to in Article 13(2) during the period of their application.

Article 4

1. In addition to the national action programmes, an incentive scheme is established to introduce an element of competition into the allocation of resources, in order to promote quality. In order to ensure concentration, projects financed under this scheme should be linked to the cross-cutting areas of cooperation established in the national indicative programmes referred to in Article 3.

2. The scheme shall be introduced gradually and take into account the administrative capacity of the different partner States. In the first year of operation, the size of the scheme shall not exceed 10 % of the overall budget of the programme. In subsequent years, this proportion might be increased by up to 5 % per year.

3. Taking into account the experience of the preceding years including geographical distribution, special efforts shall be made to promote the participation in this scheme of all the partner States, especially those experiencing most difficulties in achieving success in this scheme.

4. The annual incentive scheme programme, including the-criteria for the selection of projects and its size, shall be agreed in accordance with the procedure referred to in Article 13(2).

TITLE II

MEASURES TO BE SUPPORTED

Article 5

1. In the framework of the programmes referred to in Title I which consists primarily of technical assistance, the following shall be supported:

— transfer of expertise and know-how, including training,

— industrial cooperation and partnerships for institution building based on cooperation between public and private organisations from the European Union and partner States,

— on a case by case basis, the reasonable cost of supplies required in the implementation of the assistance. In particular cases, including nuclear safety, justice and home affairs and cross-border cooperation, a significant supply element may be included,

— investment and investment-related activities. Assistance may include technical assistance to catalyse and support investments. Assistance may also include investment financing as described in Annex III, notably in the areas of cross-border cooperation, promotion of small and medium-sized enterprises, environmental infrastructure and networks.

2. The assistance shall also cover costs related to the preparation, implementation, monitoring, audit and evaluation of the programme, as well as costs concerning information.

3. The measures can be carried out, where appropriate, on a decentralised basis. The final recipients of Community assistance shall be closely involved in the preparation and execution of the projects. Wherever possible, the identification and preparation of the projects shall be carried out at regional and local level.

4. Projects will, where appropriate and in such a way that avoids disrupting the continuity of actions, be implemented in phases. Support for subsequent phases will depend upon the successful implementation of previous phases.

▼B

5. The involvement of local experts in project implementation will be encouraged.

TITLE III

FINANCIAL PROVISIONS

Article 6

1. The financial reference amount for the implementation of this programme for the period 2000 to 2006 shall be EUR 3 138 million.

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

2. A maximum of 20 % of the annual budget could be allocated to investment financing as described in Annex III. A maximum of 20 % of the annual budget could be allocated to the 'Incentive scheme' as outlined in Article 4.

Article 7

1. Measures referred to in this Regulation which are financed from the general budget of the European Union shall be administered by the Commission in accordance with the Financial Regulation applicable thereto.

2. The Commission shall abide by the principles of sound financial management and, in particular, those of economy and cost-effectiveness referred to in the Financial Regulation.

Article 8

1. Community assistance shall in general be in the form of grants. They may generate funds that can be used for financing other cooperation projects or measures.

2. Financial decisions and contracts resulting therefrom shall expressly provide for the monitoring and financial supervision and control by the Commission and the Court of Auditors to be carried out on the spot, if necessary.

Article 9

1. The cost of the project in local currency shall be covered by the Community only to the extent strictly necessary.

2. The co-financing of projects by the partner States shall be actively encouraged.

3. Taxes, duties and the purchase of immovable property shall not be funded by the Community.

Article 10

The following provisions concerning tendering and the award of contracts as well as the principles governing the award of contracts set out in Annex IV shall be applied until such time as legislation amending Title IX of the Financial Regulation enters into force, in order to provide the basis for implementing provisions that will apply to all Community external assistance programmes.

Article 11

1. The Commission shall implement operations in accordance with the action programmes referred to in Article 3(4) and in accordance with Title IX of the Financial Regulation as well as Article 12 of this Regulation.

2. The Commission shall provide the partner States with a set of rules on project definition.

3. Supply and works contracts shall be awarded by means of open invitations to tender except in the cases provided for in Article 116 of

▼B

the Financial Regulation. ►M1 The origin of supplies and materials purchased under this Regulation shall be further determined in accordance with the rules of origin, and the derogations therefrom, set out in Council Regulation (EC) No 2112/2005 of. 21 November 2005 on access to Community external assistance ([1]). ◄

4. Participation in invitations to tender and contracts shall be open on equal terms to all natural and legal persons in the Member States, in the partner States, and in countries benefiting from the Phare programme. Participation by natural and legal persons from Mediterranean countries with traditional economic, trade or geographical links may be authorised by the Commission on a case-by-case basis if the programmes or projects concerned require specific forms of expertise specifically available in such countries. ►M1 Eligibility for participation in tendering procedures under this Regulation shall be further determined in accordance with the rules of eligibility, and the derogations therefrom, set out in Regulation (EC) No 2112/2005. ◄

5. In the case of co-financing, the participation of third countries concerned in invitations to tender and contracts may be authorised by the Commission, but on a case-by-case basis. In these cases the participation of undertakings from third countries shall be acceptable only if reciprocity is granted. ►M1 Participation in contractual procedures implemented through an international organisation or co-financed with a third country is further defined in Regulation (EC) No 2112/2005. ◄

Article 12

Open invitations to tender for the award of supply contracts in accordance with Article 114 of the Financial Regulation shall allow for a time limit to submit an offer of not less than 52 days from the date of dispatch of the notice to the *Official Journal of the European Communities*.

Service contracts shall, as a general rule, be awarded by restricted invitations to tender and by private treaty for operations up to EUR 200 000.

TITLE IV

GENERAL PROVISIONS

Article 13

1. The Commission shall be assisted by the Committee for assistance to the New Independent States and Mongolia (hereinafter referred to as 'the 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 three months.

3. The Committee shall adopt its rules of procedure.

Article 14

The Commission shall, together with the Member States and on the basis of a reciprocal and regular exchange of information, including exchange of information on the spot, seek the effective coordination of the assistance efforts undertaken by the Community and individual Member States, in order to increase the coherence and complementarity of their cooperation programmes.

Regular coordination shall be established between the Commission and the Member States; including on-the-spot coordination in their contacts with the partner States, both in the programme-definition and the programme-implementation stage.

([1]) OJ L 344, 27.12.2005, p. 23.

▼B

In the implementation of cross border cooperation programmes involving Member States, PHARE countries and partner States, the Commission shall seek effective coordination and consistency with programmes financed through the structural funds, Community external assistance programmes and bilateral assistance initiatives.

In addition, the Commission shall ensure coordination and cooperation with the international financial institutions and other donors.

In the framework of the assistance provided pursuant to this Regulation, the Commission shall promote cofinancing with public or private bodies in the Member States.

Article 15

1. Each year the Commission shall present a progress report on the implementation of the assistance programme. This report shall include an evaluation of the assistance already provided including the effectiveness of the programme as well as information on the results of the monitoring activities undertaken during the course of the year. The report shall be addressed to the Member States, the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

2. In the light of these reports, the Commission may make proposals to the Council to amend this Regulation.

3. In addition, the Commission shall make available statistical information to the bodies referred to in paragraph 1 on the award of the contracts. The content and form of statistical information to be provided will be discussed with the Committee referred to in Article 13(1).

Article 16

When an essential element for the continuation of cooperation through assistance is missing, in particular in cases of violation of democratic principles and human rights, the Council may, on a proposal from the Commission, acting by a qualified majority, decide upon appropriate measures concerning assistance to a partner State.

The same procedure may apply as a last resort in cases of a serious violation of the obligations of the partner States as set out in the Partnership and Cooperation Agreements.

Article 17

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.

▼B

ANNEX I

PARTNER STATES REFERRED TO IN ARTICLE 1

Armenia

Azerbaijan

Belarus

Georgia

Kazakhstan

Kyrghyzstan

Moldova

Mongolia

Russian Federation

Tajikistan

Turkmenistan

Ukraine

Uzbekistan

▼B

ANNEX II

AREAS OF COOPERATION REFERRED TO IN ARTICLE 2(2) AND ARTICLE 3(3) AND (4)

1. Support for institutional, legal and administrative reform:
   - — development of the rule of law,
   - — support for effective policy making,
   - — reform of public administration at national, regional and local level,
   - — support for executive and legislative bodies (national, regional, local),
   - — support for justice and home affairs activities,
   - — reinforcement of the legal and regulatory framework,
   - — support for the implementation of international commitments,
   - — support for the civil society,
   - — support for education and training.
2. Support to the private sector and assistance for economic development:
   - — promotion of small and medium-sized enterprises,
   - — development of the banking and financial services systems,
   - — promotion of private entrepreneurship including joint ventures,
   - — industrial cooperation, including research,
   - — privatisation,
   - — enterprise restructuring,
   - — promotion of market-orientated framework for trade and investment.
3. Support in addressing the social consequences of transition:
   - — reform of the health, pension, social protection and insurance systems,
   - — assistance to alleviate the social impact of industrial restructuring,
   - — assistance for social reconstruction,
   - — development of employment services, including re-training.
4. Development of infrastructure networks:
   - — transport networks,
   - — telecommunication networks,
   - — energy pipelines and transmission networks,
   - — border-crossings.
5. Promotion of environmental protection and management of natural resources:
   - — development of sustainable environmental policies and practices,
   - — promotion of harmonisation of environmental standards with European Union norms,
   - — improvement of energy technologies in supply and end use,
   - — promotion of sustainable use and management of natural resources, including energy, saving, efficient energy usage and improvement of environmental infrastructure.
6. Development of the rural economy:
   - — legal and regulatory framework, including land privatisation,
   - — increasing access to finance and promotion of training,
   - — improvement of distribution and access to markets.

Where applicable, support for nuclear safety shall be provided in accordance with the priorities outlined in Article 2(5).

▼B

ANNEX III

INVESTMENT FINANCING

Investment financing shall be justified by the following criteria:

— the multiplier effect, according to which Community assistance would be accompanied by a multiple of investment from other sources,

— additionality, when Community assistance would encourage investment which would not otherwise have taken place,

— areas of interest to the Community.

Investment financing can take the form of co-financing with other sources of investment financing or, on an exceptional basis, investing alone.

Priority sectors for investment financing would include: cross-border cooperation including border infrastructure, promotion of SMEs, environmental infrastructure and networks. Direct funding of equity and stakes in individual companies shall be excluded.

▼B

ANNEX IV

PRINCIPLES GOVERNING THE AWARD OF CONTRACTS BY MEANS OF TENDERING, IN PARTICULAR RESTRICTED TENDERING

1. All necessary information shall be made available with the 'Invitation to tenderers' to each of the tenderers which have been registered on the short-list or which so request in reply to the publication of a notice of an open tender. This information shall contain, in particular, the evaluation criteria. The technical evaluation of the tender may include interviews with the persons proposed in the tender.

2. The Commission shall chair all evaluation committees and shall appoint a sufficient number of evaluators before the tenders are launched. One evaluator should come from the recipient institution of the beneficiary countries. All evaluators shall sign a declaration of impartiality.

3. The tender is evaluated on the basis of a weighing of technical quality against price. The weighing of the two criteria shall be announced in each invitation to tender. The technical evaluation shall be carried out according, in particular, to the following criteria: organisation, time schedule, methods and plan of work proposed for providing the services, the qualifications, experience, skills of the staff proposed for the provision of the services and the use made of local companies or experts, their integration into the project, and their contribution to the sustainability of the project results. Specific experience of the tenderer in TACIS shall not be taken into account.

4. Unsuccessful tenderers shall be informed by letter, including an indication of the reasons for their failure and the name of the successful tenderer.

5. Any natural or legal person involved in the preparation of a project shall be excluded from participation in the project implementation. If any participating tenderer employs such persons, in any capacity, within six months of the termination of their involvement in the tender process, that tenderer may be excluded from participation in the project. Any tenderer included on a short-list shall be excluded from participation in the evaluation of that tender.

6. The Commission shall ensure that all commercially sensitive information relating to a proposed tender remains confidential.

7. Whenever a firm, organisation or institution has serious reasons to ask for review of a tender, there will always be the possibility of adressing the Commission. In that event, a reasoned reply should be given to this request.

8. In the cases of award of contracts after restricted invitations to tender as referred to in Article 116 of the Financial Regulation, all written expressions of interest shall be registered by the Commission, which will use this registration when drawing up the short-list.

   In addition, other information, in particular from the TACIS central consultancy register, may be considered when the short-list is drawn up. This register shall be open to all interested firms, organisations and institutions for registration.

9. When drawing up the short-list, the Commission shall be guided by qualifications, interest and availability of the firm, organisation or institution. The number of firms, organisations and institutions on a short-list shall depend on the size and the complexity of the project and should offer the widest possible choice.

   Firms, organisations and institutions which have expressed their interest in writing in a project shall be informed whether or not they have been included on the short-list.

10. Each year the Commission shall give to the Committee referred to in Article 13(1) a list of the firms, organisations and institutions which have been selected.

11. In highly complex projects, the Commission may suggest to firms, organisations and institutions which have been retained on a short-list the formation of consortia among them. In these cases this suggestion, as well as the complete short-list, shall be transmitted to all firms, organisations and institutions having been retained on it.

12. In restricted tendering there shall be a minimum period of 60 calendar days between the final opinion delivered by the Committee referred to in Article 13(1) and the launching of the tender. Nevertheless, in case of urgency this period may be shortened by the Commission, provided that a detailed explanation is forwarded to that Committee.

▼B

An invitation to a restricted tender shall allow for a time limit of 60 calendar days from the date of delivery of the letter of invitation. In urgent cases this period may be reduced, but it may never be less than 40 calendar days. In exceptional cases this time limit may be extended by the Commission, provided that a detailed explanation is forwarded to the Committee referred to in Article 13(1). All changes of time limit must be duly notified to the firms, organisations or institutions concerned.