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►B REGULATION (EC) No 1567/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 July 2003

on aid for policies and actions on reproductive and sexual health and rights in developing countries

(OJ L 224, 6.9.2003, p. 1)

Amended by:

		Official Journal		
		No	page	date
►M1	Regulation (EC) No 2110/2005 of the European Parliament and of the Council of 14 December 2005	L 344	1	27.12.2005

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on aid for policies and actions on reproductive and sexual health and rights in developing countries

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 179 thereof,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty [2],

Whereas:

(1) The Community is deeply concerned by the reproductive and sexual health conditions of women and men, in particular those aged 15 to 49, in developing countries. High maternal mortality and morbidity rates, the lack of a full range of safe and reliable reproductive and sexual health care and services, supplies and information, and the spread of HIV/AIDS undermine all efforts to eradicate poverty, enhance sustainable development, expand opportunities and safeguard livelihoods in developing countries.

(2) Individual freedom of choice for women, men and adolescents through adequate access to information, education and services in matters concerning their reproductive and sexual health and rights is a significant element of progress and development and requires action by governments as well as individual responsibility.

(3) The right to enjoy the highest attainable standard of physical and mental health is a fundamental human right which is in line with the provisions of Article 25 of the Universal Declaration of Human Rights. This right is being denied to over a fifth of the world's population.

(4) Article 35 of the Charter of Fundamental Rights of the European Union calls for a high level of human health protection in the definition and implementation of all Union policies and activities.

(5) The Community and its Member States uphold the right of individuals to decide freely on the number and spacing of their children; they condemn any violation of human rights in the form of compulsory abortion, compulsory sterilisation, infanticide, or the rejection, abandonment or abuse of unwanted children as a means of curbing population growth.

(6) Both the European Parliament and the Council have called for greater efforts by the Community in the area of reproductive and sexual health and rights in developing countries.

(7) Article 25(1)(c) and (d) and Article 31(b)(iii) of the ACP-EU Partnership Agreement [3] signed in Cotonou on 23 June 2000 clearly aim to integrate strategies to improve access to basic social services.

(8) The Community and its Member States will continue to contribute greatly to the wider effort to support policies and programmes on reproductive and sexual health and rights in developing countries, and undertake to continue to play a leading role in this area, giving priority to health as part of a global strategy to fight poverty.

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[1] OJ C 151 E, 25.6.2002, p. 260.

[2] Opinion of the European Parliament of 13 February 2003 (not yet published in the Official Journal) and Decision of the Council of 16 June 2003.

[3] OJ L 317, 15.12.2000, p. 3.

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(9) The Community and its Member States are determined to make a full contribution towards achieving the Millennium Development Goals of reducing by three-quarters the rate of maternal mortality, achieving gender equality, and attaining access to sexual and reproductive health care and services worldwide.

(10) The Monterrey Conference stipulates that increased official development assistance (ODA) and debt relief schemes should be used for the benefit of better health and education outcomes and the EU has an important role to play in exploring how increased ODA could be used more effectively for improved sustainable development.

(11) The International Conference on Population and Development (ICPD) held in Cairo in 1994 and the ICPD + 5 in 1999 set out an ambitious agenda. The Community and its Member States maintain their commitment to the specific reproductive health goal that was agreed at the ICPD, to make accessible, through the primary health-care system, reproductive health care to all individuals of appropriate ages as soon as possible and no later than 2015 (ICPD Programme of Action, point 7.6).

(12) The Community and its Member States are committed to upholding the principles agreed at the ICPD and the ICPD + 5 and call upon the international community, in particular the developed countries, collectively to bear the appropriate share of the financial burden defined in the ICPD Programme of Action.

(13) Since the ICPD, progress has been made, yet there is still much to be done to ensure that every woman has the chance of a healthy pregnancy and of giving birth in safe conditions, that the sexual and reproductive health needs of young people are met and that the violence and abuse suffered by women is stopped, including in refugee and conflict situations.

(14) The sustained supply, availability and affordability of more effective and acceptable methods of contraception and protection from sexually transmitted infection, including HIV/AIDS, is crucial in achieving the ICPD goals; this calls for an adequate supply and choice of quality reproductive-health-related supplies for every person who needs them. This form of security requires not only the commodities themselves, but the capacity to forecast, finance, procure and deliver them to the places where they are needed, when they are needed.

(15) The 1995 UN Beijing Conference on Women and the Beijing + 5 Conference reaffirmed the goals of the ICPD Programme of Action, recognising that unsafe abortions threaten the lives of a large number of women, and that deaths and injuries could be prevented through safe and effective reproductive health measures.

(16) No support is to be given under this Regulation to incentives to encourage sterilisation or abortion, or to the improper testing of contraception methods in developing countries. When cooperation measures are implemented, the decisions adopted at the ICPD, in particular point 8.25 of the ICPD Programme of Action, according to which, *inter alia*, abortion should in no case be promoted as a method of family planning, must be rigorously observed. Post-abortion counselling, education and family planning services should be offered promptly, which will also help to avoid repeat abortions.

(17) Experience shows that population and development programmes are most effective when steps have been taken to improve the status of women (ICPD Programme of Action, point 4.1). Gender equality is a precondition for improved reproductive health, and men should take full responsibility for their sexual and reproductive behaviour (ICPD Programme of Action, point 4.25).

(18) The effectiveness of programmes to support nationally led strategies to improve reproductive and sexual health in

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developing countries partly depends on the improved coordination of aid at both the European and the international level, in particular with the UN agencies, funds and programmes, and more specifically the UN Population Fund.

(19) Reproductive health providers have a major role to play in the prevention of HIV/AIDS and other sexually transmitted infections.

(20) Council Regulation (EC) No 1484/97 of 22 July 1997 on aid for population policies and programmes in developing countries ([1]), applicable until 31 December 2002, is rendered obsolete by this Regulation and should therefore be repealed. The experience acquired during its application should be reflected in the application of this new Regulation.

(21) This Regulation lays down, for the entire duration of the programme, a financial framework constituting the prime reference, within the meaning of point 33 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 ([2]), for the budgetary authority during the annual budgetary procedure.

(22) 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]).

(23) As the objectives of the proposed action, namely to improve reproductive and sexual health and to secure respect for the rights related thereto, with particular reference to developing countries, cannot be sufficiently achieved by the Member States, and can therefore, by reason of the scale and effects of the proposed action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity set out in Article 5 of the Treaty. In accordance with the principle of proportionality also set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

Chapter I

Purpose and scope

Article 1

1. The Community shall support actions to improve reproductive and sexual health in developing countries and to secure respect for the rights relating thereto.

2. The Community shall provide financial assistance and appropriate expertise with a view to promoting a holistic approach to, and the recognition of, reproductive and sexual health and rights as defined in the ICPD Programme of Action, including safe motherhood and universal access to a comprehensive range of safe and reliable reproductive and sexual health care and services.

3. In the allocation of such funding and expertise, priority shall be given to:

(a) the poorest and least developed countries and the most disadvantaged sections of the populations of developing countries;

([1]) OJ L 202, 30.7.1997, p. 1.
([2]) OJ C 172, 18.6.1999, p. 1.
([3]) OJ L 184, 17.7.1999, p. 23.

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(b) action that complements and reinforces both the policies and capacities of developing countries and the assistance provided through other instruments of development cooperation.

Article 2

The purpose of the activities carried out under this Regulation shall be to:

(a) secure the right of women, men and adolescents to good reproductive and sexual health;

(b) enable women, men and adolescents to have access to a comprehensive range of high-quality, safe, accessible, affordable and reliable reproductive and sexual health care services, supplies, education and information, including information on all kinds of family planning methods;

(c) reduce maternal mortality and morbidity rates, with particular reference to the countries and populations where these are highest.

Article 3

1. Community financial support shall be given to specific operations targeting the poorest and most vulnerable populations in both rural and urban areas, designed to achieve the purposes described in Article 2, and, in particular, to those which aim to:

(a) support and promote policy and operational frameworks and action, tailored to meet specific targets for the progressive realisation of people's rights to adequate basic health services and accountable service providers;

(b) ensure better access to high-quality reproductive and sexual health services, offering, in particular, contraceptive choice and the prevention and diagnosis of sexually transmitted infections, including HIV/AIDS, and the provision of voluntary confidential counselling and testing;

(c) offer adolescents and young adults educational programmes that focus on the relationship between family planning, reproductive health, sexually transmitted diseases and the impact of HIV/AIDS on partnerships, and provide them with the necessary information, services and skills to protect their reproductive and sexual health, avoid unwanted pregnancies and involve them in the design and implementation of such programmes;

(d) combat practices harmful to the sexual and reproductive health of women, adolescents and children, such as female genital mutilation, sexual violence, child marriages and early marriages;

(e) ensure the sustained supply, availability and affordability of more effective and acceptable methods of contraception and protection from sexually transmitted infection, including HIV/AIDS;

(f) promote comprehensive maternal health programmes, including the provision of quality antenatal care, care during childbirth and post-natal care, and the establishment and/or expansion of a body of skilled birth attendants;

(g) provide effective emergency obstetric and post-partum care, including treatment for complications resulting from unsafe abortion;

(h) reduce unsafe abortions by decreasing the number of unwanted pregnancies through the provision of family planning services, compassionate counselling and information, including the use of contraception, and by investing in the training and equipping of suitable staff, including medical service personnel, to manage under hygienic and safe conditions the complications resulting from unsafe abortion.

2. In order to implement the abovementioned operations, particular attention shall be given to the need to improve the health systems of

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developing countries. In this process, the participation and consultation of local communities, families and stakeholders, with special attention to the poor, women and adolescents, shall be ensured. In addition, with a view to ensuring that improvements in health and well-being are sustainable, all operations shall be conducted in tandem with broad-based investments in the social sector, covering education, community action, equity and gender awareness, environmental improvement, economic well-being, food-security and nutrition.

Article 4

1. In the context of the operations referred to in Article 3, Community support may take the form of:

(a) funding of research and programmes for action (which shall, as far as possible, be carried out by or in collaboration with experts or institutions of the partner country);

(b) technical assistance, training, counselling or other services;

(c) supplies, such as medical supplies, commodities and works;

(d) audits, evaluation and monitoring missions.

Priority shall be given to enhancing national capacities with a view to long-term viability.

2. Community financing may cover both investment expenditure, excluding the purchase of real estate, and, in exceptional and duly substantiated cases, taking into account the fact that the operation must, as far as possible, aim at medium-term viability, recurring expenditure as well (including administrative expenditure, maintenance and running costs), which temporarily represents a burden for the partner, so that maximum use is made of the support referred to in paragraph 1.

Chapter II

Implementation of aid

Article 5

1. Community financing under this Regulation shall take the form of grants.

2. A financial contribution from the partners defined in Article 6 shall be sought for each cooperation operation. In specifying the amount of the contribution requested, account shall be taken of the capacity of the partners concerned and the nature of the operation in question. In certain circumstances, the contribution may be in kind if the partner is either a non-governmental organisation (NGO) or a community-based organisation.

3. The provision of financial assistance under this Regulation may entail co-financing with other donors, in particular with Member States, the United Nations, and international or regional development banks or financial institutions. ►**M1** Participation in contractual procedures implemented through an international organisation or co-financed with a third country is defined in Regulation (EC) No 2110/2005 of the European Parliament and of the Council of 14 December 2005 on access to Community external assistance [1]. ◄

4. In the context of the operations referred to in Article 3(1)(b), (c), (d), (e), (f) and (g), efforts shall be made to integrate interventions targeting reproductive and sexual health and rights with actions targeting poverty diseases.

[1] OJ L 344, 27.12.2005, p. 1.

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Article 6

1. The partners eligible for financial assistance under this Regulation include:

(a) administrative authorities and agencies at national, regional and local government levels;

(b) local authorities and other decentralised bodies;

(c) local communities, NGOs, community-based organisations and other not-for-profit natural and legal persons from the private sector;

(d) regional organisations;

(e) international organisations, such as the United Nations and its agencies, funds and programmes, as well as development banks, financial institutions, global initiatives and international public-private partnerships;

(f) research institutes and universities.

2. Without prejudice to paragraph 1(e), Community financial assistance shall be available to partners whose head office is located in a Member State or in a third country that is a beneficiary or potential beneficiary of Community assistance under this Regulation, provided that this office is the actual centre directing business operations. In exceptional cases, this office may be located in another third country.

Article 7

1. Where operations are the subject of financing agreements between the Community and countries which benefit from operations financed under this Regulation, the agreements shall stipulate that the payment of taxes, duties and charges shall not be financed by the Community.

2. Any financing agreement or contract concluded under this Regulation shall stipulate that it is subject to the supervision and financial control of the Commission which may carry out spot-checks and inspections, and to audits by the Court of Auditors, in accordance with the usual arrangements laid down by the Commission under the provisions in force, particularly those in the Financial Regulation applicable to the general budget of the European Communities [1], hereinafter 'the Financial Regulation'.

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

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Article 8

1. Eligibility for participation in tendering procedures under this Regulation shall be determined in accordance with the rules of eligibility, and the derogations therefrom, set out in Regulation (EC) No 2110/2005.

2. The origin of supplies and materials purchased under this Regulation shall be determined in accordance with the rules of origin, and the derogations therefrom, set out in Regulation (EC) No 2110/2005.

[1] OJ L 248, 16.9.2002, p. 1.

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Article 9

1. In order to secure the objectives of consistency and complementarity referred to in the Treaty and to ensure maximum effectiveness of these operations as a whole, the Commission may take all necessary coordination measures, including:

(a) the establishment of a system for the systematic exchange and analysis of information on the 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 exchanges of information between the representatives of the Commission and the Member States in the recipient country.

2. The Commission, in liaison with the Member States, may take any initiative necessary for ensuring proper coordination with the other donors concerned, in particular those forming part of the United Nations system.

Chapter III

Financial and decision-making procedures

Article 10

1. The financial framework for the implementation of this Regulation for the period from 2003 to 2006 is hereby set at EUR 73,95 million. The annual allocation shall be subject to the agreement of the budgetary authority on the appropriate means of financing under the Financial Perspective or through the use of the instruments provided for by the Interinstitutional Agreement of 6 May 1999.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the Financial Perspective.

Article 11

1. The Commission shall be responsible for drafting strategic programming guidelines, defining the Community's cooperation in terms of measurable objectives, priorities, deadlines for specific areas of action, assumptions and expected outcomes. Programming shall be annual and indicative.

2. An annual exchange of views with the Member States shall take place, within the Committee referred to in Article 13(1), on the basis of a presentation by the representative of the Commission of the strategic programming guidelines for the operations to be carried out. The Committee shall give an opinion on these matters in accordance with the procedure referred to in Article 13(2).

Article 12

1. The Commission shall be responsible for appraising, deciding upon 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.

2. Decisions concerning operations for which financing under this Regulation exceeds EUR 3 million and any changes to these operations that entail a cost overrun of more than 20 % of the amount initially fixed for the operation concerned shall be adopted in accordance with the procedure referred to in Article 13(2).

3. For decisions and changes to these operations amounting to EUR 3 million or less, the Commission shall inform the Member States.

Article 13

1. The Commission shall be assisted by the geographically competent committee for development.

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2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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.

Chapter IV

Reporting and final provisions

Article 14

1. After each budget year, the Commission shall submit, in its annual report to the European Parliament and to the Council on Community development policy, information on the guidelines for its annual indicative strategic programme and on the operations financed in the course of that year, as well as the Commission's conclusions on the implementation of this Regulation over the previous budget year. The summary shall in particular provide information on the strengths and weaknesses of operations, those with whom contracts have been concluded and the sums of those contracts, as well as the results of any independent evaluations of specific operations.

2. At the latest one year before the expiry of this Regulation, the Commission shall submit a comprehensive independent appraisal report on its implementation to the European Parliament and the Council with a view to establishing whether the actions undertaken under this Regulation have been effective, and with a view to providing guidelines for improving the effectiveness of future operations. On the basis of this appraisal report the Commission may make proposals for the future of this Regulation and, if necessary, proposals for its amendment.

Article 15

Regulation (EC) No 1484/97 shall be repealed. However, operations that have been decided upon under that Regulation shall continue to be implemented under it.

Article 16

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

2. It shall apply until 31 December 2006.

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