

COUNCIL REGULATION (EC) No 1085/2006
of 17 July 2006
establishing an Instrument for Pre-Accession Assistance (IPA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 181a thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Whereas:

- (1) In order to improve the efficiency of the Community's External Aid, a new framework for programming and delivery of assistance has been envisaged. The present instrument constitutes one of the general instruments directly supporting European External Aid policies.
- (2) Article 49 of the Treaty on European Union states that any European State which respects the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law may apply to become a member of the Union.
- (3) The Republic of Turkey's application for membership to the European Union was accepted by the European Council in Helsinki in 1999. Pre-accession assistance has been made available to the Republic of Turkey since 2002. The Brussels European Council on 16 and 17 December 2004 recommended that accession negotiations should be opened with Turkey.
- (4) At its meeting at Santa Maria da Feira on 20 June 2000, the European Council stressed that the countries of the Western Balkans were potential candidates for membership of the European Union.
- (5) At its meeting in Thessaloniki, on 19 and 20 June 2003, the European Council recalled the conclusions of its meetings in Copenhagen in December 2002 and Brussels in March 2003 and reiterated its determination to fully and effectively support the European perspective of the Western Balkan countries, indicating that they would become an integral part of the European Union, once they met the established criteria.
- (6) The Thessaloniki European Council 2003 also indicated that the Stabilisation and Association Process would constitute the overall framework for the European course of the Western Balkan countries all the way to their future accession.
- (7) In its resolution on the Thessaloniki European Council Conclusions, the European Parliament recognised that each of the Western Balkan countries was moving towards accession, but at the same time insisted that each country should be judged on its own merits.
- (8) All the Western Balkan countries can therefore be considered as potential candidate countries; however, a clear distinction should be made between candidate countries and potential candidate countries.
- (9) On 17 and 18 June 2004 the Brussels European Council recommended that accession negotiations should be opened with Croatia.
- (10) On 15 and 16 December 2005 the Brussels European Council decided to grant candidate country status to the former Yugoslav Republic of Macedonia.
- (11) Further, on 16 and 17 December 2004, the Brussels European Council recommended that parallel to accession negotiations, the European Union should engage an intensive political and cultural dialogue with every candidate country.
- (12) In the interests of coherence and consistency of Community assistance, assistance for candidate countries as well as for potential candidate countries should be granted in the context of a coherent framework, taking advantage of the lessons learned from earlier pre-accession instruments as well as 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 ⁽³⁾. The assistance should also be consistent with the development policy of the Community in accordance with Article 181a of the EC Treaty.
- (13) Assistance for candidate countries as well as for potential candidate countries should continue to support them in their efforts to strengthen democratic institutions and the rule of law, reform public administration, carry out economic reforms, respect human as well as minority rights, promote gender equality, support the development of civil society and advance regional cooperation as well as reconciliation and reconstruction, and contribute to sustainable development and poverty reduction in these countries, and it should therefore be targeted at supporting a wide range of institution-building measures.

⁽¹⁾ Opinion delivered on 6 July 2006 (not yet published in the Official Journal).

⁽²⁾ OJ C 231, 20.9.2005, p. 67.

⁽³⁾ OJ L 306, 7.12.2000, p. 1. Regulation as last amended by Regulation (EC) No 2112/2005 (OJ L 344, 27.12.2005, p. 23).

- (14) Assistance for candidate countries should additionally focus on the adoption and implementation of the full *acquis communautaire*, and in particular prepare candidate countries for the implementation of the Community's agricultural and cohesion policy.
- (15) Assistance for potential candidate countries may include some alignment with the *acquis communautaire*, as well as support for investment projects, aiming in particular at building management capacity in the areas of regional, human resources and rural development.
- (16) Assistance should be provided on the basis of a comprehensive multi-annual strategy that reflects the priorities of the Stabilisation and Association Process, as well as the strategic priorities of the pre-accession process.
- (17) In order to assist with the financial part of this strategy, and without prejudice to the prerogatives of the Budgetary Authority, the Commission should present its intentions for the financial allocations to be proposed for the three forthcoming years by means of a multi-annual indicative financial framework, as an integral part of its annual enlargement package.
- (18) The Transition Assistance and Institution Building, and Cross-Border Cooperation Components should be accessible to all beneficiary countries, in order to assist them in the process of transition and approximation to the EU, as well as to encourage regional cooperation between them.
- (19) The Regional Development Component, the Human Resources Development Component, and the Rural Development Component should be accessible only to candidate countries accredited to manage funds in a decentralised manner, in order to help them prepare for the time after accession, in particular for the implementation of the Community's cohesion and rural development policies.
- (20) Potential candidate countries and candidate countries that have not been accredited to manage funds in a decentralised manner should however be eligible, under the Transition Assistance and Institution Building Component, for measures and actions of a similar nature to those which will be available under the Regional Development Component, the Human Resources Development Component and the Rural Development Component.
- (21) Assistance should be managed in accordance with the rules for External Aid contained in Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, making use of the structures that have proved their worth in the pre-accession process, such as decentralised management, twinning and TALEX (Technical Assistance Information Exchange Instrument), but should also allow for innovative approaches such as the implementation through Member States via shared management in case of cross-border programmes on the external borders of the European Union. The transfer of knowledge and expertise regarding the implementation of the *acquis communautaire*, from Member States with relevant experience to the beneficiaries of this Regulation, should be particularly beneficial in this context.
- (22) The actions necessary for the implementation of this Regulation are management measures relating to the implementation of programmes with substantial budgetary implications. They should therefore 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 ⁽²⁾, by submitting the multi-annual indicative planning documents to a Management Committee.
- (23) The annual or multi-annual programmes on a horizontal and per country basis for the implementation of assistance under the Transition Assistance and Institution Building Component and the Cross-Border Cooperation Component should also be submitted to a Management Committee in accordance with Decision 1999/468/EC.
- (24) The multi-annual programmes for the implementation of the Regional Development Component, the Human Resources Development Component, and the Rural Development Component should also be submitted to a Management Committee, in accordance with Decision 1999/468/EC. Since these actions will be closely aligned to Structural Fund and Rural Development practices, they should make use as far as possible of the existing Committees which are in place for Structural Funds and Rural Development.
- (25) Where the Commission implements this Regulation through centralised management, it should take the utmost care to protect the financial interests of the Community, in particular by applying the rules and standards of the *acquis communautaire* in that respect, and where the Commission implements this Regulation through other forms of management, the financial interests of the Community should be safeguarded through the conclusion of appropriate agreements containing sufficient guarantees in that respect.
- (26) Rules determining the eligibility of participation in tenders and grant contracts, as well as rules concerning the origin of supplies should be laid down in accordance with recent developments within the European Union concerning the untying of aid, but should leave the flexibility to react to new developments in this field.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

- (27) Where a beneficiary country violates the principles on which the European Union is founded, or makes insufficient progress with respect to the Copenhagen criteria and the priorities laid down in the European or Accession Partnership, the Council must, on the basis of a proposal from the Commission, be in a position to take the necessary measures. Full and immediate information to the European Parliament should be ensured.
- (28) Provision should be made to enable the Council to amend this Regulation by way of a simplified procedure with respect to the status of a beneficiary country as defined in this Regulation.
- (29) Countries which are beneficiaries under the other regional External Assistance Instruments should, on the basis of reciprocity, be able to participate in actions under this Regulation, where this offers an added value on account of the regional, cross-border, transnational or global nature of the action in question.
- (30) Since the objective of this Regulation, namely the progressive alignment of the beneficiary countries with the standards and policies of the European Union, including where appropriate the *acquis communautaire*, with a view to membership, cannot sufficiently be achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the EC Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.
- (31) Given that Article 181a of the EC Treaty stipulates that measures in the area of economic, financial and technical cooperation with third countries are to be complementary to those carried out by the Member States, the Commission and the Member States are committed to ensure coordination, coherence and complementarity of their assistance, in line with the established EU 2001 guidelines for strengthening operational coordination between the Community and the Member States in the field of external assistance, in particular through regular consultations and frequent exchanges of relevant information during the different phases of the assistance cycle.
- (32) A financial reference amount, within the meaning of point 38 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management⁽¹⁾, is included in this Regulation for the entire duration of the instrument, without thereby affecting the powers of the budgetary authority as they are defined by the EC Treaty.
- (33) The institution of the new system of Community pre-accession assistance makes it necessary to repeal Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to the Republic of Hungary and the Polish People's Republic⁽²⁾, Commission Regulation (EC) No 2760/98 of 18 December 1998 concerning the implementation of a programme for cross-border cooperation in the framework of the PHARE programme⁽³⁾, Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy⁽⁴⁾, Council Regulation (EC) No 1267/1999 of 21 June 1999 establishing an Instrument for Structural Policies for Pre-accession⁽⁵⁾, Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period⁽⁶⁾, Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta⁽⁷⁾, Council Regulation (EC) No 2500/2001 of 17 December 2001 concerning pre-accession financial assistance for Turkey⁽⁸⁾ and Council Regulation (EC) No 2112/2005 of 21 November 2005 on access to Community external assistance. Equally, this Regulation should replace Regulation (EC) No 2666/2000, which expires on 31 December 2006,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Beneficiaries and overall objective

The Community shall assist the countries listed in Annexes I and II in their progressive alignment with the standards and policies of the European Union, including where appropriate the *acquis communautaire*, with a view to membership.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 2257/2004 (OJ L 389, 31.12.2004, p. 1).

⁽³⁾ OJ L 345, 19.12.1998, p. 49. Regulation as last amended by Regulation (EC) No 1045/2005 (OJ L 172, 5.7.2005, p. 78).

⁽⁴⁾ OJ L 161, 26.6.1999, p. 68.

⁽⁵⁾ OJ L 161, 26.6.1999, p. 73.

⁽⁶⁾ OJ L 161, 26.6.1999, p. 87. Regulation as last amended by Regulation (EC) No 2112/2005.

⁽⁷⁾ OJ L 68, 16.3.2000, p. 3. Regulation as last amended by Regulation (EC) No 769/2004 (OJ L 123, 27.4.2004, p. 1).

⁽⁸⁾ OJ L 342, 27.12.2001, p. 1. Regulation as last amended by Regulation (EC) No 2112/2005.

Article 2

Scope

1. Assistance shall, where appropriate, be used in the beneficiary countries listed in Annexes I and II to support the following areas:

- (a) strengthening of democratic institutions, as well as the rule of law, including its enforcement;
- (b) the promotion and the protection of human rights and fundamental freedoms and enhanced respect for minority rights, the promotion of gender equality and non-discrimination;
- (c) public administration reform, including the establishment of a system enabling decentralisation of assistance management to the beneficiary country in accordance with the rules laid down in Regulation (EC, Euratom) No 1605/2002;
- (d) economic reform;
- (e) the development of civil society;
- (f) social inclusion;
- (g) reconciliation, confidence-building measures and reconstruction;
- (h) regional and cross-border cooperation.

2. In the case of countries listed in Annex I, assistance shall also be used to support the following areas:

- (a) the adoption and implementation of the *acquis communautaire*;
- (b) support for the policy development as well as preparation for the implementation and management of the Community's common agricultural and cohesion policies.

3. In the case of countries listed in Annex II, assistance shall also be used to support the following areas:

- (a) progressive alignment with the *acquis communautaire*;
- (b) social, economic and territorial development including, *inter alia*, infrastructure and investment related activities, in particular in the areas of regional, human resources and rural development.

Article 3

Components

1. Assistance shall be programmed and implemented according to the following components:

- (a) Transition Assistance and Institution Building;
- (b) Cross-Border Cooperation;
- (c) Regional Development;
- (d) Human Resources Development;
- (e) Rural Development.

2. The Commission shall ensure coordination and coherence between assistance granted under the different components.

3. The Commission shall adopt rules for the implementation of this Regulation in accordance with the procedure laid down in Articles 4 and 7 of Decision 1999/468/EC. To that effect, the Commission shall be assisted by the IPA Committee referred to in Article 14(1).

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

Article 4

Political framework for assistance

Assistance under this Regulation shall be provided in accordance with the general policy framework for pre-accession, defined by the European and Accession Partnerships, and taking due account of the Reports and the Strategy Paper comprised in the annual Enlargement package of the Commission.

Article 5

Information on proposed indicative financial allocations

1. With a view to supporting the strategic planning as provided for in Article 6, the Commission shall present annually to the European Parliament and the Council its intentions for the financial allocations to be proposed for the three forthcoming years, in the form of a multi-annual indicative financial framework, taking into consideration the financial framework, as well as the European Partnerships, Accession Partnerships, Reports and Strategy Paper.

2. This multi-annual indicative financial framework shall present the Commission's intentions for the allocation of funds, broken down by component, country and multi-country action. It shall be elaborated on the basis of a set of objective and transparent criteria, including needs assessment, absorption capacity, respect of conditionalities and capacity of management. Due account shall also be taken of any exceptional assistance measures or interim response programmes adopted under a Regulation establishing the Stability Instrument.

3. The multi-annual indicative financial framework shall be included in the Commission's annual Enlargement package, while maintaining a three-year planning horizon.

Article 6

Planning of assistance

1. Assistance under this Regulation shall be provided on the basis of multi-annual indicative planning documents established by country in close consultation with the national authorities, so as to support national strategies and ensure the engagement and involvement of the country concerned. Civil society and other stakeholders shall be associated where appropriate. Other programmes of assistance will also be taken into account.

2. For countries listed in Annex I, assistance shall be based in particular on the Accession Partnerships. Assistance shall cover the priorities and overall strategy resulting from a regular analysis of the situation in each country and on which preparations for accession must concentrate. Assistance shall be planned in view of the criteria defined by the Copenhagen European Council of June 1993 and the progress made in the adoption and implementation of the *acquis communautaire*, as well as regional cooperation.

3. For countries listed in Annex II, assistance shall be based in particular on the European Partnerships. Assistance shall cover the priorities and overall strategy resulting from a regular analysis of the situation in each country and on which preparation for further integration into the European Union must concentrate. Assistance shall be planned in view of the criteria defined by the Copenhagen European Council of June 1993 and the progress made in implementing the stabilisation and association agreements, including regional cooperation.

4. Multi-annual indicative planning documents shall present indicative allocations for the main priorities within each component, taking into account the indicative breakdown per country and per component proposed in the multi-annual indicative financial framework. They shall also set out, as appropriate, any funding provided for multi-country programmes and horizontal initiatives.

5. Multi-annual indicative planning documents shall be established following a three-year perspective. They shall be reviewed annually.

6. The Commission shall adopt the multi-annual indicative planning documents and annual reviews thereof in accordance with the procedure referred to in Article 14(2)(a).

Article 7

Programming

1. Assistance under this Regulation shall be provided through multi-annual or annual programmes, established by country and by component, or, as appropriate, by group of countries or by theme in accordance with the priorities defined in the multi-annual indicative planning documents.

2. Programmes shall specify the objectives pursued, the fields of intervention, the expected results, the management procedures and total amount of financing planned. They shall contain a summary description of the type of operations to be financed, an indication of the amounts allocated for each type of operation and an indicative implementation timetable. Where relevant, they shall include the results of any lessons learned from previous assistance. Objectives shall be specific, relevant and measurable and have time-bound benchmarks.

3. The Commission shall adopt the multi-annual and annual programmes, and any reviews thereof, in accordance with the procedures provided for in Article 14(2).

TITLE II

RULES CONCERNING SPECIFIC COMPONENTS

Article 8

Transition Assistance and Institution Building Component

1. The Transition Assistance and Institution Building Component shall assist the countries listed in Annexes I and II in the attainment of the objectives set out in Article 2.

2. It may, *inter alia*, be used to finance capacity and institution building as well as investment in as far as the latter is not covered by Articles 9 to 12.

3. Assistance under this component may also support the participation of countries listed in Annexes I and II in Community programmes and agencies. In addition, assistance may be provided for regional and horizontal programmes.

Article 9

Cross-Border Cooperation Component

1. The Cross-Border Cooperation Component may support the countries listed in Annexes I and II in cross-border, and, where appropriate, transnational and interregional cooperation among themselves and between them and the Member States.

2. Such cooperation shall have the objective of promoting good neighbourly relations, fostering stability, security and prosperity in the mutual interest of all countries concerned, and of encouraging their harmonious, balanced and sustainable development.

3. In the event of cross-border cooperation with Member States, the rules governing the financial contributions of the European Regional Development Fund and this Regulation shall be the relevant provisions of Article 21 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund ⁽¹⁾.

4. Cooperation will be coordinated with other Community instruments for cross-border, trans-national and interregional cooperation. In case of cross-border cooperation with Member States, this component shall cover the regions on both sides of the respective border or borders, either terrestrial or maritime.

⁽¹⁾ See page 25 of this Official Journal.

5. Within the objectives of this article, this component may *inter alia* be used to finance capacity and institution building as well as investment.

TITLE III

Article 10

Regional Development Component

1. The Regional Development Component shall support countries listed in Annex I in policy development as well as preparation for the implementation and management of the Community's cohesion policy, in particular in their preparation for the European Regional Development Fund and the Cohesion Fund.

2. It may in particular contribute towards the financing of the type of actions provided for under Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund ⁽¹⁾ and Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund ⁽²⁾.

Article 11

Human Resources Development Component

1. The Human Resources Development Component shall support countries listed in Annex I in policy development as well as preparation for the implementation and management of the Community's cohesion policy, in particular in their preparation for the European Social Fund.

2. It may in particular contribute towards the financing of the type of actions provided for under Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund ⁽³⁾.

Article 12

Rural Development Component

1. The Rural Development Component shall support countries listed in Annex I in policy development as well as preparation for the implementation and management of the Community's common agricultural policy. It shall in particular contribute to the sustainable adaptation of the agricultural sector and rural areas and to the candidate countries' preparation for the implementation of the *acquis communautaire* concerning the Common Agricultural Policy and related policies.

2. It may in particular contribute towards the financing of the type of actions provided for under Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽⁴⁾.

⁽¹⁾ See page 1 of this Official Journal.

⁽²⁾ See page 79 of this Official Journal.

⁽³⁾ See page 12 of this Official Journal.

⁽⁴⁾ OJ L 277, 21.10.2005, p. 1.

MANAGEMENT AND IMPLEMENTATION

Article 13

Management of assistance, reporting

1. The Commission shall be responsible for the implementation of this Regulation, acting in accordance with the procedures referred to in Article 14 and the implementing rules referred to in Article 3(3).

2. Actions under this Regulation shall be managed, monitored, evaluated and reported on in accordance with Regulation (EC, Euratom) No 1605/2002. Community financing can take in particular the form of financing agreements between the Commission and the beneficiary country, procurement contracts or grant agreements with national or international public sector bodies or natural or legal persons responsible for carrying out the action, or employment contracts. For cross-border programmes with Member States according to Article 9 of this Regulation, implementation tasks may be delegated to Member States, in which case they shall be implemented through shared management in accordance with the relevant provisions of Regulation (EC, Euratom) No 1605/2002. In case of shared management, the managing authority shall operate in accordance with the principles and rules laid down in Regulation (EC) No 1083/2006.

3. The Commission may also receive and manage funds from other donors, as assigned revenue in accordance with Article 18 of Regulation (EC, Euratom) No 1605/2002, in order to implement actions with these donors.

4. In duly justified cases, the Commission may, in accordance with Article 54 of Regulation (EC, Euratom) No 1605/2002, decide to entrust tasks of public authority, and in particular budget implementation tasks, to the bodies listed in Article 54(2) of that Regulation. The bodies defined in Article 54(2)(c) of that Regulation may be entrusted with tasks of public authority if they are of recognised international standing, comply with internationally recognised systems of management and control, and are supervised by a public authority.

5. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments.

6. Each year the Commission shall send to the European Parliament and the Council a report on the implementation of Community assistance under this Regulation. The report shall contain information on the actions 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 assistance.

Article 14

Committees

1. An IPA Committee shall be established, composed of the representatives of the Member States and chaired by a representative of the Commission. It shall assist the Commission in particular in its task to ensure the coordination and coherence between assistance granted under the different components as required by Article 3(2).

The IPA Committee shall adopt its rules of procedure.

2. (a) The Commission shall adopt the multi-annual indicative planning documents and annual reviews thereof referred to in Article 6 of this Regulation, and the programmes concerning assistance to be provided under Articles 8 and 9 of this Regulation, in accordance with the procedure laid down in Articles 4 and 7 of Decision 1999/468/EC. To that effect, the Commission shall be assisted by the IPA Committee.

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

(b) The Commission shall adopt the programmes concerning assistance to be provided under Article 10 of this Regulation, in accordance with the procedure laid down in Articles 4 and 7 of Decision 1999/468/EC. To that effect, the Commission shall be assisted by the Coordination Committee of the Funds referred to in Article 103 of Regulation (EC) No 1083/2006.

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

(c) The Commission shall, after having consulted the Committee provided for in Article 147 of the EC Treaty, adopt the programmes concerning assistance to be provided under Article 11 of this Regulation, in accordance with the procedure laid down in Articles 4 and 7 of Decision 1999/468/EC. To that effect, the Commission shall be assisted by the Coordination Committee of the Funds referred to in Article 103 of Regulation (EC) No 1083/2006.

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

(d) The Commission shall adopt the programmes concerning assistance to be provided under Article 12 of this Regulation, in accordance with the procedure laid down in Articles 4 and 7 of Decision 1999/468/EC. To that effect, the Commission shall be assisted by the Rural Development Committee established by Article 90 of Regulation (EC) No 1698/2005.

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

3. Financing decisions not covered by a multi-annual or annual programme shall be adopted by the Commission, in accordance with the procedure provided for in paragraph 2(a) of this Article.

4. The Commission shall adopt the amendments to the multi-annual and annual programmes and the decisions referred to in paragraph 3 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 Committee which gave an opinion on the original programme or action shall be informed of all amending decisions.

5. An observer from the European Investment Bank shall take part in the Committees' proceedings with regard to questions concerning the Bank.

Article 15

Types of assistance

1. Assistance under this Regulation may, *inter alia*, finance investments, procurement contracts, grants including interest rate subsidies, special loans, loan guarantees and financial assistance, budgetary support, and other specific forms of budgetary aid, and the contribution to the capital of international financial institutions or the regional development banks to the extent that the financial risk of the Community is limited to the amount of these funds. Budgetary support shall be exceptional, with precise objectives and related benchmarks, and be contingent on the administration of public finances of the beneficiary country being sufficiently transparent, reliable and efficient, and on well-defined sectoral or macroeconomic policies approved in principle by international financing institutions having been put in place. Disbursement of budgetary support shall be conditional on satisfactory progress towards achieving the objectives in terms of impact and results.

2. Assistance may be implemented through administrative cooperation measures involving public-sector experts dispatched from Member States. Such projects shall be implemented according to implementing rules laid down by the Commission.

3. Assistance may also be used to cover the costs of the Community's participation in international missions, initiatives or organisations active in the interest of the beneficiary country, including administrative costs.

4. Community financing shall in principle not be used for paying taxes, duties or charges in beneficiary countries listed in Annexes I and II.

*Article 16***Support measures**

Assistance may also be used to cover the costs of actions linked to preparation, follow-up, control, audit and evaluation directly necessary for the administration of the programme and the attainment of its objectives, in particular studies, meetings, information and publicity, expenses linked to informatics networks aiming at information exchange, as well as any other expenses for administrative and technical assistance of which the Commission can avail itself for the administration of the programme. It also covers the cost of the administrative support for the purposes of devolved programme management in the Commission delegations in third countries.

*Article 17***Implementation of assistance**

1. The Commission and the beneficiary countries shall conclude framework agreements on the implementation of the assistance.

2. Subsidiary agreements concerning implementation of assistance shall be concluded between the Commission and the beneficiary country or its implementing authorities as required.

*Article 18***Protection of the Community's financial interests**

1. Any agreements resulting from this Regulation shall contain provisions ensuring the protection of the Community's financial interest, in particular with respect to fraud, corruption and any other irregularities in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽¹⁾, Council Regulation (EC, Euratom) 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 ⁽²⁾ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽³⁾.

2. Agreements shall expressly provide for the Commission and the Court of Auditors to have the power of audit, on the basis of documents and on the spot, over all contractors and subcontractors who have received Community funds. They shall also expressly authorise the Commission to carry out on-the-spot checks and inspections as laid down in Regulation (EC, Euratom) No 2185/96.

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽²⁾ OJ L 292, 15.11.1996, p. 2.

⁽³⁾ OJ L 136, 31.5.1999, p. 1.

3. All contracts resulting from the implementation of assistance shall ensure the rights of the Commission and the Court of Auditors as provided for in paragraph 2, both during and after the implementation of contracts.

*Article 19***Rules of participation and origin, eligibility for grants**

1. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all natural persons who are nationals of and legal persons who are established in a Member State, a country that is a beneficiary of this Regulation, a country that is a beneficiary of the European Neighbourhood and Partnership Instrument, or a Member State of the European Economic Area.

2. Participation in the award of procurement or grant contracts financed under this Regulation shall also be open to all natural persons who are nationals of and legal persons who are established in any country other than those referred to in paragraph 1, where reciprocal access to their external assistance has been established.

Reciprocal access to the Community's external assistance shall be established by means of a specific decision concerning a given country or a given regional group of countries. Such a decision shall be adopted by the Commission in accordance with the procedure laid down in Article 14(2)(a) and shall be in force for a minimum period of one year.

The granting of reciprocal access to the Community's external assistance shall be based on a comparison between the Community and other donors and shall proceed at sectoral level or entire country level, whether it be a donor or a recipient country. The decision of granting this reciprocity to a donor country shall be based on the transparency, consistency and proportionality of the aid provided by that donor, including its qualitative and quantitative nature. The beneficiary countries shall be consulted in the process described in this paragraph.

3. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to international organisations.

4. Experts proposed in the context of procedures for the award of contracts are not required to comply with the nationality condition of paragraphs 1 and 2.

5. All supplies and materials purchased under a contract financed under this Regulation must originate from the Community or a country eligible according to paragraphs 1 or 2. The term 'origin' for the purpose of this Regulation is defined in the relevant Community legislation on rules of origin for customs purposes.

6. The Commission may, in duly substantiated exceptional cases, authorise the participation of natural persons who are nationals of and legal persons who are established in other countries than those referred to in paragraphs 1 and 2, or the purchase of supplies and materials of different origin from that set out in paragraph 5. Derogations may be justified on the basis of the unavailability of products and services in the markets of the countries concerned, for reasons of extreme urgency, or if the eligibility rules would make the realisation of a project, a programme or an action impossible or exceedingly difficult.

7. In conformity with Article 114 of Regulation (EC, Euratom) No 1605/2002 natural persons may receive grants.

8. Whenever Community funding covers an operation implemented through an international organisation, participation in the appropriate contractual procedures shall be open to all natural or legal persons who are eligible pursuant to paragraphs 1 and 2 as well as to all natural or legal persons who are eligible pursuant to the rules of that organisation, care being taken to ensure that equal treatment is afforded to all donors. The same rules shall apply in respect of supplies, materials and experts.

Whenever Community funding covers an operation co-financed with a Member State, with a third country, subject to reciprocity as defined in paragraph 2, or with a regional organisation, participation in the appropriate contractual procedures shall be open to all natural or legal persons who are eligible pursuant to paragraphs 1, 2 and 3 as well as to all natural or legal persons who are eligible under the rules of such Member State, third country or regional organisation. The same rules shall apply in respect of supplies, materials and experts.

Article 20

Coherence, compatibility and coordination

1. Programmes and projects financed under this Regulation shall be consistent with EU policies. They shall comply with the agreements concluded by the Community and its Member States with the beneficiary countries and respect commitments under multilateral agreements to which they are parties.

2. The Commission and the Member States shall ensure coherence between Community assistance provided under this Regulation and financial assistance provided by the Community and the Member States through other internal and external financial instruments and by the European Investment Bank.

3. The Commission and the Member States shall ensure coordination of their respective assistance programmes with the aim of increasing effectiveness and efficiency in the delivery

of assistance in line with the established guidelines for strengthening operational coordination in the field of external assistance, and for the harmonisation of policies and procedures. Coordination shall involve regular consultations and frequent exchanges of relevant information during the different phases of the assistance cycle, in particular at field level and shall constitute a key step in the programming processes of the Member States and the Community.

4. The Commission will, in liaison with the Member States, take the necessary steps to ensure proper coordination and harmonisation and cooperation with multilateral and regional organisations and entities, such as international financial institutions, United Nations agencies, funds and programmes, and non-EU donors.

Article 21

Suspension of assistance

1. Respect for the principles of democracy, the rule of law and for human rights and minority rights and fundamental freedoms is an essential element for the application of this Regulation and the granting of assistance under it. Community assistance for Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, including Kosovo, 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.

2. Where a beneficiary country fails to respect these principles or the commitments contained in the relevant Partnership with the EU, or where progress toward fulfilment of the accession criteria is insufficient, the Council, acting by qualified majority on a proposal from the Commission, may take appropriate steps with regard to any assistance granted under this Regulation. The European Parliament shall be fully and immediately informed of any decisions taken in this context.

Article 22

Evaluation

The Commission shall regularly evaluate the results and efficiency of policies and programmes and the effectiveness of programming in order to ascertain whether the objectives have been met and enable it to formulate recommendations with a view to improving future operations. The Commission shall send relevant evaluation reports to the Committees referred to in Article 14 for discussion. These results shall feed back into programme design and resource allocation.

TITLE IV

TRANSITIONAL AND FINAL PROVISIONS*Article 23***Status of Beneficiary Country**

If a beneficiary country listed in Annex II is granted candidate status for accession to the EU, the Council, acting by qualified majority on the basis of a proposal from the Commission will transfer that country from Annex II to Annex I.

*Article 24***Cross-instrument provision**

In order to ensure consistency and efficiency of Community assistance, the Commission can decide, in accordance with the procedure referred to in Article 14(2)(a), that other third countries, territories and regions can benefit from actions under this Regulation, if the project or programme in question has a regional, cross-border, transnational or global character. In so doing, the Commission shall strive to avoid duplication with regard to other instruments of external financial assistance.

*Article 25***Transitional provisions**

1. Regulations (EEC) No 3906/89, (EC) No 2760/98, (EC) No 1266/1999, (EC) No 1267/1999, (EC) No 1268/1999, (EC) No 555/2000, (EC) No 2500/2001 and (EC) No 2112/2005 shall be repealed with effect from 1 January 2007.

These Regulations, as well as Regulation (EC) No 2666/2000, shall continue to apply for legal acts and commitments implementing the budget years preceding 2007, and for the implementation of Article 31 of the Act concerning the conditions

of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded ⁽¹⁾.

2. Should specific measures be necessary to facilitate the transition from the system established by Regulations (EEC) No 3906/89, (EC) No 2760/98, (EC) No 1266/1999, (EC) No 1267/1999, (EC) No 1268/1999, (EC) No 555/2000, (EC) No 2666/2000 or (EC) No 2500/2001 to the one established by this Regulation, such measures shall be adopted by the Commission in accordance with the procedures referred to in Article 14 of this Regulation.

*Article 26***Financial reference amount**

The financial reference amount for the implementation of this Regulation for the period from 2007 to 2013 shall be EUR 11 468 million. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

*Article 27***Review**

The Commission shall submit to the European Parliament and the Council, by 31 December 2010, a report evaluating the implementation of this Regulation in the first three years, if appropriate with a legislative proposal introducing the necessary modifications to this Regulation.

*Article 28***Entry into force**

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

It shall apply from 1 January 2007 to 31 December 2013.

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

Done at Brussels, 17 July 2006.

For the Council

The President

E. TUOMIOJA

⁽¹⁾ OJ L 157, 21.6.2005, p. 203.

ANNEX I

- Croatia
 - Turkey
 - The former Yugoslav Republic of Macedonia.
-

ANNEX II

- Albania
 - Bosnia
 - Montenegro
 - Serbia, including Kosovo ⁽¹⁾
-

⁽¹⁾ As defined in UNSCR 1244.