

Community aid: conditions for access to the instruments financing the Community external assistance

2004/0099(COD) - 14/12/2005 - Final act

PURPOSE : to establish rules for access of interested parties to Community external assistance instruments financed by the EU budget, and to make provision for the untying of aid.

LEGISLATIVE ACT : Regulation 2110/2005/EC of the European Parliament and of the Council on access to Community external assistance.

CONTENT : This Regulation aims to apply the principle of untying of aid to the main Community instruments for external assistance (thematic or geographical). The purpose is to end the practice of tying aid, which involves linking the granting of aid to the purchase of goods and services in the donor country. The practice of tying the granting of aid, directly or indirectly, to the purchase of goods and services procured by means of that aid in the donor country reduces its effectiveness and is not coherent with a pro-poor development policy. The untying of aid must be used as a tool to cross-fertilise other elements in the fight against poverty, such as ownership, regional integration and capacity building, with a focus on empowering local and regional suppliers of goods and services in developing countries.

At the same time as untying aid for developing countries, the Regulation presents one single regulation defining the access to all Community aid to be implemented in all basic acts governing external assistance that fall under the EC budget. In the future, all instruments will contain a simple reference to this regulation. All the modifications to the basic acts concerned are listed in Annex I to this Regulation. Amendments are made to:

- Community instruments with a thematic scope, such as the Regulation on the fight against HIV/AIDS in developing countries;
- Community instruments with a geographical scope such as the Regulation regarding the implementation of measures to promote economic and social development in Turkey, and the Regulation on operations to aid uprooted people in Asia and Latin American developing countries.

In order to define access to Community external assistance, several elements are addressed:

- rules of eligibility determining the access of persons;
- rules on the engagement of experts (who may be of any nationality, bearing in mind the principle of reciprocity);
- rules of origin defining the access of supplies and materials purchased by eligible persons;
- access of a specific category of persons under the condition of reciprocity;
- definition and modalities for the implementation of reciprocity;
- derogations (in duly substantiated exceptional cases, the Commission may extend eligibility to legal persons from a country not normally eligible, or may allow the purchase of supplies and materials originating from a country not eligible, which may be justified on the basis of the unavailability of products and services in the markets of the countries concerned);
- provisions concerning operations financed through an international organisation;
- provisions for the purposes of humanitarian aid and NGOs.

Concerning nationals of developing and transition countries:

- instruments with a thematic scope are open for all developing and transition countries in addition to those already mentioned in the specific instruments. They are listed in Annex I, Part A;
- instruments with a geographical scope are open only to the nationals of countries of the region as defined on the instruments, as one of the objective of those instrument is to strengthen regional integration and capacity building in a regional context. They are listed in Annex I, Part B.

In addition, the Regulation offers unrestricted access to its programs to suppliers from other donor countries, including the USA and Japan. Access will be based on reciprocity. With the adoption of the regulation the EU will take the lead in the international efforts to end the practice of tying aid to the delivery of supplies from the donor country.

Instruments are open to nationals from Member States from candidate countries and from countries of EEA (Norway, Iceland and Liechtenstein). For nationals of all other donor countries (such as USA, Japan and Canada and Australia) instruments will be accessible based on reciprocity.

There are also provisions which clarify the situation with regard to operations involving international or regional organisations or operations co-financed with a third country. As far as food aid operations are concerned, the application of the provisions is limited to emergency operations.

The Regulation contains a clause on humanitarian aid and NGOs, in order to take account of the special characteristics of humanitarian crises. Due to amendments by the European Parliament, the provisions do not apply to the Rapid Reaction Mechanism.

Finally, due to amendments by Parliament, the Regulation provides that, when awarding tenders under a Community instrument, special consideration will be given:

- to respect for internationally agreed core labour standards of the International Labour Organisation (ILO), e.g. the conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour;
- to respect for the following internationally agreed environmental conventions: the Convention on Biological Diversity of 1992, the Cartagena Protocol on Biosafety of 2000 and the Kyoto Protocol to the United Nations Framework Convention on Climate Change of 1997.

ENTRY INTO FORCE : 28/12/2005.