

Basic information	
2004/0099(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Community aid: conditions for access to the instruments financing the Community external assistance Repealed by 2004/0220(COD) Subject 6.30 Development cooperation	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	DEVE Development		GAHLER Michael (PPE-DE)	27/07/2004
	Committee for opinion		Rapporteur for opinion	Appointed
	AFET Foreign Affairs		BEŇOVÁ Monika (PSE)	13/09/2004
	INTA International Trade		The committee decided not to give an opinion.	14/09/2004
	BUDG Budgets		The committee decided not to give an opinion.	
	Council of the European Union	Council configuration		Meetings
General Affairs		2674	2005-11-21	
Economic and Financial Affairs ECOFIN		2672	2005-07-12	
European Commission	Commission DG		Commissioner	
	Energy and Transport			

Key events			
Date	Event	Reference	Summary
		COM(2004)0313	Summary

26/04/2004	Legislative proposal published		
15/09/2004	Committee referral announced in Parliament, 1st reading		
29/04/2005	Additional information		Summary
06/06/2005	Vote in committee, 1st reading		Summary
08/06/2005	Committee report tabled for plenary, 1st reading	A6-0182/2005	
23/06/2005	Decision by Parliament, 1st reading	T6-0256/2005	Summary
23/06/2005	Results of vote in Parliament		
21/11/2005	Act adopted by Council after Parliament's 1st reading		
14/12/2005	Final act signed		
14/12/2005	End of procedure in Parliament		
27/12/2005	Final act published in Official Journal		

Technical information	
Procedure reference	2004/0099(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealed by 2004/0220(COD)
Legal basis	EC Treaty (after Amsterdam) EC 308 EC Treaty (after Amsterdam) EC 181A EC Treaty (after Amsterdam) EC 179 EC Treaty (after Amsterdam) EC 175 EC Treaty (after Amsterdam) EC 203-p(1)
Stage reached in procedure	Procedure completed
Committee dossier	DEVE/6/22084

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee opinion	AFET	PE349.865	24/05/2005	
Amendments tabled in committee		PE359.895	30/05/2005	
Committee report tabled for plenary, 1st reading/single reading		A6-0182/2005	08/06/2005	
Text adopted by Parliament, 1st reading/single reading		T6-0256/2005 OJ C 133 08.06.2006, p. 0030-0116 E	23/06/2005	Summary
Council of the EU				
Document type	Reference	Date	Summary	

Draft final act	03642/1/2005	14/12/2005	
European Commission			
Document type	Reference	Date	Summary
Legislative proposal	COM(2004)0313 	26/04/2004	Summary
Commission response to text adopted in plenary	SP(2005)2882	13/07/2005	
Other institutions and bodies			
Institution/body	Document type	Reference	Date
EESC	Economic and Social Committee: opinion, report	CES1645/2004 OJ C 157 28.06.2005, p. 0099-0101	15/12/2004

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act
Regulation 2005/2110 OJ L 344 27.12.2005, p. 0001-0014
Summary

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 objectives of those instruments 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.

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

2004/0099(COD) - 23/06/2005 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Michael **GAHLER** (EPP-ED, DE) making some amendments to the Commission's text. (Please see the document dated 06/06/2005.) In addition, Parliament introduced reciprocity, imposing on the third countries allowed to compete for tenders for EU external assistance a reciprocal obligation to open markets for procurement of goods and services to the beneficiary countries of this external assistance.

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

2004/0099(COD) - 26/04/2004 - Legislative proposal

PURPOSE : to establish rules for the access of interested parties to Community external assistance instruments financed by the general budget of the European Union.

PROPOSED ACT : Regulation of the European Parliament and of the Council.

CONTENT : the purpose of this Regulation is to establish the access to the instruments financing the Community external assistance, for persons and goods. It defines criteria, specific cases and derogations. The scope of this Regulation does not cover all Community external assistance instruments such as the macro financial assistance directly managed by the recipient country of aid. Programmes with a thematic scope will be open to suppliers

from all developing countries and transition countries. Programmes with a geographic scope will be open to nationals of the region targeted by the programme in view of promoting regional integration.

The prime objective of the proposed Regulation is to define the principle and conditions for the access of persons and goods to instruments managed by the EC. It can only de facto be achieved by the Community.

The regulation should increase competitive bidding for the supply of goods and services financed by development aid thereby securing the best value for money of the EUR 3.5 billion in annual EU development aid from the EU budget.

Tying of aid is the mechanism by which the procurement of goods and services financed by development assistance is limited to suppliers from the donor country. International studies have indicated that the increased competition ensuing from the complete untying of aid could generate an efficiency gain of up to 30% of the aid.

At the European Council of Barcelona of March 2002 EU Member States agreed to untie aid to least developed countries as recommended by the OECD. Member states furthermore agreed to continue discussions of further untying bilateral aid and to consider steps towards further untying of Community aid. The Commission subsequently adopted a Communication "Untying: enhancing the effectiveness of aid" in November 2002 in which it proposed an approach, that goes far beyond the existing limited international consensus. The Council and the Parliament in 2003 endorsed the Commission's proposals related to Community aid.

Moreover, it is difficult to precisely measure the benefit of untying, the World Bank and the Development Assistance Committee of the Organisation for Economic Cooperation and Development (OECD/DAC) have produced estimations with a substantial ratio in terms of gain through better value for money.

It is important to have an understanding of the opportunities and constraints of increasing access to procurement to ensure an intelligent use of the concept. Therefore, progress towards further untying will have to be accompanied by impact assessments and studies.

A substantial part of EC aid assistance is implemented through aid modalities that are directly managed by the recipient country, such as budget support or sector support. Those instruments are de facto not subject to EC award of procurement or grant. They are not concerned by this regulation.

Due to the legal nature of the instruments falling under the European Development Fund and those falling under the EC budget, two parallel processes are necessary:

1) a mandate for introducing the relevant changes in the Cotonou agreement was presented in the package of proposed revisions to the Cotonou Agreement for 2005 and accepted by the GAERC on 23 February 2004;

2) this proposal 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.

The approach with regards to further opening of Community aid presented in this regulation will also be taken into account in future proposals by the Commission on the rationalisation of its external relations into six instruments. Forthcoming proposals will come up in the framework set up by the recent Commission Communication "Building our common Future. Policy challenges and Budgetary means of the Enlarged Union 2007-2013".

In addition, the proposed 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) instruments will be accessible based on reciprocity.

Lastly, the current regulation translates this political approach into practice.

The current proposal covers external assistance financed under the EU budget. A similar initiative has been taken with regards to the development assistance financed under the European Development Fund. Such an initiative would require an amendment of the Cotonou agreement that is the legal framework of EU development assistance to Africa, Caribbean and Pacific. Based on a mandate from the Council of ministers the Commission will now discuss this initiative with ACP countries.