



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION (EC)

**relating to aid for reconstruction and rehabilitation
in Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia
and the Former Yugoslav Republic of Macedonia**

(presented by the Commission)

Explanatory Memorandum

The economic development, the restoration of civil society and cooperation between the republics of former Yugoslavia are a prerequisite for peace and stability in the Balkans;

As stated by the Commission in its paper on the financial aspects of reconstruction in former Yugoslavia (COM(95)581, p.6), the present draft Regulation will provide a legal basis (Article 235 of the EC Treaty) for the use of funds from the following budget headings:

- B7-541: Measures for the reconstruction of the Republics formerly part of Yugoslavia (ECU 27 million, including 20 from budget chapter B0-40);
- B7-545N: Europe for Sarajevo (ECU 35 million);
- B7-542N: Special aid to refugees in the Republics formerly part of Yugoslavia (ECU 30 million).

The European Community has decided to contribute to these operations under the conditions indicated by the Council on 30 October 1995. It intends to make its support contingent on adherence to the political and economic terms of the peace agreements signed in Paris on 14 December 1995, notably respect for human rights;

In order to foster reconciliation between the various parties and prevent any resurgence of fighting, special attention should be accorded to operations aimed at achieving economic and social objectives, in particular employment, and the return and reintegration of refugees and displaced persons;

As the draft covers three budget headings, it is very wide in scope

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas economic development, the restoration of civil society and cooperation between the republics of former Yugoslavia are a prerequisite for peace and stability in the Balkans;

Whereas it is appropriate to start repair work and renovate infrastructure whilst pressing ahead with political and economic reforms;

Whereas the European Community has decided to contribute to these operations under the conditions indicated by the Council on 30 October 1995;

Whereas it intends to make its support contingent on adherence to the political and economic terms of the peace agreements signed in Paris on 14 December 1995, notably respect for human rights;

Whereas to foster reconciliation between the various parties and prevent any resurgence of fighting, special attention should be accorded to operations aimed at achieving economic and social objectives, in particular employment, the restoration of civil society and the return and reintegration of refugees and displaced persons;

Whereas it is necessary to provide a selection procedure for projects, programmes and actions which is both flexible and rigorous and consequently a "Consultative Committee on Reconstruction/Rehabilitation in former Yugoslavia", made up of representatives of the Member States and the Commission, with responsibility for giving an opinion on the choices made by the Commission is established;

Whereas a multiannual approach should be adopted to enable effective management of the measures provided for in this Regulation and undertake medium-term operations;

Whereas implementation of these operations will help achieve the Community's objectives; whereas the Treaty does not provide, for the operations in question, powers other than those set out in Article 235,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall implement aid measures comprising projects, programmes and cooperation schemes for reconstruction, return of refugees and displaced persons and for economic and regional cooperation in Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia in accordance with the criteria set out in this Regulation.

These operations shall be funded as part of the indicative multiannual programming (1996-99) for cooperation with the republics of former Yugoslavia. The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspectives.

Community funding under this Regulation shall take the form of grants.

Article 2

Regional and international organizations, public and semi-public bodies, organizations providing support to businesses, private operators, cooperatives, mutual societies, associations, foundations and non-governmental organizations, shall be eligible for Community aid for projects, programmes and cooperation schemes.

Article 3

1. The aim of the projects, programmes and cooperation schemes shall be to underpin the reconstruction process, to encourage the return of refugees, reconciliation and regional economic cooperation, and to create the economic and social conditions that will lay the foundations for the development of the recipient countries.

2. **They shall cover the following fields:**

- The consolidation of civil society and the reinforcement of non-governmental organizations as well as cultural institutions and teaching establishments.
- rebuilding of infrastructure and other individual or collective facilities damaged in the fighting;
- return of refugees;
- integration or reintegration of refugees, displaced persons and former soldiers into working life;
- preparation of the production apparatus for economic recovery;
- development of the private sector, notably small businesses, and promotion of investment;
- regional cooperation projects.

Article 4

The granting or continuation of community aid shall be subject to certain conditions, notably:

- application of the clauses of the peace agreement;
- respect for human rights, the rights of minorities and the right of all refugees and displaced persons to return home;
- in relation to the Federal Republic of Yugoslavia (Serbia-Montenegro) the granting within that state of a wide measure of autonomy to Kosovo;
- observance of the principles of a market economy;
- cooperation with the International War Crimes Tribunal.

Article 5

The measures to be financed shall be subject to a selection process that takes account of the potential recipients' requests, their urgency, the actual aid take-up capacity and their impact on the return of refugees and displaced persons and on reconciliation between the parties through participation in common projects.

Article 6

1. In order to ensure the consistency of cooperation projects and improve their complementarity and effectiveness, Member States and the Commission shall exchange all useful information on the financing they intend to make available. Scope for cofinancing shall be sought as part of this exchange of information, which shall also be used to explore the scope for complementarity, notably by means of cofinancing or parallel financing.
2. Member States and the Commission shall also communicate, in particular within the Committee referred to in Article 12, any information they may have on other bilateral and multilateral aid schemes for the states concerned by this Regulation. To that end, Member States and the Commission shall maintain a mutual information system.

Article 7

Financing decisions and agreements and contracts stemming therefrom shall among other things provide for monitoring and financial control by the Commission and audits by the Court of Auditors, where necessary on the spot.

Article 8

1. The operations referred to in this Regulation may cover expenditure relating to the importation of goods and services and the local expenditure necessary to complete the projects and programmes. Taxes, duties and charges and the acquisition of real estate shall be excluded from Community financing.

Agreements and contracts for the implementation of the operations financed by the Community pursuant to this Regulation shall benefit in the recipient state from tax and customs arrangements which are not less favourable than those which that state applies to the most favoured state or international organization responsible for promoting economic development.

2. Project running and maintenance costs on the ground may be covered by Community financing within a limit set in advance for each measure on the understanding that those costs may be covered only during the start-up phase and that they shall decrease progressively.
3. With regard to investment projects, Community financing shall be combined with the recipient's own resources or with other sources of funding. Community cofinancing shall not exceed 80% of the total cost of the investment.

Article 9

Invitations to tender and contracts shall be open without discrimination to all natural and legal persons in the Member States and the recipient states. The following shall be considered to be legal persons of a Member State or recipient state: legal persons established in accordance with the legislation of a Member State or recipient state and having their central administration or principal establishment in the territories in which the Treaty establishing the European Community applies or in the recipient states, or which have their registered office there, where their activity has an actual and continuous link with the economy of the said territories or states.

In the event of cofinancing, participation in invitations to tender and contracts by nationals of other countries may be authorized by the Commission on a case-by-case basis. In the latter case, the participation of companies of third countries shall not be taken into account unless reciprocity is applied by those countries towards the Community.

Service contracts shall be awarded by restricted invitations to tender with the exception of operations not exceeding 200.000 ECU which may be awarded by private treaty.

Article 10

1. Financing decisions exceeding ECU 2 million shall be adopted in accordance with the procedure provided for in Article 12(2). The Committee provided for in Article 12 shall be informed of operations involving financing of less than ECU 2 million.
2. Decisions amending decisions adopted in accordance with the procedure provided for in Article 12 shall be adopted by the Commission without consulting the Committee where they do not comprise substantial changes to the nature of the original projects and operations or, as regards the financial element, where they do not exceed 20% of the total amount of the initial commitment.

Article 11

1. Operations covered by this Regulation which are financed from the Community budget shall be managed by the Commission in accordance with the Financial Regulation of 21 December 1977 applying to the general budget of the European Communities, as last amended by Regulation No 2335/95 of 18 September 1995.
2. In presenting the financing proposals submitted to the Committee referred to in Article 12 and the evaluation referred to in Article 13, the Commission shall take account of the principles of sound financial management, in particular the principles of economy and cost/effectiveness referred to in Article 2 of the Financial Regulation.

Article 12

The Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 13

1. The Commission shall supervise implementation of the aid and the conditions in which ongoing projects and operations financed by that aid are being implemented by the recipients.
2. In the course of the supervision provided for in paragraph 1 above, the Commission shall carry out an evaluation of the main projects completed so as to ascertain whether the objectives defined at the project appraisal stage have been achieved and to draw up guidelines for enhancing the effectiveness and profile of future activities.
3. The Commission shall submit to Parliament and to the Council, by 30 April of each year at the latest, a report on the implementation of the aid, in particular on the evaluation referred to in paragraph 2 above.

Article 14

This Regulation shall enter into force ...

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

Done at ..., ...

Financial form

1. TITLE OF THE ACTION

Council regulation on help in the reconstruction/rehabilitation in Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and in the former Yugoslavian Republic of Macedonia.

2. BUDGET LINE(S) CONCERNED (1)

(1) The line B7-540 (financial protocols) already has a legal base.

- * B7-541 : Reconstruction actions for the Republics of the former Yugoslavia (27 Mecus of which 20 in chapter B0-40);
- * B7-542N : Special help to refugees in the former Yugoslavia (30 Mecus);
- * B7-545N : Europe for Sarajevo (35 Mecus).

3. LEGAL BASIS

Article 235 establishing the European Community and the Council Regulation on help in the rehabilitation/reconstruction in Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and in the former Yugoslavian Republic of Macedonia of

4. DESCRIPTION OF THE ACTION :

4.1 Objective of the action

In its communication on maximum amounts and legal bases (SEC (94)1106), the Commission committed itself to propose a legal base as quickly as possible, for actions considered significant.

The Community supports the efforts of Bosnia-Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia to provide themselves with democratic political institutions and a modern competitive production mechanism in the framework of an open market economy. It specially supports the reconstruction and modernization of the infrastructure of Sarajevo and provides a special humanitarian aid to refugees and displaced persons in consequence of the tragic conflict in the former Yugoslavia.

In the context of the 1996 budgetary exercise, the Budgetary Authority inserted considerable amounts for this end in the General Budget of the European Union and, in accordance with what the Commission declared to the Council in its communication on the financial aspects on reconstruction in the former Yugoslavia (COM(95)581 p.6), the Commission presents this draft regulation.

4.2 Period covered by the action

An unlimited period.

5. CLASSIFICATION OF THE EXPENDITURE/RECEIPTS

5.1 NDO

5.2 DA

5.3 Type of receipts envisaged : none

6. TYPE OF THE EXPENDITURE/RECEIPTS

Non reimbursable aid

- * a large part of the envisaged actions take the form of a grant of up to 100% of the operational expenses of a project, programme or cooperative actions. Those actions can equally take the form of interest rate subsidies on loans from the EIB.
- * grants for co-financing with other sources from the public or private sector ; co-financing with other sponsors, the member states of the Union, NGOs are equally foreseen, particularly in the context of cooperation actions ; concerning investment projects the Community financing may not exceed 80% due to the risks in this region ;
- * does the proposed action involve a modification of the level of receipts: none;
- * reuse : none.

7. FINANCIAL CONSEQUENCES

7.1 Method of calculation of the total cost of the action :

The Community aid will particularly focus on the areas of reconstruction of infrastructure, the reinsertion in professional life of refugees and displaced persons and the conversion of armaments industries to civil activities.

The new actions require the engagement of specialized experts with competence other than those of Community officials.

Subject to the annual budgetary procedure, it is foreseen to reserve an indicative financial envelope of 400 Mecus for this action for the period 1996-1999 from this programme. PIARE will complete the Community aid on the basis of its regulation.

The activities covered by this regulation will be financed as a matter of priority by the chapter B7-54 'reconstruction'. Regional cooperation, help to SME's, to the private sector and to the promotion of investment will be considered principally as the responsibility of PIARE in so far as this is possible.

7.2 Breakdown by the element of the action :

The principle areas of intervention will be amongst others : the reconstruction of infrastructure, the preparation of the mechanism of production necessary to relaunch the economy, the different forms of economic cooperation, including interest rate subsidies on loans from the EIB.

7.3 Indicative schedule of appropriations

Indicative financial envelope for the period 1996-1997 : 400 Mecus. These rehabilitation/reconstruction actions are inserted in the framework of the indicative financial programming of chapter B7-54 :

Rehabilitation/reconstruction in the former Yugoslavia

Indicative multiannual financial programming (subject to the annual budgetary procedure)

Commitment appropriations in millions of Ecu, current prices.

- Chapter B7-54 -

(in Mecus current)	Budget 1996	1997	1998	1999	Total 1996/1999
	98	100	100	102	400
Financial perspectives ceilings (rubric IV)	5.264	5.622	6.181	6.849	23.916

8. ANTI FRAUD MEASURES FORESEEN

The projects and programmes financed will be the object of regular follow up and systematic audits by the Commission services including the service created specially to combat fraud (UCLAF), or by mandated agents as well as the Court of Auditors. The coordination of the Commission services shall be ensured by the 'Yugoslavia' Interservice Group created for this.

9. COST/EFFICIENCY ANALYSIS ELEMENTS

The economics of the four countries concerned have been profoundly disrupted by four years of conflict. Their economic development, the restoration of civil society and cooperation between them is undissociable from peace and stability in this region.

Consequently it is necessary to give priority to actions directed to economic and social objectives, particularly employment, the restoration of civil society as well as the return and reinsertion of refugees and displaced persons. The cost efficiency management methods will be developed on an ongoing basis and in view of the nature of the projects and programmes which will be selected.

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10. ADMINISTRATIVE EXPENDITURE (part A of the budget)

It is necessary to underline that the present communication concerns the management of around 100 Mecus per year in commitment appropriations and to ensure sound financial management of the operational appropriation, the availability of administrative appropriations should equally be foreseen. The increase in the work flowing from the growth in activities foreseen for the period concerned will be more than proportional to the increase in commitment appropriations. By means of redeployment, the Commission has allocated 7 officials and 6 temporaries / auxiliaries to the management of this tasks at headquarters (management of projects and finances). On the ground, by means of own resources, 4 officials and 17 local agents as well as one temporary agent are foreseen.

However, it should be underlined that the effective mobilization of human resources and the necessary related budgetary appropriations will result from the annual Commission decision concerning the allocation of resources, in particular taking account of staff and supplementary amounts which will have been granted by the Budgetary Authority.

10.1 Headquarters

Effects on the number of posts (for 4 years)

Type of post		Staff for management of the action		of which by use of existing resources within the DG or service concerned	duration
		permanent posts	temporary posts		
Officials or temporary agents	A	4		4	96-99
	B	1		1	
	C	2		2	
Other resources	A		4	4	
	B		1	1	
	C		1	1	
Total		7	6	13	

10.2 Increase in other administrative expenditure flowing from the action (for 4 years)

In order to deal with the increasing number of actions in favour of reconstruction in former Yugoslavia and to guarantee adequate follow up of the projects on the ground it is necessary to increase the budget for missions.

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Budget line (n & title)	Amounts	Method of calculation
A-130 Missions from headquarters	360.000	6 officials for 20 days x 250 Ecu x 4/years = 120.000 30 returns x 2.000 Ecu x 4/y= 240.000 Ecu
A-6006 Missions from delegations and offices	184.000	20 returns x 2.000 Ecu/tickets R = 40.000 3 officials x 200 Ecu/day x 60 days = 144.000
Total	544.000	

The amounts express the cost of the total supplementary post for the duration of the action if this is determined, for 12 months if the duration is indeterminate.

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