



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a
COUNCIL REGULATION (EC)

**on operations to aid uprooted people (refugees, displaced persons
and returnees) in Asian and Latin American developing countries**

(presented by the Commission)

EXPLANATORY MEMORANDUM

The situation of refugees and displaced people worldwide remains alarming. Since the 1970s the number of refugees has increased tenfold, rising from 2 million to 20 million. This means that, on average, 10 000 people are obliged to leave their homes every day because they are in fear of persecution or violence. More than three-quarters of them are women and children. As to the people displaced within their own borders, the most conservative estimates are in the region of 24 million.

Although the everyday problems of uprooted people remain substantially the same (protection and subsistence), the nature of the global problem has changed substantially.

First, the end of the Cold War saw, contrary to what had been hoped, an increase in the number of conflicts. The United Nations has had to start up more peace operations in five years than it had in its first 30 years of existence.

To the growing number of refugees or displaced people under immediate threat to the safety or freedom have been added the economic migrants whose distress is real but does not entitle them to the same rights.

The flood of refugees has quickly swamped their host countries and stretched local resources in what are often very poor countries.

The average duration of crises has also lengthened. The only lasting solution in these situations is a return to the country of origin, which in turn entails the possibility of controlling the conditions of repatriation and maintaining a balance between aid for returnees and aid for the local people who had stayed put.

The mandate of the UNHCR (United Nations High Commissioner for Refugees) derived from its statute does not authorize it to deal with all aspects of the problem created by uprooted people. Its principal responsibilities are their status and protection and a guarantee of the minimum decent conditions for survival but it is not always equipped for operations to prepare for their future, whether it be a return to the country of origin or their permanent settlement within the host country.

We have to help those people who have been forced to leave their homes because their safety was seriously at risk, regardless of whether they are inside or outside the national frontiers. Equally, we must design aid instruments that take account of the needs of the host population and of the local population in the place of return.

Heading B7-302 was created in 1994 in response to an initiative of the European Parliament and is designed to bring about the best possible conditions for the integration and reintegration of refugees, displaced people and returnees in Asia and Latin America.

Use of this heading up to the year 2000 seems likely to develop as follows: a decrease in large migratory flows (in both Asia and Latin America the major political and economic crises have declined in intensity or at least reached an equilibrium); a saturation of the reception capacity of Western host countries

(hence a priority on repatriation) with the resultant need to redirect operations towards return, reinsertion, rehabilitation and reconstruction.

Such operations are designed to cover the interim stage between humanitarian aid in a situation of crisis and rehabilitation/development cooperation. A continuum is thus maintained and coordination with other aid instruments and with the policies of the Member States will be vital.

The draft Regulation lays down the procedures for implementing Community aid for uprooted people.

As explained above, this aid instrument will be used in the tricky period between humanitarian operations and rehabilitation/development aid.

Such situations, while not classed as emergencies, call for a swift deployment of human and material resources to aid the installation or reinsertion of the beneficiaries in the social and economic life of the host country/area or of the place of origin.

Since most population movements are caused by conflict and that such movements (even those of return) take place in situations of tension where armed conflict or socio-political troubles could be reignited, it is essential that international aid operations, those of the Community in particular, should be mounted with the flexibility and speed appropriate to situations that are, by definition, unstable.

These considerations underlie the Commission's proposal that decision-making procedures suited to this particular form of aid be adopted. On the basis of the guidelines laid down by the Committee, the Commission wants to be able to respond flexibly and, above all, rapidly, to the requirements of a variety of situations as and when they arise. The Commission does, however, also propose that draft decisions entailing large financial contributions from the Community be submitted to the Committee before adoption.

The Commission hopes that the legislation it proposes will create a legal framework for this aid that will provide for not only adequate financing but also suitable procedures to continue these operations, which hitherto have given highly satisfactory and useful results.

Proposal for a Council Regulation No ... of ...

on operations to aid uprooted people (refugees, displaced persons and returnees) in Asian and Latin American developing countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130w thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,³

Having regard to the Convention relating to the Status of Refugees of 28 July 1951 adopted by the United Nations Conference on the Status of Refugees and Stateless Persons, as well as the Protocol of New York adopted on 31 January 1967.

Having regard to the Resolution of the European Parliament on assistance to refugees in developing countries adopted of 16 December 1983,⁴

Whereas the Council and Parliament have called for greater efforts on the part of the Community in this respect;

Whereas the effectiveness of aid for refugees, displaced persons and returnees is dependent on the coordination of aid at European level and with other aid donors, non-governmental agencies and United Nations agencies;

Whereas there is a need to promote peaceful solutions to political conflicts or wars that cause population displacements;

Whereas the specialized bodies and agencies and non-governmental organizations implementing such operations have gained considerable experience in providing assistance to uprooted people;

Whereas the Community wishes aid for uprooted people to be provided in such a way as to help them move from subsistence to self-sufficiency, namely to make them less dependent, help them reintegrate by means of operations to develop self-sufficiency through farming, livestock-rearing, fish-farming, the setting-up of credit systems, basic education and vocational training, and decent standards of health and hygiene;

Whereas this type of aid is a prerequisite for development and thus makes a major contribution towards achieving the Union's cooperation policy under Article 130u of the Treaty;

³Opinion of ..., OJ No ...; Decision of ..., OJ No ...

⁴OJ No C 10/279.

Whereas administrative rules and procedures applicable to cooperation operations to help the refugees, displaced persons, returnees and demobilized soldiers must be laid down,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall implement a programme of assistance to uprooted people (refugees, displaced persons, returnees and demobilized soldiers) in Asian and Latin American countries to help them in the interim phase between humanitarian aid given in response to a crisis and the provision of rehabilitation or development aid when the situation so allows.

Article 2

The Community shall support the following operations:

1. aid for the subsistence, upkeep and settlement of refugees in the host country;
2. aid and support for the local population in the host area so that it is compensated for any losses suffered as a result of the presence of uprooted people and it does not feel discriminated against;
3. aid for repatriation;
4. aid for the resettlement of refugees and displaced persons in their places of origin or settlement in another region of their choice;
5. aid for the temporary or permanent settlement of displaced persons in other regions within their own country;
6. aid for the economic integration in the host country of refugees who cannot, or do not wish to, return to their country of origin;
7. possible resettlement of refugees in a third country;
8. aid for socio-economic regeneration and social reintegration in the areas to which refugees return: activities, pending the start-up of rehabilitation or development programmes, include food self-sufficiency and rural development, and health and education;
9. aid for the demobilization and reintegration of ex-soldiers into civilian life;
10. mine-clearance operations where necessary to allow people to move about in safety and settle, resettle or integrate into the social and economic life of the host country or region or country or region to which they return.

Article 3

1. The beneficiaries shall be uprooted people originating from, or provisionally established in, any of the developing countries of Asia and Latin America.

- (a) refugees are defined in the Convention relating to the Status of Refugees, which was adopted on 28 July 1951 by the United Nations Conference on the Status of Refugees and Stateless persons, as " any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality

and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country";

- (b) "displaced persons" are persons or groups who need international protection, but do not enjoy refugee status, as defined by the 1951 Convention;
- (c) "returnees" are persons or groups who, having fled their place of origin, then decide of their own free will or because of the situation, to return to their country or region of origin.

2. The Aid shall also be available for:

- (a) the local population of the host country, whose economic and administrative resources contribute to receiving and assisting refugees and displaced persons and to carrying out longer term projects designed to bring about their self-sufficiency and integration or reintegration;
- (b) former soldiers of regular armies and demobilized armed opposition movements, plus their families and grassroots support.

Article 4

Partners in the implementation of technical assistance shall be non-governmental organizations, United Nations agencies, international organizations, states and regions, local authorities, regional authorities, public agencies, local and traditional communities, institutions, private operators and consultants.

Article 5

1. The means deployed in implementing operations referred to in Article 2 shall include studies, technical assistance, training and other services, supplies, works, and audits and evaluation and monitoring missions.

2. Community financing may also cover investment expenditure, excluding the purchase of real estate, and running costs, whether in foreign exchange or local currency, in accordance with the requirements of implementing the operation.

3. Systematic efforts shall be deployed to raise a contribution, especially in financial form, from participants or partners who will enjoy the benefits of the operation (countries, local communities, businesses, etc.) within the limits of what is possible and depending on the nature of the operation.

4. Co-financing shall also be sought, in particular from the Member States and multilateral, regional or other organizations. The necessary measures shall be taken to show that the aid supplied under this Regulation comes from the Community.

5. The Commission shall, in order to ensure the consistency and complementarity of operations financed by the Community and by Member States with a view to maximizing their effectiveness, take all necessary coordination measures, including:

- (a) the setting-up of an electronic information exchange system on the operations financed, which may be financed by the Community and the Member States;
- (b) on-the-spot coordination of operations through regular meetings and exchanges of information between Commission and Member State representatives in the recipient country.

Article 6

Financial aid under this Regulation shall take the form of grants.

Article 7

1. The Commission shall be responsible for appraising, approving and managing 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 applicable to the general budget of the European Communities.

2. Decisions relating to grants of more than ECU 5 million for individual operations financed under this Regulation and any changes resulting in an increase of more than 20% in the sum initially approved for such an operation, shall be adopted under the procedure laid down in Article 8.

3. All financing agreements or contracts concluded under this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks according to the usual procedures laid down by the Commission under the rules in force, in particular those of the Financial Regulation applicable to the general budget of the European Communities.

4. Where the measures or operations are the subject of financing agreements between the Community and the host country, such agreements shall stipulate that the payment of taxes, duties and or other charges is not covered by the Community.

5. Participation in invitations to tender and the award of contracts shall be open on equal terms to all natural and legal persons of the Member States and of the host countries. It may be extended to other developing countries.

6. Supplies shall originate in the Member States, the host country or other developing countries. In exceptional cases, where circumstances warrant, supplies may originate elsewhere.

Article 8

1. The Commission shall be assisted by an Advisory Committee made up of representatives of the Member States and chaired by the representative of the Commission, namely the ALA Committee set up under Article 15 of Council Regulation No 443/92/EEC adopted on 25 February 1992.

2. 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; each Member State shall have the right to ask for its position to be 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.

3. There shall be an exchange of views once a year on the basis of a report by the Commission representative on the general guidelines for operations in the coming year.

Article 9

At the end of each budget year, the Commission shall present a report to Parliament and the Council summarizing the operations financed in the course of that year and evaluating the implementation of this Regulation over that period.

The summary shall provide information about those with whom contracts have been concluded.

The report shall also summarize any independent evaluations of specific operations.

Article 10

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

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

Done at Brussels, ...

For the Council,
The President

FINANCIAL STATEMENT

1. TITLE OF OPERATION

Aid for uprooted persons (refugees, displaced persons and returnees) in ALA developing countries.

2. BUDGET HEADING

B7-302

3. LEGAL BASIS

Articles 130u and 130w of the Treaty establishing the European Community.

4. DESCRIPTION

4.1 General objectives

Aid towards the self-sufficiency of refugees, displaced persons and returnees in ALA developing countries.

This aid is designed to aid uprooted people in the period following the emergency phase; it requires a type of operation that goes beyond humanitarian aid without, however, falling into the category of traditional development aid. Such operations will often pave the way for longer-term development projects.

4.2 Period covered and arrangements for renewal or extension

1 January 1995 to 31 December 1999 (i.e. five years).

An evaluation will be carried out before the end of the third year in order to review the situation and establish future requirements.

5. CLASSIFICATION OF EXPENDITURE

Non-compulsory expenditure/differentiated appropriations.

6. TYPE OF EXPENDITURE

Operations will usually be cofinanced, but 100% grants may be accorded in specific circumstances.

7. FINANCIAL IMPACT

7.1 Method of calculation

Quantification of costs is impossible with this type of operation because of the tremendous diversity of the situations and geographical areas in which they are carried out.

With the aim of reducing the extremely high number of refugees in the countries concerned, it is necessary to: support all efforts to return the refugees to their place of origin; assist people displaced within their country; give the refugees and displaced persons real hope of aid in their efforts to achieve social and economic self-sufficiency and become integrated into the place of their permanent settlement, whether it be their country or region of origin in the case of return, or the country or region of refuge if the option of return is not chosen.

Where there are high concentrations of returnees and displaced persons, additional special aid will be needed. Often such aid is deemed indispensable by the authorities of countries where peace is yet to be re-established in order to prevent the rekindling of armed conflict in particularly sensitive areas. Subject to budgetary constraints, this objective was taken into account in the calculation of the level of grant aid.

Every effort has been made to achieve maximum cost effectiveness.

7.2 Itemised breakdown of costs

	Breakdown	1995	1996
1	aid for the subsistence, upkeep and settlement of refugees in the host country; aid and support for the local population in the host area	17.5	15.0
2	aid for repatriation	5.0	6.0
3	aid for the resettlement of refugees and displaced persons	7.0	7.5
4	aid for the temporary or permanent settlement of displaced persons in other regions within their own country;	5.0	6.0
5	aid for the economic integration of refugees in the host country	7.5	7.5
6	aid for socio-economic regeneration and social reintegration in areas to which refugees return	7.5	7.5
7	aid for the demobilization and reintegration of ex-soldiers into civilian life	7.0	7.0
8	mine-clearance operations	2.0	2.0
9	support activities, which may take the form of technical assistance, studies, etc.	1.5	1.5

7.3 Indicative schedule of commitment appropriations (ECU million)

Budget heading	1995	1996
B7-302	60	60

8. FRAUD PREVENTION MEASURES

* On-the-spot checks in areas where operations are concentrated will be carried out by the Commission Delegations, by consultants responsible for coordination and by staff at headquarters, who will continuously monitor all expenditure. There will also be ad hoc evaluation missions by consultants to report on one or more projects (or all projects financed in a given country or region) and missions to audit accounts.

* In the case of operations implemented by NGOs and international organizations, the implementing partner will be required to send the Commission half-yearly technical and financial reports and forecasts of spending for the following period. Once the Commission is satisfied that the operation is being implemented correctly, it can release the following tranche.

* In the case of co-managed projects, the co-managers will submit for the Commission's approval implementation reports, accompanied by work plans and spending forecasts.

* There are four coordinators of operations financed under this heading based in Pakistan, Thailand, Costa Rica and Mexico.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

9.1 Quantifiable specific objectives: target population

The specific objectives are:

- 1 aid for the subsistence, upkeep and settlement of refugees in the host country; aid and support for the local population in the host area so that it is compensated for any losses suffered as a result of the presence of uprooted people and does not feel discriminated against;
- 2 aid for repatriation;
- 3 aid for the resettlement of refugees and displaced persons in their places of origin or settlement in another region of their choice;
- 4 aid for the temporary or permanent settlement of displaced persons in other regions within their own country;

- 5 aid for the economic integration in the host country of refugees who cannot, or do not wish to, return to their country of origin; possible resettlement of refugees in a third country;
- 6 aid for socio-economic regeneration and social reintegration in areas to which refugees return: activities, pending the start-up of rehabilitation or development programmes, include food self-sufficiency and rural development, and health and education;
- 7 aid for the demobilization and reintegration of ex-soldiers into civilian life;
- 8 mine-clearance operations where necessary to allow people to move about in safety and to settle, resettle or integrate them into the social and economic life of the host country or region, or country or region of return.
- 9 support activities, which may take the form of technical assistance, studies and the like.

These operations will:

* give tangible proof of the Community's solidarity with people in an extremely difficult situation;

* create the requisite conditions to enable them to achieve social and economic self-sufficiency, thus bridging the gap between humanitarian operations and traditional development projects;

* establish close cooperation between the Commission, international organizations (UNHCR, International Organization for Migration, Organization of American States' support and verification commission, etc.) and NGOs, which are the Commission's traditional partners for projects to improve the self-sufficiency of uprooted people;

* raise the profile of the Community's efforts to aid the peace process and resettle victims of the fighting.

Target population: uprooted people (refugees, displaced persons and returnees) in the non-associated ALA developing countries. Operations will be implemented by partners such as NGOs or the UNHCR or directly by the Commission itself in agreement with the government of the recipient country.

9.2 Grounds

The Community's aid is justified on various grounds:

* to signal the European Union's contribution to international solidarity;

* to second, where necessary, the efforts of the Member States and ensure Community/Member State coordination in such cases;

* to reassure recipients and partners (especially NGOs and the UNHCR) that the Community is maintaining a continuum between various forms of aid and that those with

specific needs because they have been uprooted will not be forgotten in the transitional period between humanitarian aid and the resumption of development projects;

For operations that complement the Commission's work on the humanitarian side there will be close coordination with ECHO.

This will ensure the Community's continued presence and an underpinning of the peace process in regions that are highly unstable politically. Furthermore, the prerequisites for development and democratization are in place.

Community financing for projects attracts complementary financing from NGOs, international institutions and governments, while the projects themselves pave the way for longer-term development projects.

9.3 Monitoring and evaluation

Performance indicators are linked to the aid objectives and so will depend on the nature of the activity - production, infrastructure or services (vocational training, health, education) - and the target group - refugees, returnees, displaced persons or host population.

The agency implementing a project will be required to present half-yearly reports and a final report to the Commission, which will verify them.

Regular evaluation of projects is always part of the monitoring programme; sectoral and regional evaluations are planned with a view to drawing on results and experience and constantly improving operations.

9.4 Coherence with financial programming

9.4.1 Provision is made for this aid in the Commission's financing programming for the years in question.

9.4.2 The objective falls within the development cooperation policy set out in the Treaty establishing the European Community (Article 130w).

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