



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.09.1997  
COM(97) 441 final

Proposal for a

COUNCIL DECISION

ON A TACIS CIVIL SOCIETY

DEVELOPMENT PROGRAMME FOR BELARUS FOR 1997

(presented by the Commission)



## EXPLANATORY MEMORANDUM

1. The political climate in Belarus has seriously deteriorated since November 1996 implying a substantial change in bilateral relations with the EU. Before that date, already a halt in economic reform had been observed, leading to the necessary redirection of EC assistance in the field of privatisation and enterprise restructuring in particular. On 24 November 1996, a popular referendum was called by President Lukashenko which proposed, amongst other things, to amend the 1994 Constitution which was in force, with a view to strengthening presidential powers. The Belarus Constitutional Court indicated that the results of the referendum on constitutional reform would have consultative value only. The President revoked by Decree the Constitutional Court finding and considered the results of the referendum as binding. Consequently, as the outcome of the referendum on constitutional reform was positive, the President adopted his Constitution draft proposed by referendum. The amendment of the Constitution brought to the concentration of powers (executive, legislative, judicial) in the hands of the President, as well as the dissolution of the 13th Parliament in place, which had been democratically elected, and the nomination by the President of a new National Assembly. The internal situation of Belarus further deteriorated, bringing undue arrests and mistreatment of members of the opposition, independent media, representatives of foreign countries and institutions, who had expressed their opinion against the regression in the democratisation process. Charity institutions, foundations and NGOs in particular were also submitted to repressive actions and increasing limitations of freedom of activity.
2. The EU reacted immediately to these developments. On the one hand, the Commission suspended normal Tacis programming with Belarus, until further notice. Consequently, no Indicative Programme 1996-1999 nor Action Programme could be negotiated with the Belarusian authorities. Only ongoing Tacis projects of past Action Programmes and regional or multi-country Programmes (e.g., Cross-border Cooperation, Interstate, LIEN, City Twinning, Democracy) were allowed to continue despite difficult circumstances.
3. On the other hand, following the decision of the General Affairs Council of 20 January 1997, the Presidency sent a fact-finding mission (FFM) to Minsk on 26-31 January 1997 to establish facts on the organisation of the referendum, its results, the changes which it had implied, and the overall internal situation which had developed in the country. The FFM found that the establishment, execution and implementation of the referendum could not stand the test of criticism on minimal democratic standards and general principles of the rule of law. The referendum was only consultative, therefore the Constitution of 1994 was still the supreme law of the Republic of Belarus and the Supreme Council elected in 1995, on the basis of this Constitution, for a period of 5 years, was the only lawful Parliament in the Republic of Belarus. Since a majority of the population had expressed preference for a more presidential system than the existing, the new Constitution to be drafted should be more presidential but the requirement of the *trias politica* should still be respected in order to satisfy democratic standards and general principles of the rule of law. The FFM recommended to offer assistance to Belarus to influence the development of democracy towards the separation of powers, the freedom of and fair access to the media, and support to equip the electorate of Belarus to take part in free elections.
4. Following the conclusions and recommendations of the FFM, the Council issued Conclusions on 24/02/97 where it expressed grave concern "*about the present constitutional and political situation in Belarus, which seriously impairs the prospects for the necessary democratic and economic reforms.*" For this reason, the Council adopted a position whereby "*in the absence of convincing efforts on the part of Belarus to proceed with the necessary democratic and economic reform (...) the EU will not proceed with the conclusion of the Interim Agreement or with the Partnership and Cooperation Agreement; technical assistance programmes of the Community (...) will be reviewed and assessed on the premise that they should directly benefit the reform process.*" However, "*the EU is*

*prepared to offer Belarus advice and enter into a comprehensive dialogue with the Belarusian authorities and representatives of the opposition, with the aim of assisting Belarus to embark on democratic and economic reform.*" The Council therefore left the door open for dialogue and assistance to Belarus in the process of democratisation and, in particular, offered advice on constitutional matters, freedom of the media, and the respect for human rights which *"will be a central element in the overall approach of the EU to its relations with Belarus"*. This position was reiterated and further formalised in the Council Declaration of 29/04/97, where *"the EU reiterates its position that cooperation between EU Member States and institutions and Belarus cannot proceed in the absence of convincing efforts to establish such a system"*, i.e. *"a political system which respects the internationally accepted norms for human rights and political freedoms"*, but *"the EU in close cooperation with the OSCE and the Council of Europe is prepared to assist the Belarusian authorities in the process of democratisation."*

5. Article 5 of the Tacis Regulation (Council Regulation No 1279/96 of 25 June 1996) foresees the establishment of an Indicative Programme 1996-1999 and of a subsequent Action Programme, in accordance with the procedure provided for in Article 8, as the necessary basis to launch any Tacis project in a beneficiary state over the period 1996-1999. In the case of Belarus, these steps were impossible to undertake. In principle, therefore, the Commission would not be in the position to deliver the specific assistance to Belarus which has been offered by the Council.
6. However, Article 3(11) of the Tacis Regulation provides for the opportunity for the Council to take *"appropriate measures"* concerning assistance to a partner State when *"an essential element for the continuation of cooperation through assistance is missing, in particular in cases of violation of democratic principles and human rights."*
7. The present situation in Belarus falls within the scope of Article 3(11), for the *cases of violation of democratic principles and human rights* in particular. The position of the Council is to support assistance in the process of democratisation of Belarus, i.e. for the Community to act in Belarus to try and bring the country back on the right track, in particular for constitutional reform, the respect of human rights and the freedom of the media.
8. In certain cases, the *appropriate measures* of Article 3(11) may also mean positive incentive measures. The word of the Council in its Conclusions of 24/02/97 and Declaration of 29/04/97 indicates precisely this possibility. The Commission therefore proposes, on the basis of Article 3(11) of the Tacis Regulation and the expressed Council position towards Belarus, to take positive incentive measures in the case of Belarus to avoid isolating further the country.
9. In accordance with the scope of Article 3(11), the appropriate measures will not be negotiated with the country. Therefore they shall be offered as a package to the Belarusian authorities.
10. In compliance with both Article 3(11) and the Council's position towards Belarus, the Commission proposes, as the appropriate measure for Belarus, to set up a Tacis programme for 1997 of 5 Mecu, the Civil Society Development Programme for Belarus, with the ultimate aim to help restore the democratisation process and regenerate the civil society in Belarus. Both the activities and the target groups to be included in the programme would be in the scope of Article 3(11) and in accordance with the Council Conclusions of 24/02/97 and Declaration of 29/4/97.
11. The proposed programme would concentrate exclusively on one of the priority sectors of Tacis, indicated in Annex II of the Tacis Regulation, i.e. the *"human resources development"*

sector which includes, inter alia, "strengthening of the civil society", "legal assistance" and "education, training".

12. One of the topical areas identified by the Council and which shall be treated by the programme is constitutional reform. There are general principles which any Constitution should include in order to satisfy democratic standards and general principles of the rule of law, such as the requirement of the separation of powers. If the people of Belarus have expressed a preference for a more presidential Constitution at the referendum in November, the new Constitution to be adopted should respect both this wish and the general principles mentioned. Projects in this legal area would aim at working with targeted Belarusian authorities, like the Ministry of Justice, with the Courts, other legal professions, the Law students of Universities and other relevant institutions of Belarus. This activity would ultimately aim at the broadest and deepest possible understanding of decision-makers, political and legal, and the young people of the principles to be embedded in a Constitution of a State which is subject to the rule of law.
13. Media freedom, freedom of expression, free access to the media are another pillar and guarantor of democracy. During the period of the referendum in November but also on other important circumstances, the lack of these freedoms and the subsequent restrictions to those were observed with concern in Belarus. It is therefore important for the Community to act in this area through the programme proposed. Assistance would concentrate on the regulatory framework ensuring the free operation of the media, in line with democratic practice, on the duties and rights of journalists in a situation of independence, as well as on techniques of modern journalism. Target groups would essentially be all the media, but also decision-makers, political and legal. Actions foreseen may include training on ethics of an independent profession, on the rights and duties of media in a situation of freedom, legal courses and training on relevant EC laws, provision of equipment, organisation of workshops, seminars, conferences on relevant topics of modern journalism.
14. A third area of action that the proposed programme needs to address is the support to the civil society as such, which naturally includes the respect for human rights and addresses also the protection of weaker strata of the population (minority groups, etc.). The main target group of this action would be the NGOs. The purpose of the action would be not only to monitor and support the existing network of NGOs, which has been hit hard by the deterioration of the internal situation in Belarus, the recent measures of the Government reducing the financial capacity and freedom of action of the NGOs, but also to empower it and better identify it with the help of the EU NGO networks and experience. In order to achieve this effectively, however, a clear legal framework needs to be developed in Belarus for NGOs. Assistance on this legal but essential aspect of the issue would be considered as well.
15. The fourth and final area of action which is foreseen under the programme proposed would cover institutional twinning. The aim would be to support east-west cooperation of institutions, universities and local authorities on education, civic rights, and self-governance, which are also at the basis of the democratisation process and should be continuously supported. This area, compared to the previous three, has the advantage of being based more on proposals rather than on imposition, and is therefore a necessary positive complement which renders the programme proposed more balanced.
16. The Tacis Coordinating Unit of Belarus which is the main interlocutor of the Commission in the programming of Tacis may be consulted in the preparation of the programme. However, given point 9 above, the demand-driven nature of the Tacis programme will not apply in this case.

17. Once the Council adopts the Decision, the Commission will prepare the 5 Mecu programme in detail and present it to the Tacis Committee. Thereby, the programme shall re-enter into the normal Tacis programming procedures, as stated in Article 8.
18. The implementation of the projects of the programme would follow normal Tacis rules and procedures.
19. The Council is requested to adopt the annexed proposal for a Council Decision on a Tacis Civil Society Development Programme for Belarus for 1997.

**PROPOSAL FOR A COUNCIL DECISION ON A TACIS CIVIL SOCIETY DEVELOPMENT PROGRAMME FOR BELARUS FOR 1997**

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community and the Treaty establishing the European Community of Atomic Energy (Euratom),

**Having regard to Council Regulation No 1279/96 of 25 June 1996 concerning the provision of assistance to economic reform and recovery in the New Independent States and Mongolia, and in particular to Article 3(11) thereof,**

Having regard to the Commission proposal,

Whereas the internal situation of Belarus has deteriorated, in particular since November 1996, leading to a step backwards in the process of democratisation and the restriction of basic liberties and violations of human rights,

Whereas, for this reason, no Tacis Indicative Programme 1996-1999 nor, consequently, Action Programme could be negotiated with Belarusian authorities,

Whereas the Council has adopted a position towards Belarus which is stated in the Conclusions of 24/02/97 and the Declaration of 29/04/97, suspending cooperation with the Belarusian authorities in the absence of convincing efforts to proceed with the necessary democratic reforms, but offering assistance to Belarus in the process of democratisation, in particular in three specific and topical areas: constitutional reform, human rights protection and freedom of the media,

Whereas the Commission has provided support for the process of democratisation through Budget line B7-7010, but that effort should be deepened and complemented by other measures,

Whereas Article 3(11) of the Tacis Regulation allows the Council to take appropriate measures concerning assistance to a partner State when an essential element for the continuation of cooperation through assistance is missing, in particular in cases of violation of democratic principles and human rights,

HEREBY DECIDES AS FOLLOWS:

- Article 1: "The Civil Society Development Programme for Belarus for 1997 is hereby approved for a maximum amount of 5 Mecu."
- Article 2: "The Programme will be implemented by the Commission, acting in accordance with the procedure laid down in Article 8 of Regulation 1279/96."
- Article 3: "This Decision shall be published in the Official Journal of the European Communities."

Done at Brussels,

## FINANCIAL FICHE

### TACIS CIVIL SOCIETY DEVELOPMENT PROGRAMME FOR BELARUS FOR 1997

**1. Budget Line: B7.520 - Assistance to economic reform and recovery in the New Independent States and Mongolia**

Amount of the programme from the 1997 budget: 5 Mecu

**2. Legal basis: Article 3(11) of Council Regulation No 1279/96 of 25 June 1996**

**3. Description of the Action**

- the general objective of the programme is the targeted support to Belarus to restart the democratisation process, notably through assistance on constitutional reform and the freedom of the media, the development of the civil society and education.
- the funds shall be spent essentially to finance actions which will be necessary for identifying, preparing and implementing projects of technical assistance essentially in the areas mentioned (e.g. provision of legal expertise, technical and ethical training schemes, support for courses, workshops, conferences), but also of equipment.
- the proposed programme falls under the 1997 budget.

**4. Classification of expense**

DNO. Non obligatory expense.

CD. Dissociated credits.

**5. Type of expense**

100% grant.

**6. Adopted type of calculation**

The amount indicated has been forecasted on the basis of past experience on similar projects during past exercises.

**7. Schedule of payments**

Commitment: during the ongoing budgetary exercise and on the funds of B7.520: 5 Mecu

Payments: present forecasts for disbursement are:

1997: 0 Mecu

1998: 5 Mecu



**Programme title:** TACIS CIVIL SOCIETY DEVELOPMENT PROGRAMME FOR BELARUS FOR 1997

**Programme cost:** 5 Mecu

**Programme beneficiaries:** Relevant Belarusian authorities (e.g., Ministry of Justice, Courts), university students (e.g., Law), journalists, NGOs, local authorities (e.g., municipalities).

**Institutional appraisal:** Recent political developments in Belarus impeded the normal programming process of Tacis. The results of the popular referendum held in November 1996, considered by the EU as illegitimate, led to the adoption of a new Constitution, concentrating all powers in the hands of the President, and the dissolution of the 13th democratically elected parliament followed by the nomination of a new parliament directly by the President. Since then, a number of restrictions of freedoms and violations of human rights were observed in Belarus. As a consequence, the Commission could not negotiate with the Belarusian authorities a Tacis Indicative Programme 1996-99 and hence an Action Programme. The Council, in its Conclusions of 24/02/97 and Declaration of 29/04/97, suspended the implementation of the Interim Agreement, the conclusion of the PCA, and the support for Belarus membership in the Council of Europe. However, the Council left the door open for a constructive dialogue and offered assistance to Belarus in the necessary democratisation process, notably on constitutional reform, human rights protection and freedom of the media. The Commission had no possibility to honour this offer given the lack of new Tacis funds for Belarus.

**Justification and Objectives:** Article 3(11) of Tacis Regulation (Council Regulation No 1279/96 of 25 June 1996) provides for the Council to take "*appropriate measures*" concerning assistance to a partner State when "*an essential element for the continuation of cooperation through assistance is missing, in particular in cases of violation of democratic principles and human rights.*" In accordance with Article 3(11) and the Council position towards Belarus which foresees the provision of targeted assistance to this country for the sake of the democratisation process, the Commission proposes, as the appropriate measure for Belarus, to set up a Tacis programme for 1997 of 5 Mecu, the Civil Society Development Programme for Belarus, with the ultimate aim to help restore the democratisation process and regenerate the civil society in Belarus.

**Programme components:**

- (1) **Constitutional reform:** approx. 1 Mecu, mainly for legal training, provision of relevant comparative laws in EU, courses, workshops.
- (2) **Freedom of the media:** approx. 1.5 Mecu, mainly for training on ethics of an independent profession, on the rights and duties of media in a situation of freedom, legal courses and training on relevant EC laws, provision of equipment, organisation of workshops, seminars, conferences on relevant topics of modern journalism.
- (3) **Civil society support:** approx. 1.5 Mecu, mainly for further support of the NGOs by commitment through the channel of the Tacis Democracy Programme both for macro-project and micro-project proposals.
- (4) **Institutional twinning:** approx. 1 Mecu, mainly for institutional east-west cooperation like city twinning, further and higher education.

**Implementation and timetable:** 2 years

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# DOCUMENTS

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