Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide

REGULATION (EC) No 1889/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 December 2006

on establishing a financing instrument for the promotion of democracy and human rights worldwide

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 179(1) and 181a(2) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure referred to in Article 251 of the Treaty[(1)],

Whereas:

(1) A new framework for planning and delivering assistance is proposed in order to make the Community's external assistance more effective and transparent. Council Regulation (EC) No 1085/2006[(2)] establishes an Instrument for Pre-Accession Assistance (IPA) for Community assistance to candidate and potential candidate countries. Regulation (EC) No 1638/2006[(3)] etablishes a European Neighbourhood and Partnership Instrument (ENPI) providing direct support for the EU's European Neighbourhood Policy. Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006[(4)] establishes a financing instrument for Development Cooperation (DCI). Council Regulation (EC) No 1889/2006[(4)] establishes a financing instrument for cooperation with industrialised and other high-income countries and territories (ICI). Regulation (EC) No 1717/2006[(5)] establishes a financing Instrument for Stability (IfS) providing assistance in situations of crisis and emerging crisis, and specific global and transregional threats. This Regulation establishes a financing instrument for the promotion of democracy and human rights worldwide (European Instrument for Democracy and Human Rights) allowing for assistance independent from the consent of third country governments and other public authorities.

(2) Article 6(1) of the Treaty on European Union stipulates that the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

(3) The promotion, development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms constitute a prime objective of the Community's development policy and economic, financial and technical cooperation with third countries[(6)]. A commitment to respect, promote and protect democratic

principles and human rights is an essential element of the Community's contractual relations with third countries[7].

(4) This financing instrument contributes to the achievement of the objectives of the development policy statement on the 'European Consensus on Development' (DPS) jointly adopted by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the Commission on 20 December 2005[8]. The DPS underlines that 'progress in the protection of human rights, good governance and democratisation is fundamental for poverty reduction and sustainable development', thereby contributing to the achievement of the Millennium Development Goals (MDGs).

(5) The DPS having reaffirmed that the promotion of gender equality and women's rights is a fundamental human right and a question of social justice, as well as being instrumental in achieving all the MDGs, the Cairo Programme of Action and the Convention on the Elimination of All Forms of Discrimination Against Women, this Regulation includes a strong gender component.

(6) This financing instrument contributes to achieving the objective of the Union's Common Foreign and Security Policy, as set out in Article 11(1) of the Treaty on European Union and shaped by EU Guidelines, regarding the development and consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms.

(7) The Community's contribution to the development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms is rooted in the general principles established by the International Bill of Human Rights, and any other human rights instrument adopted within the framework of the United Nations, as well as relevant regional human rights instruments.

(8) Democracy and human rights are inextricably linked. The fundamental freedoms of expression and association are the preconditions for political pluralism and democratic process, whereas democratic control and separation of powers are essential to sustain an independent judiciary and the rule of law which in turn are required for effective protection of human rights.

(9) Human rights are considered in the light of universally accepted international norms, but democracy has also to be seen as a process, developing from within, involving all sections of society and a range of institutions, in particular national democratic parliaments, that should ensure participation, representation, responsiveness and accountability. The task of building and sustaining a culture of human rights and making democracy work for citizens, though especially urgent and difficult in emerging democracies, is essentially a continuous challenge, belonging first and foremost to the people of the country concerned but without diminishing the commitment of the international community.

(10) In order to address the above issues in an effective, transparent, timely and flexible manner beyond the expiry of Council Regulation (EC) No 975/1999 of 29 April 1999 laying down the requirements for the implementation of development cooperation operations which contribute to the general objective of developing and consolidating

democracy and the rule of law and to that of respecting human rights and fundamental freedoms[9] and Council Regulation (EC) No 976/1999 of 29 April 1999 laying down the requirements for the implementation of Community operations, other than those of development cooperation, which, within the framework of Community cooperation policy, contribute to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms in third countries[10], which served as the legal base for the European Initiative for Democracy and Human Rights and which expire by 31 December 2006, there is a need for specific financial resources and a specific financing instrument that can continue to work in an independent manner whilst remaining complementary to and reinforcing related Community instruments for external assistance, the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part[11], and humanitarian aid.

(11) Community assistance under this Regulation is designed to complement the various other tools for implementation of EU policies on democracy and human rights, which range from political dialogue and diplomatic demarches to various instruments of financial and technical cooperation, including both geographic and thematic programmes. It will also complement the more crisis-related interventions of the Instrument for Stability.

(12) In particular, in addition and complementary to the measures agreed with partner countries in the context of the cooperation pursued under the Instrument for Pre-accession Assistance, the European Neighbourhood and Partnership Instrument, the Development Cooperation Instrument, the Cotonou Agreement with ACP countries, the Instrument for Cooperation with Industrialised Countries and other high-income countries and territories and the Instrument for Stability, the Community provides assistance under this Regulation that addresses global, regional, national and local human rights and democratisation issues in partnership with civil society understood to span all types of social action by individuals or groups that are independent from the state and active in the field of human rights and democracy promotion.

(13) Furthermore, whilst democracy and human rights objectives must be increasingly mainstreamed in all external assistance financing instruments, Community assistance under this Regulation will have a specific complementary and additional role by virtue of its global nature and its independence of action from the consent of third country governments and other public authorities. This makes possible cooperation with civil society on sensitive human rights and democracy issues, including migrants' enjoyment of human rights, rights of asylum seekers and internally displaced persons, providing the flexibility to respond to changing circumstances or to support innovation. It also provides a Community capacity to articulate and support specific objectives and measures at international level which are neither geographically linked nor crisis related and which may require a transnational approach or involve operations both within the Community and in a range of third countries. It provides the necessary framework for operations, such as support to independent EU election observation missions requiring policy coherence, a unified management system and common operating standards.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EC) No 1889/2006 of the European Parliament and of the Council. (See end of Document for details)*

(14) Developing and consolidating democracy under this Regulation should include democratic parliaments and their capacity to support and advance democratic reform processes. National parliaments need therefore to be included as eligible bodies for funding under this Regulation when this is necessary in order to achieve its objectives, unless the proposed measure can be financed under a related Community external assistance instrument.

(15) The 'Guidelines for strengthening operational coordination between the Community, represented by the Commission, and the Member States in the field of external assistance' of 21 January 2001 emphasise the need for enhanced coordination of EU external assistance in the fields of supporting democratisation and promoting respect for human rights and fundamental freedoms worldwide. The Commission and Member States should ensure that their respective assistance measures are complementary and coherent, avoiding overlapping and duplication. The Commission and Member States should seek closer coordination with other donors. Community policy in the sphere of development cooperation should be complementary to the policies pursued by the Member States.

(16) The relevance and scope of Community assistance in promoting democracy and human rights calls for the Commission to seek regular and frequent exchanges of information with the European Parliament.

(17) The Commission needs to consult representatives of civil society, as well as other donors and actors, as early as appropriate in the programming process in order to facilitate their respective contributions and to ensure that assistance activities are as complementary to each other as possible.

(18) The Community needs to be able to respond rapidly to unforeseen needs and in exceptional circumstances in order to enhance the credibility and effectiveness of its commitment to the promotion of democracy and human rights in countries where such situations arise. This requires that the Commission have the possibility to decide on Special Measures not covered by Strategy Papers. This assistance management instrument corresponds to those included in the other external assistance financing instruments.

(19) The Community should also be able to respond in a flexible and timely manner to the specific needs of human rights defenders by means of ad hoc measures which are not subject to calls for proposals. Moreover, eligibility of entities which do not have legal personality under the applicable national law is also possible under the conditions of the Financial Regulation.

(20) This Regulation establishes a financial envelope for the period 2007-2013 which constitutes the prime reference amount for the budgetary authority according to point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management[(12)].

(21) Financial support needs to be secured for the European Inter-University Centre for Human Rights and Democratisation, providing a European Masters Degree in Human

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Rights and Democratisation and an EU-UN Fellowship Programme, beyond the expiry by the end of 2006 of Decision No 791/2004/EC of the European Parliament and of the Council of 21 April 2004 establishing a Community action programme to promote bodies active at European level and support specific activities in the field of education and training[(13)], which served as the legal basis for funding.

(22) European Union Election Observation Missions contribute significantly and successfully to democratic processes in third countries[(14)]. However, the promotion of democracy extends far beyond the electoral process alone. Expenditure for EU Election Observation Missions should therefore not take up a disproportionate amount of the total funding available under this Regulation.

(23) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(15)].

(24) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of this Regulation to lay down rules on a European Instrument for Democracy and Human Rights. This Regulation does not go beyond what is necessary in order to achieve the objective pursued, in accordance with the third paragraph of Article 5 of the Treaty,

HAVE ADOPTED THIS REGULATION:

TITLE I

OBJECTIVES AND SCOPE

Article 1

Objectives

1 This Regulation establishes a European Instrument for Democracy and Human Rights under which the Community shall provide assistance, within the framework of the Community's policy on development cooperation, and economic, financial and technical cooperation with third countries, consistent with the European Union's foreign policy as a whole, contributing to the development and consolidation of democracy and the rule of law, and of respect for all human rights and fundamental freedoms.

2 Such assistance shall aim in particular at

a enhancing the respect for and observance of human rights and fundamental freedoms, as proclaimed in the Universal Declaration of Human Rights and other international and regional human rights instruments, and promoting and consolidating democracy and democratic reform in third countries, mainly through support for civil society organisations, providing support and solidarity to human rights defenders and victims of repression and abuse, and strengthening civil society active in the field of human rights and democracy promotion;

b supporting and strengthening the international and regional framework for the protection, promotion and monitoring of human rights, the promotion of democracy and the rule of law, and reinforcing an active role for civil society within these frameworks;