Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)

COUNCIL REGULATION (EC) No 1085/2006

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establishing an Instrument for Pre-Accession Assistance (IPA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 181a thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Whereas:

(1) In order to improve the efficiency of the Community's External Aid, a new framework for programming and delivery of assistance has been envisaged. The present instrument constitutes one of the general instruments directly supporting European External Aid policies.

(2) Article 49 of the Treaty on European Union states that any European State which respects the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law may apply to become a member of the Union.

(3) The Republic of Turkey's application for membership to the European Union was accepted by the European Council in Helsinki in 1999. Pre-accession assistance has been made available to the Republic of Turkey since 2002. The Brussels European Council on 16 and 17 December 2004 recommended that accession negotiations should be opened with Turkey.

(4) At its meeting at Santa Maria da Feira on 20 June 2000, the European Council stressed that the countries of the Western Balkans were potential candidates for membership of the European Union.

(5) At its meeting in Thessaloniki, on 19 and 20 June 2003, the European Council recalled the conclusions of its meetings in Copenhagen in December 2002 and Brussels in March 2003 and reiterated its determination to fully and effectively support the European perspective of the Western Balkan countries, indicating that they would become an integral part of the European Union, once they met the established criteria.

(6) The Thessaloniki European Council 2003 also indicated that the Stabilisation and Association Process would constitute the overall framework for the European course of the Western Balkan countries all the way to their future accession.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1085/2006. (See end of Document for details)*

(7) In its resolution on the Thessaloniki European Council Conclusions, the European Parliament recognised that each of the Western Balkan countries was moving towards accession, but at the same time insisted that each country should be judged on its own merits.

(8) All the Western Balkan countries can therefore be considered as potential candidate countries; however, a clear distinction should be made between candidate countries and potential candidate countries.

(9) On 17 and 18 June 2004 the Brussels European Council recommended that accession negotiations should be opened with Croatia.

(10) On 15 and 16 December 2005 the Brussels European Council decided to grant candidate country status to the former Yugoslav Republic of Macedonia.

(11) Further, on 16 and 17 December 2004, the Brussels European Council recommended that parallel to accession negotiations, the European Union should engage an intensive political and cultural dialogue with every candidate country.

(12) In the interests of coherence and consistency of Community assistance, assistance for candidate countries as well as for potential candidate countries should be granted in the context of a coherent framework, taking advantage of the lessons learned from earlier pre-accession instruments as well as Council Regulation (EC) No 2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia[(3)]. The assistance should also be consistent with the development policy of the Community in accordance with Article 181a of the EC Treaty.

(13) Assistance for candidate countries as well as for potential candidate countries should continue to support them in their efforts to strengthen democratic institutions and the rule of law, reform public administration, carry out economic reforms, respect human as well as minority rights, promote gender equality, support the development of civil society and advance regional cooperation as well as reconciliation and reconstruction, and contribute to sustainable development and poverty reduction in these countries, and it should therefore be targeted at supporting a wide range of institution-building measures.

(14) Assistance for candidate countries should additionally focus on the adoption and implementation of the full *acquis communautaire*, and in particular prepare candidate countries for the implementation of the Community's agricultural and cohesion policy.

(15) Assistance for potential candidate countries may include some alignment with the *acquis communautaire*, as well as support for investment projects, aiming in particular at building management capacity in the areas of regional, human resources and rural development.

(16) Assistance should be provided on the basis of a comprehensive multi-annual strategy that reflects the priorities of the Stabilisation and Association Process, as well as the strategic priorities of the pre-accession process.

(17) In order to assist with the financial part of this strategy, and without prejudice to the prerogatives of the Budgetary Authority, the Commission should present its intentions for the financial allocations to be proposed for the three forthcoming years by means of a multi-annual indicative financial framework, as an integral part of its annual enlargement package.

(18) The Transition Assistance and Institution Building, and Cross-Border Cooperation Components should be accessible to all beneficiary countries, in order to assist them in the process of transition and approximation to the EU, as well as to encourage regional cooperation between them.

(19) The Regional Development Component, the Human Resources Development Component, and the Rural Development Component should be accessible only to candidate countries accredited to manage funds in a decentralised manner, in order to help them prepare for the time after accession, in particular for the implementation of the Community's cohesion and rural development policies.

(20) Potential candidate countries and candidate countries that have not been accredited to manage funds in a decentralised manner should however be eligible, under the Transition Assistance and Institution Building Component, for measures and actions of a similar nature to those which will be available under the Regional Development Component, the Human Resources Development Component and the Rural Development Component.

(21) Assistance should be managed in accordance with the rules for External Aid contained in Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[(4)], making use of the structures that have proved their worth in the pre-accession process, such as decentralised management, twinning and TAIEX (Technical Assistance Information Exchange Instrument), but should also allow for innovative approaches such as the implementation through Member States via shared management in case of cross-border programmes on the external borders of the European Union. The transfer of knowledge and expertise regarding the implementation of the *acquis communautaire*, from Member States with relevant experience to the beneficiaries of this Regulation, should be particularly beneficial in this context.

(22) The actions necessary for the implementation of this Regulation are management measures relating to the implementation of programmes with substantial budgetary implications. They should therefore 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[(5)], by submitting the multi-annual indicative planning documents to a Management Committee.

(23) The annual or multi-annual programmes on a horizontal and per country basis for the implementation of assistance under the Transition Assistance and Institution Building Component and the Cross-Border Cooperation Component should also be submitted to a Management Committee in accordance with Decision 1999/468/EC.

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(24) The multi-annual programmes for the implementation of the Regional Development Component, the Human Resources Development Component, and the Rural Development Component should also be submitted to a Management Committee, in accordance with Decision 1999/468/EC. Since these actions will be closely aligned to Structural Fund and Rural Development practices, they should make use as far as possible of the existing Committees which are in place for Structural Funds and Rural Development.

(25) Where the Commission implements this Regulation through centralised management, it should take the utmost care to protect the financial interests of the Community, in particular by applying the rules and standards of the *acquis communautaire* in that respect, and where the Commission implements this Regulation through other forms of management, the financial interests of the Community should be safeguarded through the conclusion of appropriate agreements containing sufficient guarantees in that respect.

(26) Rules determining the eligibility of participation in tenders and grant contracts, as well as rules concerning the origin of supplies should be laid down in accordance with recent developments within the European Union concerning the untying of aid, but should leave the flexibility to react to new developments in this field.

(27) Where a beneficiary country violates the principles on which the European Union is founded, or makes insufficient progress with respect to the Copenhagen criteria and the priorities laid down in the European or Accession Partnership, the Council must, on the basis of a proposal from the Commission, be in a position to take the necessary measures. Full and immediate information to the European Parliament should be ensured.

(28) Provision should be made to enable the Council to amend this Regulation by way of a simplified procedure with respect to the status of a beneficiary country as defined in this Regulation.

(29) Countries which are beneficiaries under the other regional External Assistance Instruments should, on the basis of reciprocity, be able to participate in actions under this Regulation, where this offers an added value on account of the regional, cross-border, transnational or global nature of the action in question.

(30) Since the objective of this Regulation, namely the progressive alignment of the beneficiary countries with the standards and policies of the European Union, including where appropriate the *acquis communautaire*, with a view to membership, cannot sufficiently be achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the EC Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.

(31) Given that Article 181a of the EC Treaty stipulates that measures in the area of economic, financial and technical cooperation with third countries are to be complementary to those carried out by the Member States, the Commission and the

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Member States are committed to ensure coordination, coherence and complementarity of their assistance, in line with the established EU 2001 guidelines for strengthening operational coordination between the Community and the Member States in the field of external assistance, in particular through regular consultations and frequent exchanges of relevant information during the different phases of the assistance cycle.

(32) A financial reference amount, within the meaning of point 38 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management[(6)], is included in this Regulation for the entire duration of the instrument, without thereby affecting the powers of the budgetary authority as they are defined by the EC Treaty.

(33) The institution of the new system of Community pre-accession assistance makes it necessary to repeal Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to the Republic of Hungary and the Polish People's Republic[(7)], Commission Regulation (EC) No 2760/98 of 18 December 1998 concerning the implementation of a programme for cross-border cooperation in the framework of the PHARE programme[(8)], Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy[(9)], Council Regulation (EC) No 1267/1999 of 21 June 1999 establishing an Instrument for Structural Policies for Pre-accession[(10)], Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period[(11)], Council Regulation (EC) No 555/2000 of 13 March 2000 on the implementation of operations in the framework of the pre-accession strategy for the Republic of Cyprus and the Republic of Malta[(12)], Council Regulation (EC) No 2500/2001 of 17 December 2001 concerning pre-accession financial assistance for Turkey[(13)] and Council Regulation (EC) No 2112/2005 of 21 November 2005 on access to Community external assistance. Equally, this Regulation should replace Regulation (EC) No 2666/2000, which expires on 31 December 2006,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Beneficiaries and overall objective

The Community shall assist the countries listed in Annexes I and II in their progressive alignment with the standards and policies of the European Union, including where appropriate the *acquis communautaire*, with a view to membership.