

REGULATION (EC) No 806/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 April 2004

on promoting gender equality in development cooperation

THE EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE EUROPEAN UNION,

equality through the gender mainstreaming strategy, there is a need to combine it with specific measures in favour of women of all ages.

Having regard to the Treaty establishing the European Community, and in particular Article 179 thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽¹⁾,

- (6) Women's contribution to development is achieved in the face of numerous obstacles, limiting the outcome of their work and reducing the benefits for themselves and to society as a whole. The importance of women's economic, social, and environmental roles across the life course, in developing countries has led to increasing international recognition that their full participation without discrimination is indispensable for sustainable and effective development.

Whereas:

- (1) The United Nations Millennium Development Goals call for gender equality and empowerment of women, setting clear targets in the field of education that have to be achieved no later than 2015.
- (2) Two-thirds of children out of school are girls. Enrolment rates for girls are still lower than those for boys and drop-out rates for girls are higher.
- (3) Article 3(2) of the Treaty stipulates that in all the activities referred to therein, including a policy in the sphere of development cooperation, the Community is to aim to eliminate inequalities, and to promote equality, between men and women.
- (4) A disproportionate majority of the world's poor are women. Therefore, the promotion of gender equality is important for the overarching goal of poverty reduction by 2015.
- (5) Gender equality of women and men of all ages is recognised as being important to effective and efficient work against poverty. To achieve the goal of gender
- (7) The Community and its Member States were signatories to the Declaration and Platform for Action of the 1995 Fourth World Conference on Women in Beijing, which stressed the need for action against world-wide obstacles to gender equality and established gender mainstreaming as a strategy to promote gender equality.
- (8) The United Nations Convention on the Elimination of all forms of Discrimination against Women considers discrimination against women as an obstacle to development, and the parties to the Convention agree to eliminate this discrimination using all appropriate means.
- (9) Council Regulation (EC) No 2836/98 of 22 December 1998 on integrating of gender issues in development cooperation ⁽²⁾ aims to support the mainstreaming of gender analysis in all area of development cooperation policies and to support and facilitate the inclusions of actions addressing major gender disparities. It ensures that gender equality is promoted in national plans designed to implement major elements of the Beijing Platform for Action. That Regulation expired on 31 December 2003.

⁽¹⁾ Opinion of the European Parliament of 18 December 2003 (not yet published in the Official Journal), Common Position of the Council of 19 February 2004 (not yet published in the Official Journal) and Position of the European Parliament of 30 March 2004 (not yet published in the Official Journal).

⁽²⁾ OJ L 354, 30.12.1998, p. 5. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

(10) The Declaration by the Council and the Commission on the European Community's development policy, adopted on 10 November 2000, states that gender equality is a cross-cutting issue.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

(11) The Commission's Communication to the Council and the European Parliament of 21 June 2001 on the Programme of Action on the mainstreaming of gender equality in Community development cooperation sets the implementation framework for that mainstreaming. That programme of action was endorsed by the Council in its Conclusions of 8 November 2001.

SCOPE

Article 1

1. The purpose of this Regulation is to implement measures to promote gender equality in Community development cooperation policies, strategies and interventions.

(12) The European Parliament stressed in its Resolution of 25 April 2002 ⁽¹⁾ on that programme of action its commitment to gender mainstreaming as the approach to furthering the goal of gender equality and improving the position of women in developing countries.

To this end, the Community shall provide financial assistance and appropriate expertise aimed at promoting gender equality into all its development cooperation policies and interventions in developing countries.

(13) This Regulation lays down, for the entire duration of the programme, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽²⁾, for the budgetary authority during the annual budgetary procedure. In general, EC development-related funding should also contribute towards gender equality as a cross-cutting issue.

2. The Community support shall be aimed at complementing and reinforcing the policies and capacities of developing countries as well as the assistance provided through other instruments of development cooperation.

Article 2

For the purposes of this Regulation:

(14) 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 ⁽³⁾.

(a) 'gender mainstreaming' concerns planning, (re)organisation, improvement, and evaluation of policy processes, so that a gender equality perspective is incorporated in all development policies, strategies and interventions, at all levels and at all stages by the actors normally involved therein;

(15) Since the objective of the proposed action, namely to promote gender equality in development cooperation, cannot be sufficiently achieved by the Member States, and can therefore, by reason of the scale and effects of that action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity set out in Article 5 of the 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 that objective,

(b) specific measures to prevent or compensate for disadvantages linked to sex may be maintained or introduced with a view to ensuring equality in practice between men and women; such measures should, in the first instance, aim at improving the situation of women in the field covered by this Regulation.

Article 3

The objectives to be pursued by this Regulation, in accordance with the goal of promoting gender equality and empower women as specified by the United Nations Millennium Development Goals, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women, the outcome of the

⁽¹⁾ OJ C 131 E, 5.6.2003, p. 153

⁽²⁾ OJ C 172, 18.6.1999, p. 1. Agreement as amended by Decision 2003/429/EC of the European Parliament and of the Council (OJ L 147, 14.6.2003, p. 25).

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

Special Session of the General Assembly 'Women 2000: gender equality, development and peace for the 21st Century', are the following:

- (a) to support gender mainstreaming in all areas of development cooperation, combined with specific measures in favour of women of all ages, with the goal of promoting gender equality as an important contribution to poverty reduction;
- (b) to support endogenous public and private capacities in developing countries which can take the responsibility and initiative for promoting gender equality.

Article 4

1. Activities in the field of promoting gender equality eligible for financing include, in particular:

- (a) supporting specific measures related to access to, and monitoring of, resources and services for women, in particular, in the areas of education and training, health, economic and social activities, employment and infrastructure, and to participation in political decision-making processes;
- (b) promoting the collection, dissemination, analysis and improvement of statistics disaggregated by sex and age, development and dissemination of methodologies, guidelines, ex-ante and ex-post gender impact assessments, thematic studies, qualitative and quantitative indicators, and other operational instruments;
- (c) supporting awareness-raising and advocacy work and the establishment of stakeholders' networks in the field of gender equality;
- (d) supporting activities aiming at strengthening institutional and operational capacities of key stakeholders in partner countries in the development process, such as the provision of gender specialists, training and technical assistance.

2. The instruments to be financed in the course of the activities referred to in paragraph 1 may take the form of:

- (a) methodological and organisational studies on gender mainstreaming relevant to all age-groups;
- (b) technical assistance including gender impact assessment, education, training, the information society or other services;

(c) supplies, audits, evaluation and monitoring missions.

3. Community financing may cover:

- (a) investment projects, with the exception of the purchase of real estate, and
- (b) operating expenditure of a beneficiary body including recurring administrative and maintenance costs that should not exceed the cost foreseen for administrative expenditure.

Operating grants shall be awarded on a gradually decreasing basis.

Article 5

In the selection and implementation of activities referred to in Article 4(1), particular attention shall be paid to:

- (a) the potential of interventions and programmes to act as a catalyst and a multiplier in order to support the strategy of gender mainstreaming on a large scale in Community interventions;
- (b) strengthening strategic partnerships and initiating transnational cooperation which reinforces, in particular, regional cooperation in the area of gender equality;
- (c) the pursuit of cost-effectiveness and sustainable impact in the design and planning of interventions;
- (d) the clear definition and monitoring of objectives and indicators;
- (e) efforts made to promote synergies with policies and programmes targeting reproductive and sexual health and rights and poverty diseases, in particular HIV/AIDS programmes, measures to combat violence, girl-child issues, the education and training of women of all ages, ageing people, the environment, human rights, conflict prevention, democratisation and the participation of women in the political, economic and social decision-making process;
- (f) gender mainstreaming in the six priority areas of EC development policy;

(g) the importance of paying special attention to the education of girls, and to the fact that the situation of unequal opportunities for girls could start to be redressed by recruiting and training local female teachers.

(e) international organisations, such as the United Nations and its agencies, funds and programmes, as well as development banks, financial institutions, global initiatives, international public/private partnerships;

(f) research and development studies institutes and universities.

CHAPTER II

IMPLEMENTATION OF AID

Article 6

1. Financial support pursuant to this Regulation shall take the form of grants or contracts.

2. A grant may finance the entire costs of an action only if it is shown that this is essential for it to be carried out, with the exception of actions resulting from the implementation of financing agreements with third countries or actions managed by international organisations. In other cases, a financial contribution from the beneficiaries defined in Article 7 shall be sought. In specifying the amount of the contribution requested, regard shall be given to the capacity of the partners concerned and the nature of the operation in question.

3. Contracts with beneficiaries may cover the financing of their operating expenditure, in accordance with Article 4(3)(b).

4. The provision of financial assistance under this Regulation may entail co-financing with other donors, in particular with Member States, the United Nations, and international or regional development banks or financial institutions.

Article 7

1. The partners eligible for financial assistance under this Regulation include:

(a) administrative authorities and agencies at national, regional and local government levels;

(b) local communities, NGOs, particularly those operating in the field of gender equality, women's organisations, community-based organisations, trade unions, and other not-for-profit natural and legal persons;

(c) the local private sector;

(d) regional organisations;

2. Without prejudice to paragraph 1(e), Community financial assistance in the form of grants shall be available to partners whose head office is located in a Member State or in a third country that is a beneficiary or potential beneficiary of Community assistance under this Regulation, provided that this office is the actual centre which directs business operations. In exceptional cases, this office may be located in another third country. Priority will be given to endogenous structures that can play a role in developing local capacities with respect to gender.

Article 8

1. Where operations are the subject of financing agreements between the Community and the recipient country, such agreements shall stipulate that the payment of taxes, duties or any other charges is not to be covered by the Community.

2. All financing agreements, grant agreements or contracts concluded pursuant to this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks in accordance with 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 ⁽¹⁾.

3. The necessary measures shall be taken to emphasise the Community character of the aid provided pursuant to this Regulation.

Article 9

1. Participation in invitations to tender and the award of procurement contracts shall be open on equal terms to all natural and legal persons of the Member States, assimilated countries, and in all developing countries. It shall be open to other third countries on the condition of reciprocity. It may be extended, under exceptional and duly justified circumstances, to other third countries.

2. Supplies shall originate in the Member States, the beneficiary country or other developing countries. In the cases mentioned in paragraph 1, supplies may originate in other third countries.

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

Article 10

1. In order to secure the objectives of consistency and complementarity referred to in the Treaty and to ensure maximum effectiveness of these operations as a whole, the Commission may take all necessary coordination measures, including in particular:

- (a) the establishment of a system for the systematic exchange and analysis of information on the operations financed and those which the Community and the Member States propose to finance;
- (b) the on-the-spot coordination of the implementation of operations through regular meetings and exchanges of information between the representatives of the Commission and the Member States in the recipient country, local authorities and other decentralised bodies.

2. The Commission should raise the question of gender as a standing item on the agenda during meetings between representatives of the Commission, Member States and partner countries in order to increase awareness of gender issues in emerging areas of development cooperation.

3. The Commission shall draw on the experiences of Member States, other donors and partner countries in the field of gender mainstreaming and women's empowerment.

4. The Commission, together with the Member States, may take any initiative necessary for ensuring proper coordination with the other donors concerned, in particular those forming part of the United Nations system.

CHAPTER III

FINANCIAL PROVISIONS AND RELEVANT DECISION-MAKING PROCEDURES*Article 11*

1. The financial framework for the implementation of this Regulation for the period 2004 to 2006 is hereby set at EUR 9 million.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspectives.

Article 12

1. The Commission shall be responsible for drafting strategic programming guidelines, defining the Community's cooperation in terms of measurable objectives, priorities,

deadlines for specific areas of action, assumptions and expected outcomes. Programming shall be multiannual and indicative.

2. An annual exchange of views shall take place once a year on the basis of a presentation by the representative of the Commission of the general guidelines for the operations to be carried out, in the framework of a joint meeting of the Committees referred to in Article 14(1).

Article 13

1. The Commission shall be responsible for appraising, deciding on and administering operations covered by this Regulation according to the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation.

2. The work programme shall be adopted under the procedure referred to in Article 14(2).

Article 14

1. The Commission shall be assisted by the geographically competent Committee for development.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 45 days.

3. The Committee shall adopt its rules of procedure.

CHAPTER IV

REPORTS*Article 15*

1. After each budget year, the Commission shall submit in its annual report on EC development policy to the European Parliament and to the Council, information on the operations financed in the course of that year and the Commission's conclusions on the implementation of this Regulation over the previous budget year.

The summary shall in particular provide information about the strengths, weaknesses and outcomes of operations, those with whom contracts have been concluded as well as the results of any independent evaluations of specific operations.

2. One year before the expiry of this Regulation, the Commission shall submit an independent appraisal report on its implementation to the European Parliament and the Council with a view to establishing whether its objectives have been achieved and providing guidelines for improving the effectiveness of future operations. On the basis of this appraisal report, the Commission may make proposals for the future of this Regulation and, if necessary, proposals for its amendment.

Article 16

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

It shall apply until 31 December 2006.

Done at Strasbourg, 21 April 2004.

For the European Parliament

The President

P. COX

For the Council

The President

D. ROCHE
