



**COUNCIL OF
THE EUROPEAN UNION**

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STATEMENT OF THE COUNCIL'S REASONS

Subject : Position of the Council at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation

Adopted by the Council on 10 December 2010

I. INTRODUCTION

On 21 April 2009, the Commission adopted its proposal for a Regulation amending Regulation (EC) No 1905/2006 establishing a financing instrument for development cooperation and Regulation (EC) No 1889/2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide.

The European Parliament adopted its first reading opinion on 21 October 2010.

The Council adopted its position at first reading on 10 December 2010.

II. OBJECTIVE

The Development Cooperation Instrument (DCI) is one of only two EU financial instruments for external action not providing for an exception to the principle of the non-eligibility for EU funding of costs related to taxes, duties and other charges. The instrument for the promotion of democracy and human rights worldwide (EIDHR) is the other case in point.

All the other EU financial instruments for external action lay down that EU support may not be used to finance such costs in principle, thus allowing for flexibility on a case-by-case basis, where appropriate, in the interests of proper implementation of programmes and projects.

The objective of the Commission proposal is to align the relevant provision of this instrument on the other instruments, by adding the words "in principle" in Article 25, paragraph 2 of the Regulation.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

The Council had no difficulties whatsoever with the single change suggested by the Commission in its initial proposal with a view to harmonise relevant provisions in existing financial instruments.

The Council also accepted three rather technical amendments adopted by the European Parliament, for the sake of clarity and accuracy. In particular, the Council agreed to the splitting of the initial proposal into two in order to reflect that two distinct instruments were concerned, the DCI and the EIDHR.

The Council has not been able, however, to accept those amendments adopted by the European Parliament which introduce the application of the delegated acts procedure (Article 290 TFEU) for the adoption of multi-annual cooperation programmes and strategy papers. The Council believes that the multi-annual cooperation programmes, not being legally binding acts, do not constitute acts of general application, supplementing or amending the basic act. They constitute implementing measures within the meaning of Article 291 TFEU.

IV. CONCLUSION

While the proposal of the Commission did not present any difficulty to the Council, the Council accepted a number of amendments adopted by the European Parliament.

The Council considers that its position at first reading is a balanced compromise and calls on the European Parliament to go along with this text in order to preserve the spirit and objective of the initial proposal, i.e. to ensure the consistency of the EU financial instruments for external action and to allow minimal but necessary flexibility in their implementation.

