

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

DECISION No 1149/2007/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 September 2007

establishing for the period 2007-2013 the Specific Programme 'Civil Justice' as part of the General Programme 'Fundamental Rights and Justice'

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

the implementation of judicial cooperation in civil matters.

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and Article 67(5) thereof,

- (3) The Brussels European Council of 4 and 5 November 2004 adopted the Hague Programme: Strengthening freedom, security and justice in the European Union ⁽⁵⁾ (hereinafter referred to as 'the Hague Programme').

Having regard to the proposal from the Commission,

- (4) In June 2005, the Council and the Commission adopted the Action Plan implementing the Hague Programme ⁽⁶⁾.

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

- (5) The ambitious objectives set by the Treaty and the Hague Programme should be achieved through the establishment of a flexible and effective programme that will facilitate planning and implementation.

Whereas:

- (1) The Community has set itself the objective of maintaining and developing an area of freedom, security and justice, in which the free movement of persons is assured. To this end, the Community is to adopt, *inter alia*, measures in the field of judicial cooperation in civil matters necessary for the proper functioning of the internal market.

- (6) The programme 'Civil Justice' should provide for initiatives taken by the Commission, in compliance with the principle of subsidiarity, for actions in support of organisations promoting and facilitating judicial cooperation in civil matters, and for actions in support of specific projects.

- (2) Following previous programmes, such as Grotius ⁽²⁾ and the Robert Schuman project ⁽³⁾, Council Regulation (EC) No 743/2002 ⁽⁴⁾ established, for the period 2002-2006, a general Community framework of activities to facilitate

- (7) A general programme in the field of civil justice aimed at better mutual understanding of the legal and judicial systems of the Member States will contribute to lowering the barriers to judicial cooperation in civil matters, which will improve the functioning of the internal market.

⁽¹⁾ Position of the European Parliament of 14 December 2006 (not yet published in the Official Journal), Council Common Position of 13 June 2007 (OJ C 171 E, 24.7.2007, p. 1) and Position of the European Parliament of 11 July 2007 (not yet published in the Official Journal). Council Decision of 18 September 2007.

⁽²⁾ Joint Action 96/636/JHA of 28 October 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on a programme of incentives and exchanges for legal practitioners (Grotius) (OJ L 287, 8.11.1996, p. 3); Council Regulation (EC) No 290/2001 of 12 February 2001 extending the programme of incentives and exchanges for legal practitioners in the area of civil law (Grotius-civil) (OJ L 43, 14.2.2001, p. 1).

⁽³⁾ Decision No 1496/98/EC of the European Parliament and of the Council of 22 June 1998 establishing an action programme to improve awareness of Community law within the legal professions (Robert Schuman project) (OJ L 196, 14.7.1998, p. 24).

⁽⁴⁾ OJ L 115, 1.5.2002, p. 1.

⁽⁵⁾ OJ C 53, 3.3.2005, p. 1.

⁽⁶⁾ OJ C 198, 12.8.2005, p. 1.

- (9) This Decision should provide for the possibility to co-finance the activities of certain European networks to the extent that the expenditure is incurred in pursuing an objective of general European interest. However, such co-financing should not imply that a future programme would cover such networks, nor should it prevent other European networks from benefiting from support to their activities in accordance with this Decision.
- (10) Any institution, association or network receiving a grant under the programme 'Civil Justice' should acknowledge the Community support received in accordance with the visibility guidelines to be laid down by the Commission.
- (11) This Decision lays down, for the entire duration of the programme, a financial envelope constituting the prime reference, within the meaning of point 37 of the Inter-institutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management⁽¹⁾, for the budgetary authority during the annual budgetary procedure.
- (12) Since the objectives of this Decision cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the programme, 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 Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (13) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽²⁾ (hereinafter referred to as 'the Financial Regulation') and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002⁽³⁾, which safeguard the Community financial interests, have to be applied taking into account the principles of simplicity and consistency in the choice of budgetary instruments, a limitation on the number of cases where the Commission retains direct responsibility for implementation and management, and the required proportionality between the level of resources and the administrative burden related to their use.
- (14) Appropriate measures should also be taken to prevent irregularities and fraud, and the necessary steps should be taken to recover funds lost, wrongly paid or incor-
- rectly used in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the Communities' financial interests⁽⁴⁾, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities⁽⁵⁾ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF)⁽⁶⁾.
- (15) The Financial Regulation requires a basic act to be provided to cover operating grants.
- (16) The measures necessary for the implementation of this Decision 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⁽⁷⁾, with a distinction being made between those measures which are subject to the management procedure and those which are subject to the advisory procedure, the advisory procedure being in certain cases, with a view to increased efficiency, the more appropriate.
- (17) In accordance with Article 7(3) of Decision 1999/468/EC, the European Parliament should be informed by the Commission of committee proceedings relating to the implementation of this programme. In particular, the European Parliament should receive the draft annual programme when it is submitted to the management committee. In addition, the European Parliament should receive the results of voting and summary records of the meetings of that committee.
- (18) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom and Ireland have notified their wish to take part in the adoption and application of this Decision.
- (19) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is not bound by it or subject to its application.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

⁽³⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 478/2007 (OJ L 111, 28.4.2007, p. 13).

⁽⁴⁾ OJ L 312, 23.12.1995, p. 1.

⁽⁵⁾ OJ L 292, 15.11.1996, p. 2.

⁽⁶⁾ OJ L 136, 31.5.1999, p. 1.

⁽⁷⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (20) The European Economic and Social Committee has delivered an opinion on this Decision ⁽¹⁾.
- (21) In order to ensure the effective and timely implementation of this programme, this Decision should apply from 1 January 2007,

HAVE DECIDED AS FOLLOWS:

Article 1

Establishment of the Programme

1. This Decision establishes the Specific Programme 'Civil Justice', hereinafter referred to as 'the Programme', as part of the General Programme 'Fundamental Rights and Justice', in order to contribute to the progressive establishment of the area of freedom, security and justice.
2. The Programme shall cover the period from 1 January 2007 to 31 December 2013.
3. In this Decision, the term 'Member State' shall mean Member States with the exception of Denmark.

Article 2

General objectives

1. The Programme shall have the following general objectives:
- (a) to promote judicial cooperation with the aim of contributing to the creation of a genuine European area of justice in civil matters based on mutual recognition and mutual confidence;
- (b) to promote the elimination of obstacles to the good functioning of cross-border civil proceedings in the Member States;
- (c) to improve the daily life of individuals and businesses by enabling them to assert their rights throughout the European Union, notably by fostering access to justice;
- (d) to improve the contacts, exchange of information and networking between legal, judicial and administrative authorities and the legal professions, including by way of support of judicial training, with the aim of better mutual understanding among such authorities and professionals.

2. Without prejudice to the objectives and powers of the Community, the general objectives of the Programme shall contribute to the development of Community policies, and more specifically to the creation of a judicial area.

Article 3

Specific objectives

The Programme shall have the following specific objectives:

- (a) to foster judicial cooperation in civil matters aiming at:
- (i) ensuring legal certainty and improving access to justice;
- (ii) promoting mutual recognition of decisions in civil and commercial cases;
- (iii) eliminating obstacles to cross-border litigation created by disparities in civil law and civil procedures and promoting the necessary compatibility of legislation for that purpose;
- (iv) guaranteeing a proper administration of justice by avoiding conflicts of jurisdiction;
- (b) to improve mutual knowledge of Member States' legal and judicial systems in civil matters and to promote and strengthen networking, mutual cooperation, exchange and dissemination of information, experience and best practices;
- (c) to ensure the sound implementation, the correct and concrete application and the evaluation of Community instruments in the area of judicial cooperation in civil and commercial matters;
- (d) to improve information on the legal systems in the Member States and access to justice;
- (e) to promote the training of legal practitioners in Union and Community law;
- (f) to evaluate the general conditions necessary to reinforce mutual confidence, while fully respecting the independence of the judiciary;
- (g) to facilitate the operation of the European Judicial Network in civil and commercial matters established by Council Decision 2001/470/EC ⁽²⁾.

⁽¹⁾ OJ C 69, 21.3.2006, p. 1.

⁽²⁾ OJ L 174, 27.6.2001, p. 25.

*Article 4***Actions**

With a view to pursuing the general and specific objectives set out in Articles 2 and 3, the Programme shall support the following types of action under the conditions set out in the annual work programmes referred to in Article 9(2):

- (a) specific actions initiated by the Commission, such as studies and research, opinion polls and surveys, formulation of indicators and common methodologies, collection, development and dissemination of data and statistics, seminars, conferences and expert meetings, organisation of public campaigns and events, development and maintenance of websites, preparation and dissemination of information material, support for and management of networks of national experts, analytical, monitoring and evaluation activities; or
- (b) specific transnational projects of Community interest presented by an authority or any other body of a Member State, an international organisation or a non-governmental organisation, and involving in any case at least two Member States or at least one Member State and one other State which may be either an acceding country or a candidate country; or
- (c) the activities of non-governmental organisations or other entities pursuing an aim of general European interest in accordance with the general objectives of the Programme under the conditions set out in the annual work programmes; or
- (d) operating grants to co-finance expenditure associated with the permanent work programmes of the European Network of Councils for the Judiciary and the Network of the Presidents of the Supreme Judicial Courts of the European Union, insofar as it is incurred in pursuing an objective of general European interest by promoting exchanges of views and experience on matters concerning case-law and the organisation and functioning of the members of those networks in the performance of their judicial and/or advisory functions with regard to Community law.

*Article 5***Participation**

1. The following countries may participate in the actions of the Programme: the acceding countries, the candidate countries and the Western Balkan countries included in the stabilisation and association process in accordance with the conditions laid down in the association agreements or additional protocols thereto relating to participation in Community programmes concluded or to be concluded with those countries.

2. Projects may associate legal practitioners from Denmark, from candidate countries not participating in the Programme where this would contribute to their preparation for accession, or from other third countries not participating in the Programme where this serves the aim of the projects.

*Article 6***Target groups**

- 1. The Programme is targeted at, *inter alia*, legal practitioners, national authorities and the citizens of the Union in general.
- 2. For the purposes of this Decision, 'legal practitioners' shall mean judges, prosecutors, advocates, solicitors, notaries, academic and scientific personnel, ministry officials, court officers, bailiffs, court interpreters and other professionals associated with the judiciary in the area of civil law.

*Article 7***Access to the Programme**

Access to the Programme shall be open to institutions and public or private organisations, including professional organisations, universities, research institutes and legal and judicial training institutes for legal practitioners, international organisations and non-governmental organisations of the Member States.

*Article 8***Types of intervention**

- 1. Community financing may take the following legal forms:
 - (a) grants;
 - (b) public procurement contracts.
- 2. Community grants shall be awarded further to calls for proposals and shall be provided through operating grants and grants to actions. The maximum rate of co-financing shall be specified in the annual work programmes.
- 3. Furthermore, provision shall be made for expenditure on accompanying measures, by means of public procurement contracts, in which case Community financing shall cover the purchase of goods and services. This shall cover, *inter alia*, expenditure on information and communication, preparation, implementation, monitoring, checking and evaluation of projects, policies, programmes and legislation.

*Article 9***Implementing measures**

1. The Commission shall implement the Community financial support in accordance with the Financial Regulation.
2. To implement the Programme, the Commission shall, within the limits of the general objectives set out in Article 2, adopt annual work programmes specifying specific objectives, thematic priorities, the accompanying measures referred to in Article 8(3) and, if necessary, a list of other actions.
3. The annual work programmes shall be adopted in accordance with the procedure referred to in Article 10(2).
4. The evaluation and award procedures relating to grants to actions shall take into account, *inter alia*, the following criteria:
 - (a) conformity of the proposed action with the annual work programme, the objectives set out in Articles 2 and 3 and the types of action set out in Article 4;
 - (b) quality of the proposed action in terms of its design, organisation, presentation and expected results;
 - (c) amount requested for Community financing and its appropriateness in relation to expected results;
 - (d) impact of the expected results on the objectives set out in Articles 2 and 3 and on the actions referred to in Article 4.
5. Applications for operating grants referred to in Article 4(d) shall be assessed in the light of:
 - (a) consistency with the objectives of the Programme;
 - (b) quality of the planned activities;
 - (c) likely multiplier effect on the public of these activities;
 - (d) geographical impact of the activities carried out;
 - (e) citizens' involvement in the organisation of the bodies concerned;
 - (f) cost/benefit ratio of the activity proposed.

6. The Commission shall examine each of the proposed actions submitted to it under Article 4(b) and (c). Decisions relating to these actions shall be adopted in accordance with the procedure referred to in Article 11(2).

*Article 10***Management Committee**

1. The Commission shall be assisted by a Management Committee.
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 three months.

*Article 11***Advisory Committee**

1. The Commission shall be assisted by an Advisory Committee.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

*Article 12***Complementarity**

1. Synergies and complementarity shall be sought with other Community instruments, in particular the Specific Programme 'Criminal Justice' as part of the General Programme 'Fundamental Rights and Justice', and the General Programmes 'Security and Safeguarding Liberties' and 'Solidarity and Management of Migration Flows'. The statistical element of information on civil justice shall be developed in collaboration with Member States, using as necessary the Community Statistical Programme.
2. The Programme may exceptionally share resources with other Community instruments, in particular the Specific Programme 'Criminal Justice', as part of the General Programme 'Fundamental Rights and Justice', in order to implement actions meeting the objectives of both Programmes.
3. Operations financed under this Decision shall not receive financial support for the same purpose from other Union or Community financial instruments. The beneficiaries of the Programme shall provide the Commission with information about financing received from the general budget of the European Union and from other sources, as well as information about ongoing applications for financing.

*Article 13***Budgetary resources**

1. The financial envelope for the implementation of this Decision shall be set at EUR 109 300 000 for the period set out in Article 1.

2. The budgetary resources allocated to the actions provided for in the Programme shall be entered in the annual appropriations of the general budget of the European Union. The available annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

*Article 14***Monitoring**

1. The Commission shall ensure that for any action financed by the Programme, the beneficiary submits technical and financial reports on the progress of work and that a final report is submitted within three months of the completion of the action. The Commission shall determine the form and content of the reports. The Commission shall make the reports available to Member States.

2. Without prejudice to the audits carried out by the Court of Auditors in liaison with the competent national audit bodies or departments pursuant to Article 248 of the Treaty, or any inspection carried out pursuant to point (b) of the first subparagraph of Article 279(1) of the Treaty, officials and other staff of the Commission may carry out on-the-spot checks, including sample checks, on actions financed under the Programme.

3. The Commission shall ensure that contracts and agreements resulting from the implementation of the Programme provide in particular for supervision and financial control by the Commission (or any representative authorised by it), if necessary on-the-spot, and for audits by the Court of Auditors.

4. The Commission shall ensure that for a period of five years following the last payment in respect of any action, the beneficiary of financial support keeps available for the Commission all the supporting documents regarding expenditure on the action.

5. On the basis of the results of the reports and sample checks referred to in paragraphs 1 and 2, the Commission shall ensure that, if necessary, the scale or the conditions of allocation of the financial support originally approved and also the timetable for payments are adjusted.

6. The Commission shall ensure that every other step necessary to verify that the actions financed are carried out properly and in compliance with the provisions of this Decision and the Financial Regulation, is taken.

*Article 15***Protection of Community financial interests**

1. The Commission shall ensure that, when actions financed under this Decision are implemented, the financial interests of the Community are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and by the recovery of the amounts wrongly paid and, if irregularities are detected, by effective, proportional and dissuasive penalties, in accordance with Regulations (EC, Euratom) No 2988/95, (Euratom, EC) No 2185/96 and (EC) No 1073/1999.

2. For the Community actions financed under this Decision, Regulations (EC, Euratom) No 2988/95 and (Euratom, EC) No 2185/96 shall apply to any infringement of a provision of Community law, including infringements of a contractual obligation stipulated on the basis of the Programme, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by the European Communities by an unjustified item of expenditure.

3. The Commission shall ensure that the amount of financial support granted for an action is reduced, suspended or recovered if it finds irregularities, including non-compliance with the provisions of this Decision or the individual decision or the contract or agreement granting the financial support in question, or if it transpires that, without Commission approval having been sought, the action has been subjected to a change which conflicts with the nature or implementing conditions of the project.

4. If the time limits have not been observed or if only part of the allocated financial support is justified by the progress made with implementing an action, the beneficiary shall submit observations to the Commission within a specified period. If the beneficiary does not give a satisfactory answer, the Commission shall ensure that the remaining financial support may be cancelled and that sums already paid are demanded to be repaid.

5. The Commission shall ensure that any undue payment is repaid to the Commission. Interest shall be added to any sums not repaid in good time under the conditions laid down by the Financial Regulation.

*Article 16***Evaluation**

1. The Programme shall be monitored regularly in order to follow the implementation of activities carried out under it.

2. The Commission shall ensure a regular, independent and external evaluation of the Programme.

3. The Commission shall submit to the European Parliament and the Council:

- (a) an annual presentation on the implementation of the Programme;
- (b) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of the Programme, including on the work carried out by the beneficiaries of operating grants referred to in Article 4(d), not later than 31 March 2011;
- (c) a communication on the continuation of the Programme not later than 30 August 2012;
- (d) an *ex-post* evaluation report not later than 31 December 2014.

Article 17

Publication of actions

Each year the Commission shall publish a list of the actions financed under the Programme with a short description of each project.

Article 18

Visibility

The Commission shall lay down guidelines to ensure the visibility of the financial support granted under this Decision.

Article 19

Entry into force

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

It shall apply from 1 January 2007.

Done at Strasbourg, 25 September 2007.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

M. LOBO ANTUNES