

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL DECISION

of 12 February 2007

establishing for the period 2007 to 2013, as part of General Programme on Security and Safeguarding Liberties, the Specific Programme ‘Prevention of and Fight against Crime’

(2007/125/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 30, 31 and 34(2)(c) thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) The Union's objective of providing citizens with a high level of safety within an area of freedom, security and justice shall be achieved, as provided for in the fourth indent of Article 2, and in Article 29 of the Treaty on European Union, by preventing and combating crime, organised or otherwise.
- (2) To protect the freedom and security of our citizens and society from criminal activities, the Union should take the necessary measures to prevent, detect, investigate, and prosecute all forms of crime efficiently and effectively, most particularly in cases with a trans-border element.
- (3) Building on the conclusions of the Tampere European Council of October 1999, the European Council has reaffirmed the priority of developing the area of freedom, security and justice — and particularly of protecting citizens from various criminal activities through the prevention of and fight against crime — by The Hague Programme of November 2004 ⁽²⁾, the declarations on terrorism of September 2001 and March 2004 and the European Drugs strategy in December 2004.

(4) To provide expertise in developing various aspects of crime prevention at European Union level and support crime prevention activities at local and national level, the European Crime Prevention Network was established by the Council Decision 2001/427/JHA ⁽³⁾ of 28 May 2001.

(5) The framework programme established by Council Decision 2002/630/JHA of 22 July 2002 establishing a framework programme on police and judicial cooperation in criminal matters (AGIS) ⁽⁴⁾ has contributed considerably to strengthening cooperation between police and other law enforcement agencies and the judiciary in the Member States and to improving mutual understanding and mutual trust between their police, judicial, legal and administrative systems.

(6) It is necessary and appropriate to extend the possibilities for the funding of measures aiming at the prevention of and the fight against crime, and to review the modalities in the interest of efficacy, cost-efficiency and transparency.

(7) The framework programme aims at facilitating effective support and protection to interests of witnesses of crime. The programme also underlines the importance of the protection of victims of crimes. To point out the priority of the support of victims the Specific Programme ‘Criminal Justice’ emphasises the social and legal assistance to victims.

(8) Commission actions and transnational projects remain important to achieve closer and better cooperation and coordination among Member States. In addition, it is useful and appropriate to support projects within Member States to the extent that they can provide useful experience and know-how for further actions at Union level.

⁽¹⁾ Opinion delivered on 14 December 2006 (not yet published in the Official Journal).

⁽²⁾ OJ C 53, 3.3.2005, p. 1.

⁽³⁾ OJ L 153, 8.6.2001, p. 1.

⁽⁴⁾ OJ L 203, 1.8.2002, p. 5.

- (9) As crime crosses borders, it is appropriate to allow third countries and international organisations to participate in transnational projects.
- (10) Complementarity needs to be ensured regarding other Union and Community programmes, such as the Seventh Framework Programme for Research, Technological Development and Demonstration Activities, the European Union Solidarity Fund, the Civil Protection Financial Instrument and the Structural Funds.
- (11) Since the objectives of this Decision, particularly the prevention of and the fight against organised and transborder crime, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or impact of the programme, be better achieved at the level of European Union, the Council may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty establishing the European Community, made applicable to the Union by Article 2 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in Article 5 of the Treaty establishing the European Community, this Decision does not go beyond what is necessary to achieve those objectives.
- (12) In accordance with Article 41(3) of the Treaty on European Union, the operating expenditure should be financed by the general budget of the European Union under Title VI.
- (13) The expenditure of the programme should be compatible with the ceiling under Heading 3 of the financial framework. It is necessary to foresee flexibility in the definition of the programme to allow for eventual adjustments in any envisaged actions, in order to respond to the evolution of needs in the course of the period 2007-2013. The decision should, therefore, be limited to the generic definition of envisaged actions and their respective administrative and financial arrangements.
- (14) The measures required to implement this Decision should be adopted according to the procedures laid down in it, with the assistance of a committee.
- (15) 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 incorrectly used in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the Communities' financial interests⁽¹⁾, (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission⁽²⁾ 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)⁽³⁾.

- (16) Council Regulation (EC, Euratom) 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽⁴⁾ and Commission Regulation (EC, Euratom) 2342/2002⁽⁵⁾ of 23 December 2002 laying down detailed rules for the implementation of Council Regulation 1605/2002, which safeguard the Community's financial interests, applies 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 their implementation and management, and the required proportionality between the amount of resources and the administrative burden related to their use.
- (17) It is appropriate to replace Decision 2002/630/JHA from 1 January 2007 by this Decision and by Decision establishing the Specific Programme 'Criminal Justice'.
- (18) In order to ensure the effective and timely implementation of the programme, this Decision should apply from 1 January 2007,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

1. This Decision establishes the Specific Programme 'Prevention of and Fight against Crime', hereinafter referred to as 'the Programme', as part of the General Programme on Security and safeguarding liberties in order to contribute to the strengthening of the area of Freedom, Security and Justice.
2. The Programme shall cover the period from 1 January 2007 to 31 December 2013.

Article 2

General objectives

1. The Programme shall contribute to a high level of security for citizens by preventing and combating crime, organised or otherwise, in particular terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud.
2. Without prejudice to the objectives and powers of the European Community, the general objectives of the Programme contribute to the development of the policies of the Union and of the Community.

⁽⁴⁾ 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).

⁽⁵⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Commission Regulation (EC, Euratom) No 1248/2006 (OJ L 227, 19.8.2006, p. 3).

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽²⁾ OJ L 292, 15.11.1996, p. 2.

⁽³⁾ OJ L 136, 31.5.1999, p. 1.

*Article 3***Themes and specific objectives**

1. The Programme shall consist of four themes:

- (a) crime prevention and criminology;
- (b) law enforcement;
- (c) protection and support to witnesses;
- (d) protection of victims.

2. Within the general objectives, the Programme shall contribute to the following specific objectives:

- (a) to stimulate, promote and develop horizontal methods and tools necessary for strategically preventing and fighting crime and guaranteeing security and public order such as the work carried out in the European Union Crime Prevention Network, public-private partnerships, best practices in crime prevention, comparable statistics, applied criminology and an enhanced approach towards young offenders;
- (b) to promote and develop coordination, cooperation and mutual understanding among law enforcement agencies, other national authorities and related Union bodies in respect of the priorities identified by the Council in particular as set out by the Europol's Organised Crime Threat Assessment;
- (c) to promote and develop best practices for the protection and support witnesses; and
- (d) to promote and develop best practices for the protection of crime victims.

3. The Programme does not deal with judicial cooperation. However, it may cover actions which aim at encouraging cooperation between judicial authorities and law enforcement authorities.

*Article 4***Eligible actions**

1. With a view to pursuing the general and specific objectives set out in Articles 2 and 3, the Programme shall provide under the conditions set out in the annual work programme financial support for the following types of actions:

- (a) projects initiated and managed by the Commission with a European dimension;
- (b) transnational projects, which shall involve partners in at least two Member States, or at least one Member State and

one other country which may either be an acceding or a candidate country;

(c) national projects within Member States, which:

- (i) prepare transnational projects and/or Union actions (starter measures);
- (ii) complement transnational projects and/or Union (complementary measures);
- (iii) contribute to developing innovative methods and/or technologies with a potential for transferability to actions at Union level, or develop such methods or technologies with a view to transferring them to other Member States and/or other country which may either be an acceding or a candidate country;

(d) operating grants for non-governmental organisations pursuing on a non-profit basis objectives of the Programme on a European dimension.

2. In particular, financial support may be provided for:

- (a) actions improving operational cooperation and coordination (strengthening networking, mutual confidence and understanding, exchange and dissemination of information, experience and best practices);
- (b) analytical, monitoring and evaluation activities;
- (c) development and transfer of technology and methodology;
- (d) training, exchange of staff and experts; and
- (e) awareness and dissemination activities.

*Article 5***Access to the Programme**

1. The Programme is destined for law enforcement agencies, other public and/or private bodies, actors and institutions, including local, regional and national authorities, social partners, universities, statistical offices, non-governmental organisations, public-private partnerships and relevant international bodies.

2. Access to the Programme shall be opened to bodies and organisations with legal personality established in the Member States. Bodies and organisations which are profit oriented shall have access to grants only in conjunction with non profit oriented or state organisations.

3. As regards transnational projects, third countries and international organisations may participate as partners but are not permitted to submit projects.

Article 6

Types of intervention

1. Union financial support may take the following legal forms:

- (a) grants;
- (b) public procurement contracts.

2. Union grants shall be awarded further to calls for proposals, save in duly substantiated exceptional cases of urgency or where the characteristics of the beneficiary leave no other choice for a given action, and shall be provided through operating grants and grants for actions.

The annual work programme shall specify the minimum rate of the annual expenditure to be awarded to grants. This minimum rate shall be at least 65 %.

The maximum rate of co-financing of the costs of the projects shall be specified in the annual work programme.

3. Provision is made for expenditure for accompanying measures, through public procurement contracts, in which case Union funds shall cover the purchase of services and goods. This shall cover, *inter alia*, expenditure on information and communication, preparation, implementation, monitoring, checking and evaluation of projects, policies, programmes and legislation.

Article 7

Implementing measures

1. The Commission shall implement the Union financial support in accordance with the Regulation (EC, Euratom) No 1605/2002, hereinafter referred to as 'the Financial Regulation'.

2. To implement the Programme, the Commission shall, within the limits of the general objectives defined in Article 2, adopt an annual work programme by the end of September specifying its specific objectives, thematic priorities, a description of accompanying measures envisaged in Article 6(3) and if necessary a list of other actions.

The annual work programme for 2007 shall be adopted three months after taking of effect of this Decision.

3. The annual work programme shall be adopted in accordance with the management procedure laid down in Article 10.

4. The evaluation and award procedures relating to grants for actions shall take into account, *inter alia*, the following criteria:

- (a) conformity with the annual work programme, the general objectives as specified in Article 2 and measures taken in the different domains as specified in Articles 3 and 4;
- (b) quality of the proposed action regarding its conception, organisation, presentation and expected results and dissemination thereof;

(c) amount requested for Union financial support and its appropriateness as to expected results;

(d) impact of the expected results on the general objectives defined in Article 2 and on measures taken in the different domains as specified in Articles 3 and 4.

5. The applications for operating grants, referred to in Article 4 (1)(d), shall be assessed, *inter alia*, in the light of:

- (a) consistency with the Programme objectives;
- (b) quality of the planned activities;
- (c) likely multiplier effect on the public of these activities;
- (d) geographic impact of the activities carried out;
- (e) cost/benefit ratio of the activity proposed.

6. Decisions related to actions submitted under Article 4(1)(a) shall be adopted by the Commission in accordance with the management procedure laid down in Article 10. Decisions related to actions submitted under Article 4(1)(b) to (d) shall be adopted by the Commission in accordance with the advisory procedure laid down in Article 9.

Decisions on applications for grants involving profit-oriented bodies or organisations shall be adopted by the Commission in accordance with the management procedure laid down in Article 10.

Article 8

Committee

1. The Commission shall be assisted by a committee, composed of representatives of the Member States and chaired by the representative of the Commission (hereinafter referred to as the the Committee).

2. The Committee shall adopt its rules of procedure.

3. The Commission may invite representatives from the applicant countries to information meetings after the Committee's meetings.

Article 9

Advisory procedure

1. Where reference is made to this Article, the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chair may lay down according to the urgency of the matter, if necessary by taking a vote.

2. The opinion shall be recorded in the minutes; each Member State may request that its position be recorded in the minutes.

3. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which the opinion has been taken into account.

Article 10

Management procedure

1. Where reference is made to this Article, the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chair may lay down according to the urgency of the matter. In the case of decisions which the Council is required to adopt on a proposal from the Commission, the opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty establishing the European Community. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chair shall not vote.

2. The Commission shall adopt measures which shall apply immediately. However, if the measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of three months from the date of such communication.

3. The Council, acting by qualified majority, may take a different decision within the period provided for by paragraph 2.

Article 11

Complementarity

1. Synergies, consistency and complementarity shall be sought with other Union and Community instruments, *inter alia*, with the specific programmes 'Prevention, Preparedness and Consequence Management of Terrorism and other Security related risks' and 'Criminal Justice', the Framework Programme for Research, Technological Development and Demonstration Activities, the European Union Solidarity Fund and the Civil Protection Financial Instrument.

2. The Programme may share resources with other Union and Community instruments, in particular the 'Prevention, Preparedness and Consequence Management of Terrorism and other Security related risks' programme, in order to implement actions meeting the objectives of both the Programme and the other Union/Community instrument(s).

3. Operations financed under this Decision shall not receive financial support for the same purpose from other Union/Community financial instruments. It shall be ensured that the beneficiaries of the Programme shall provide the Commission with information about funding received from the general budget of the European Union and from other sources, as well as information about ongoing applications for funding.

Article 12

Budgetary resources

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 13

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 structure of the reports.

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

3. 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.

4. On the basis of the results of the reports and on-the-spot 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 is adjusted.

5. 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 be taken.

Article 14

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 measures to prevent fraud, corruption and any other illegal activities, by effective checks and by the recovery of the amounts unduly 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 Union actions financed under this Decision, Regulation (EC, Euratom) No 2988/95 and Regulation (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 it, by an unjustified item of expenditure.

3. The Commission shall ensure that the amount of financial assistance 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 Commission shall ensure that the beneficiary is requested to submit observations within a specified period. If the beneficiary does not give a satisfactory answer, the Commission shall ensure that the remaining financial support might be cancelled and repayment of sums already paid demanded.

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 15

Evaluation

1. The Programme shall be monitored regularly in order to follow the implementation of activities carried out there under.
2. The Commission shall ensure 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 no later than 31 March 2010;

- (c) a communication on the continuation of the Programme no later than 31 December 2010;
- (d) an *ex-post* evaluation report no later than 31 March 2015.

Article 16

Publication of projects

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

Article 17

Transitional provisions

1. This Decision shall, from 1 January 2007, replace the corresponding provisions of the Decision 2002/630/JHA.
2. Actions started before 31 December 2006 pursuant to Decision 2002/630/JHA shall continue to be governed, until their completion, by that Decision.

Article 18

Taking of effect and application

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007.

Done at Brussels, 12 February 2007.

For the Council

The President

F.-W. STEINMEIER