

COUNCIL DECISION

of 12 February 2007

establishing for the period 2007 to 2013, as part of the General Programme on Fundamental Rights and Justice, the Specific Programme ‘Criminal Justice’

(2007/126/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal of the Commission,

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

Whereas:

- (1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the field of judicial cooperation in criminal matters.
- (2) According to Article 31 of the Treaty on European Union, common action in criminal matters shall include, in particular, cooperation between the competent authorities of the Member States.
- (3) Building on the conclusions of the Tampere European Council, The Hague Programme, adopted by the European Council in November 2004, reaffirms the priority of strengthening Freedom, Security and Justice in the European Union, in particular by enhancing judicial cooperation in criminal matters, based on the mutual recognition principle.
- (4) 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) ⁽²⁾ 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.
- (5) The ambitious objectives set by the Treaty on European Union and The Hague Programme should be realised through the establishment of a flexible and effective programme that will facilitate planning and implementation.
- (6) The programme should improve mutual confidence within the judiciary. Mutual confidence, according to the Hague Programme, should be strengthened by developing

networks of judicial organisation and institutions, by improving training of judicial professions, by developing the evaluation of the implementation of EU policies in the field of justice, while fully respecting the independence of the judiciary by increasing research in the field of judicial cooperation, and by facilitating operational projects among Member States aiming at modernising justice.

- (7) The programme should also facilitate the implementation of the mutual recognition principle by improving mutual knowledge on previous convictions passed in the European Union, in particular through the creation of a computerised system of exchange of information on criminal records.
- (8) The European Judicial Training Network founded by institutions specifically responsible for the training of the professional judiciary of all Member States promotes a training programme for judges and public prosecutors with a genuine European dimension. This contributes to strengthening the mutual confidence and improves mutual understanding between judicial authorities and different legal systems.
- (9) Since the objectives of this Decision cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects 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 in order to achieve those objectives.
- (10) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾, hereinafter ‘the Financial Regulation’, and Commission Regulation (EC, Euratom) No 2342/2002 ⁽⁴⁾ of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 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

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

⁽²⁾ OJ L 203, 1.8.2002, p. 1.

⁽³⁾ 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).

⁽⁴⁾ 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).

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.

- (11) 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⁾.
- (12) The Financial Regulation requires a basic act to be adopted to cover operating grants.
- (13) The measures required to implement this Decision should be adopted according to the procedures laid down in it, with the assistance of a committee.
- (14) It is appropriate to replace Decision 2002/630/JHA from 1 January 2007 by this Decision and by Decision establishing the Specific Programme 'Prevention of and Fight against Crime'.
- (15) 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 'Criminal Justice', hereinafter referred to as 'the Programme', as part of the General Programme on Fundamental Rights and Justice, 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 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 criminal matters based on mutual recognition and mutual confidence;

- (b) to promote the compatibility in rules applicable in the Member States as may be necessary to improve judicial cooperation. To promote a reduction in existing legal obstacles to the good functioning of judicial cooperation with a view to strengthening the coordination of investigations and to increase compatibility of the existing judicial systems in the Member States to the European Union with a view to providing adequate follow-up to investigations of law enforcement authorities of the Member States;
- (c) to improve the contacts and exchange of information and best practices between legal, judicial and administrative authorities and the legal professions: lawyers and other professionals involved in the work of the judiciary, and to foster the training of the members of the judiciary, with a view to enhancing mutual trust;
- (d) to further improve mutual trust with the view to ensuring protection of rights of victims and of the accused.

2. Without prejudice to the objectives and powers of the European Community, the general objectives of the Programme 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 criminal matters aiming at:
- (i) promoting mutual recognition of judicial decisions and judgments;
- (ii) eliminating obstacles created by disparities between the judicial systems of Member States and promoting the necessary approximation of substantive criminal law concerning serious crime, in particular with cross border dimension;
- (iii) further enhancing the establishment of minimum standards concerning aspects of procedural criminal law with the view to promoting the practical aspects of judicial cooperation;
- (iv) guaranteeing a proper administration of justice by avoiding conflicts of jurisdiction;
- (v) improving the exchange of information, through the use of computerised systems, in particular information extracted from national criminal records;
- (vi) promoting rights of the accused as well as social and legal assistance to victims;

⁽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.

- (vii) encouraging Member States to step up cooperation with Eurojust in combating of cross-border organised and other serious crime;
 - (viii) promoting measures aiming at effective re-socialisation of offenders, in particular of juvenile offenders;
 - (b) to improve mutual knowledge of Member States' legal and judicial systems in criminal 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 Union instruments in the areas of judicial cooperation in criminal matters;
 - (d) to improve information on legal systems in the Member States and access to justice;
 - (e) to promote training in Union and Community law for the judiciary, lawyers and other professionals involved in the work of the judiciary;
 - (f) to evaluate the general conditions necessary to develop mutual confidence by improving mutual understanding between judicial authorities and different legal systems, in particular regarding the implementation of EU policies in the field of justice;
 - (g) to develop and implement a computerised system of exchange of information on criminal records and to support studies to develop other types of exchange of information.
- (b) specific transnational projects of Union interest presented by at least two Member States or by at least one Member States and one other country which may either be an acceding or a candidate country under the conditions set out in the annual work programmes; or
 - (c) support for 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) an operating grant to co-finance expenditure associated with the permanent work programme of the European Judicial Training Network which pursues an aim of general European interest in the field of training of the judiciary;
 - (e) national projects within Member States, which
 - (i) prepare transnational projects and/or Union actions (starter measures),
 - (ii) complement transnational projects and/or Union actions (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.

Article 5

Target groups

The Programme is destined for *inter alia*, legal practitioners, representatives of victims' assistance services, and other professionals involved in the work of the judiciary, the national authorities and the citizens of the Union in general.

Article 6

Access to the Programme

1. 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/further training institutes for legal practitioners, non-governmental organisations of the Member States. Bodies and organisations which are profit oriented shall have access to the Programme only in conjunction with non profit oriented or state organisations.

'Legal practitioners' means, *inter alia*, judges, prosecutors, advocates, solicitors, ministry officials, court officers, bailiffs, court interpreters and other professionals involved in the work of the judiciary in the area of criminal law.

Article 4

Eligible actions

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

- (a) specific actions taken by the Commission, such as studies and research, creation and implementation of specific projects like the creation of a computerised system of exchange of information on criminal records, opinion polls and surveys, formulation of indicators and common methodologies, collection, development and dissemination of data and statistics, seminars, conferences and experts meetings, organisation of public campaigns and events, development and maintenance of websites, preparation and dissemination of information materials, support for and development of networks of national experts, analytical, monitoring and evaluation activities; or

2. Transnational projects may not be presented by third countries or by international organisations but they may participate as partners.

Article 7

Types of intervention

1. Community funding may take the following legal forms:

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

2. Community grants shall normally 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. Furthermore, provision is made for expenditure for accompanying measures, through public procurement contracts, in which case Community 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 8

Implementing measures

1. The Commission shall implement the Community 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 set out 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 7(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 11.

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;

- (c) amount requested for community financing 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 (c) and (d), shall be assessed 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) citizen involvement in the organisation of the bodies concerned;

- (f) 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 11. Decisions related to actions submitted under Article 4(1)(b) to (e) shall be adopted by the Commission in accordance with the advisory procedure laid down in Article 10.

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 11.

7. Pursuant to Article 113(2) of the Financial Regulation, the principle of gradual reduction shall not apply to the operating grant given to the European Judicial Training Network since it pursues an objective of general European interest.

Article 9

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 10***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 11***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 12***Complementarity**

1. Synergies and complementarity shall be sought with other Union and Community instruments, *inter alia*, with the Specific Programme 'Civil Justice', as part of the General Programme on Fundamental Rights and Justice, and the general programmes on Security and Safeguarding Liberties and Solidarity and Management of Migration Flows. The statistical element of information on criminal justice shall be developed in collaboration with Member States, using as necessary the Community Statistical Programme.
2. The Programme may share resources with other Union and Community instruments, in particular the Specific Programme 'Civil Justice', as part of the General Programme on Fundamental rights and Justice, in order to implement actions meeting the objectives of both programmes.

3. Operations financed under this Decision shall not receive assistance for the same purpose from other Union/Community financial instruments. It shall be ensured that the beneficiaries of this Decision 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 13***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 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 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 authorised 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 assistance 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 assistance 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 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 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 Community 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 assistance 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 assistance 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 16

Evaluation

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

2. The Commission shall ensure the regular, independent, 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 2011;
- (c) a communication on the continuation of the Programme no later than 30 August 2012;
- (d) an *ex-post* evaluation report no later than 31 December 2014.

Article 17

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 18

Transitional provisions

This Decision shall, from 1 January 2007, replace the corresponding provisions of the Decision 2002/630/JHA.

Actions started before 31 December 2006 pursuant to Decision 2002/630/JHA shall continue to be governed, until their completion, by that Decision. The committee provided for in Article 7 thereof shall be replaced by the one provided for in Article 10 of the present Decision.

Article 19

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