

DECISION No 792/2004/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 April 2004

establishing a Community action programme to promote bodies active at European level in the field of culture

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

(4) The Council Resolution of 19 December 2002⁽³⁾ expressed how the European added value of cultural actions can be identified and evaluated.

Having regard to the Treaty establishing the European Community, and in particular Article 151(5) thereof,

(5) Heading A-3042 of the general budget of the European Union for the financial year 2003 and previous financial years provides support for organisations of European cultural interest.

Having regard to the proposal from the Commission,

Having consulted the Committee of the Regions,

(6) Further to the resolutions of the European Parliament on regional languages and cultures, the European Union has engaged in action to promote and safeguard the linguistic diversity in the Union, in order to preserve languages as an element in Europe's living cultural heritage.

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

Whereas:

(1) The Treaty confers responsibility on the Community for creating an ever-closer union among the peoples of Europe and for contributing to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.

(7) At the request of the European Parliament, the Commission has provided support since 1982 for a non-profit-making body, the European Bureau for Lesser-Used Languages (EBLUL), which is organised as a network of national committees working in the Member States, and since 1987 for the Mercator information and documentation network. These pursue an aim of general European interest: EBLUL represents all regional or minority language communities in the European Union and disseminates European information in these communities; the Mercator information and documentation network collects and disseminates at European level information on three aspects which are essential to the promotion of regional and minority languages: education, legislation and the media.

(2) The Laeken Declaration annexed to the conclusions of the European Council of 14 and 15 December 2001 asserts that one of the basic challenges to be resolved by the European Union is to bring citizens closer to the European design and the European institutions.

(3) The Council and the Ministers of Culture meeting within the Council, in the Resolution of 14 November 1991 on European cultural networks⁽²⁾, stressed the important role of networks of cultural organisations in cultural cooperation in Europe, and agreed to encourage the cultural organisations in their countries to participate actively in non-governmental cooperation on a European scale.

(8) Heading A-3015 of the general budget of the European Union for the financial year 2003 and previous financial years provides support for these two bodies.

(9) On 11 February 1993, the European Parliament adopted a resolution on European and international preservation of the sites of Nazi concentration camps as historical memorials⁽⁴⁾.

⁽¹⁾ Opinion of the European Parliament of 6 November 2003 (not yet published in the Official Journal). Council Common Position of 22 December 2003 (OJ 72 E, 23.3.2004, p. 10), Position of the European Parliament of 10 March 2004 (not yet published in the Official Journal) and Decision of the Council of 30 March 2004.

⁽²⁾ OJ C 314, 5.12.1991, p. 1.

⁽³⁾ OJ C 13, 18.1.2003, p. 5.

⁽⁴⁾ OJ C 72, 15.3.1993, p. 118.

- (10) Heading A-3035 of the general budget of the European Union for the financial year 2003 and previous financial years provides support for the preservation of the sites of Nazi concentration camps as historical memorials.
- (11) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, hereinafter 'the Financial Regulation', requires a basic act to be provided to cover these existing support actions. The Commission undertook to take into account the remarks entered in the budget in the context of implementation.
- (12) The European Parliament, the Council and the Commission, when adopting the Financial Regulation, undertook to achieve the objective of ensuring that this basic act comes into force as from the financial year 2004.
- (13) It is necessary to ensure appropriate funding stability and continuity, within the framework of the Financial Regulation, for institutions to which the European Community has granted financial support over previous years.
- (14) Transitional arrangements are deemed necessary for the years 2004 and 2005 to allow grants to be awarded under part 2 of this Community programme. It is deemed appropriate to make use of the exception mentioned in Article 168(1)(d) of Commission Regulation (EC, Euratom) No 2342/2002 ⁽²⁾ which allow grants to be awarded without a call for proposals to bodies identified by a basic act as recipients of a grant.
- (15) Any non-Community financing from State resources should comply with Articles 87 and 88 of the Treaty.
- (16) This Decision 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 ⁽³⁾, for the budgetary authority during the annual budgetary procedure.
- (17) 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 ⁽⁴⁾.
- (18) It is necessary to evaluate the content of actions and, in particular, the European added value of the activities planned by the beneficiaries eligible for a grant; such an evaluation may be best carried out by using a management committee.
- (19) Any support granted under this Decision should comply strictly with the principles of subsidiarity and proportionality.

HAVE DECIDED AS FOLLOWS:

Article 1

Programme objective and activities

1. This Decision establishes a Community action programme to promote bodies active at European level in the field of culture (hereinafter referred to as 'the programme').
2. The general objective of the programme is to support the activities of these bodies.

The programme covers the following activities:

- (a) the ongoing work programme of a body which pursues an aim of general European interest in the field of culture or an objective forming part of the European Union's policy in this area;
- (b) a specific action in this area.

These activities must contribute, or be capable of contributing, to the development and implementation of Community cooperation policy and actions in the field of culture.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ 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 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 1).

⁽³⁾ OJ C 172, 18.6.1999, p. 1. Agreement as last amended by Decision 2003/429/EC of the European Parliament and of the Council (OJ L 147, 14.6.2003, p. 25).

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23.

3. The programme shall start on 1 January 2004 and shall end on 31 December 2006.

Article 2

Access to the programme

To be eligible for a grant, a body must satisfy the requirements of Annex I and have the following characteristics:

- (a) it must be an independent and non-profit-making legal person primarily active in the field of culture, with an objective aimed at the public good;
- (b) it must have been legally established for more than two years and have had its annual statement of accounts for the two preceding years certified by a registered auditor;
- (c) its activities must be in accordance with the principles underlying Community action in the field of culture and take account of the priorities set out in Annex I.

Article 3

Selection of beneficiaries

1. Operating grants for the ongoing work programme of a body pursuing an aim of general European interest in the field of culture or an objective forming part of the European Union's policy in this area shall be awarded in accordance with the overall criteria laid down in Annex I.

2. Grants for actions specified in the programme shall be awarded in accordance with the overall criteria laid down in Annex I. Actions shall be selected by means of a call for proposals.

Article 4

Award of the grant

Grants under the different actions of the programme shall be awarded in compliance with the provisions set out in the relevant part of Annex I.

Article 5

Financial provisions

1. The financial framework for the implementation of the programme for the period specified in Article 1(3) is hereby set at EUR 19 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 6

Implementing measures

1. The measures necessary for the implementation of this Decision relating to the matters referred to below shall be adopted in accordance with the management procedure referred to in Article 7(2):
 - (a) the annual plan of work, including objectives, priorities, the selection criteria and procedures;
 - (b) the financial support to be supplied by the Community (amounts, duration and recipients) in the areas covered by actions under part 2 and 3 of Annex I, and the general guidelines for implementing the programme;
 - (c) the annual budget and the breakdown of funds among the different actions of the programme;
 - (d) the arrangements for monitoring and evaluating the programme and for the dissemination and transfer of results;
2. The measures necessary for the implementation of this Decision relating to all other matters shall be adopted in accordance with the advisory procedure referred to in Article 7(3).

Article 7

Committee procedures

1. The Commission shall be assisted by the Committee provided for in Decision No 508/2000/EC ⁽¹⁾.
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.

⁽¹⁾ OJ L 63, 10.3.2000, p. 1.

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

3. 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.

4. The Committee shall adopt its rules of procedure.

Article 8

Monitoring and evaluation

The Commission shall present to the European Parliament and the Council:

(a) not later than 31 December 2005, a report on the implementation of the programme, on the achievement of its objectives and on a possible future programme to replace the present programme.

The Commission shall moreover report to the European Parliament and Council on an annual basis on the implementation of the programme.

(b) not later than 31 December 2007 a report on the achievement of the programme's objectives. This report shall be based, inter alia, on the outcome of the external evaluation and shall assess the results obtained by the beneficiaries of the programme, in particular as regards the effectiveness, efficiency and content of their actions, considered overall and individually, in achieving the objectives set out in Article 1 and in Annex I.

Article 9

Entry into force

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

Done at Strasbourg, 21 April 2004.

For the European Parliament

The President

P. COX

For the Council

The President

D. ROCHE

ANNEX I

1. ACTIVITIES SUPPORTED

The general objective laid down in Article 1 is to strengthen Community action in the field of culture and increase its effectiveness by supporting the bodies working in this field.

This support takes the form of one of two types of grant:

- either an operating grant to co-finance expenditure associated with the permanent work programme of a body which pursues an aim of general European interest in the field of culture or an objective forming part of the European Union's policy in this area (parts 1 and 2),
- or a grant to co-finance a specific action in this area (part 3).

The main activities of these bodies that are likely to contribute to the strengthening and effectiveness of Community action in the field of culture are as follows:

- representation of stakeholders at Community level,
- dissemination of information on Community action,
- networking of bodies active in the cultural field,
- representation and informing of the regional and minority language communities of the European Union,
- finding and disseminating of information in the legislation, education and media fields,
- fulfilling the role of cultural 'ambassador', promoting awareness of Europe's common cultural heritage,
- preservation and commemoration of the main sites and archives associated with the deportations, symbolised by the memorials which have been raised on the sites of the former camps and other places of mass-civilian martyrdom and extermination, and the keeping alive of the memory of the victims at these sites.

2. IMPLEMENTATION OF THE ACTIVITIES SUPPORTED

Grants may be awarded to support the activities carried out by the bodies eligible for Community funding under the programme that fall within one of the following areas:

2.1. *Part 1:* Permanent activities of the following bodies pursuing an aim of general European interest in the field of culture:

- European Bureau for Lesser-Used Languages,
- centres of the Mercator network.

2.2. *Part 2:* Permanent activities of other bodies pursuing an aim of general European interest in the field of culture or an objective forming part of the European Union's policy in this area.

Annual operating grants may be awarded to support the conduct of the permanent work programmes of organisations or networks promoting European culture and cooperation in the cultural sector and making a contribution to cultural life and the management of culture.

- 2.3. *Part 3:* actions to preserve and commemorate the main sites and archives associated with the deportations, symbolised by the memorials which have been raised on the sites of the former camps and other places of mass-civilian martyrdom and extermination, and to keep alive the memory of the victims at these sites.

3. SELECTION OF BENEFICIARIES

Part 1: Grants under this part of the programme may be awarded to the European Bureau for Lesser-Used Languages (EBLUL) and the Mercator network centres.

The Commission may award these grants upon receipt of an appropriate workplan and budget.

Part 2:

1. In order to award the grants under this part of the programme, the Commission shall publish calls for proposals.
2. However, in 2004 and 2005, in derogation to paragraph 1, grants may be awarded to the organisations mentioned in Annex II.
3. In all cases, all requirements of the Financial Regulation, its Implementing Rules and the basic act apply.

Part 3: Actions to be supported under this part shall be selected on the basis of calls for proposals.

4. CRITERIA FOR THE ASSESSMENT OF FUNDING APPLICATIONS

Applications for operating grants shall be assessed in the light of:

- the exchange of experiences promoting a greater cultural diversity,
- the mobility of art and artists,
- the quality of the planned activities,
- the European added value of the planned activities,
- the lasting nature of the planned activities,
- the visibility of the planned activities,
- the representativeness of the bodies.

Grants shall be awarded on the basis of a work programme approved by the Commission.

Any beneficiary of a grant awarded under any action of this programme, shall indicate in a prominent place, such as a website homepage or an annual report, that it has received funding from the budget of the European Union.

5. FUNDING AND ELIGIBLE EXPENDITURE

- 5.1. Under part 1, the eligible expenditure of the European Bureau for Lesser-Used Languages and the Mercator network centres comprises operating costs and expenses for carrying out their actions.

- 5.2. The grant to the European Bureau for Lesser-Used Languages and the Mercator network centres shall not fund all their eligible expenditure in the calendar year for which it is awarded: at least 20 per cent of the bodies' budgets must be co-financed from non-Community sources.
- 5.3. Pursuant to Article 113(2) of the Financial Regulation the principle of gradual reduction shall not apply to operating grants to the European Bureau for Lesser-Used Languages and the Mercator network centres, since they are bodies pursuing an objective of general European interest.
- 5.4. Under part 2, the costs to be taken into account in determining the operating grant shall be those necessary for the proper conduct of the normal activities of the body selected. In particular, these costs are personnel costs, overheads (rental and property charges, equipment, office supplies, telecommunications, postal charges, etc.), costs of internal meetings, publication, information and dissemination costs and costs directly linked to the body's activities.
- 5.5. An operating grant under part 2 of this Annex shall not fund all the body's eligible expenditure in the calendar year for which it is awarded. At least 20 per cent of the budgets of the bodies covered by this part must be co-financed from non-Community sources. Such co-financing may be partly contributed in kind, provided the contribution is valued at no more than the cost actually incurred and evidenced by accounting documents or the cost generally obtaining on the market in question.
- 5.6. Pursuant to Article 113(2) of the Financial Regulation operating grants so awarded, if renewed, shall be gradually decreased. This reduction shall apply from the third year onwards, at a rate of 2,5 per cent per year. In order to observe this rule, which applies without prejudice to the co-financing rule mentioned above, the percentage of Community co-financing corresponding to the grant awarded for a given financial year shall be at least 2,5 points below the percentage of Community co-financing corresponding to the grant awarded for the previous financial year.
- 5.7. A grant awarded under part 3 of this Annex may not cover more than 75 per cent of the eligible costs of the action concerned.
- 5.8. For grants awarded in 2004, it will be possible for the period of eligibility of expenditure to start on 1 January 2004, provided that the expenditure does not precede the date on which the grant application was lodged or the date on which the beneficiary's budget year starts.
- 5.9. During 2004, in the case of beneficiaries whose budgetary year starts before 1 March, an exception may be granted to the obligation to sign the grant agreement within the first four months of the start of the beneficiary's budget year, as referred to in Article 112, paragraph 2 of the Financial Regulation. In this case, the grant agreement should be signed by 30 June 2004 at the latest.

6. MANAGEMENT OF THE PROGRAMME

In the light of a cost/benefit analysis, the Commission may decide to entrust all or part of the tasks of managing the programme to an executive agency, in conformity with Article 55 of the Financial Regulation. It may also have recourse to experts and incur any other expenditure on technical and administrative assistance, not involving the exercise of public authority, outsourced under ad hoc service contracts. It may also finance studies and organise meetings of experts likely to facilitate the implementation of the programme, and undertake information, publication and dissemination actions directly linked to the achievement of the programme's objective.

7. CHECKS AND AUDITS

- 7.1. The beneficiary of an operating grant shall keep available for the Commission all the supporting documents, including the audited financial statement, regarding expenditure incurred during the grant year, for a period of five years following the last payment. The beneficiary of a grant shall ensure that, where applicable, supporting documents in the possession of partners or members be made available to the Commission.

- 7.2. The Commission may have an audit of the use made of the grant carried out either directly by its own staff or by any other qualified outside body of its choice. Such audits may be carried out throughout the lifetime of the agreement and for a period of five years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the Commission.
 - 7.3. Commission staff and outside personnel authorised by the Commission shall have appropriate right of access, in particular to the beneficiary's offices and to all the information, including information in electronic format, needed in order to conduct such audits.
 - 7.4. The Court of Auditors and the European Anti-Fraud Office (OLAF) shall enjoy the same rights, especially of access, as the Commission.
 - 7.5. In order to protect the European Communities' financial interests against fraud and other irregularities, the Commission may carry out on-the-spot checks and inspections under this programme in accordance with Council Regulation (Euratom, EC) No 2185/96 ⁽¹⁾. Where necessary, investigations shall be conducted by the European Anti-Fraud Office (OLAF) and these shall be governed by Regulation (EC) No 1073/1999 of the European Parliament and of the Council ⁽²⁾.
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⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

⁽²⁾ OJ L 136, 31.5.1999, p. 1.

ANNEX II

Organisations referred in Annex I, section 3, part 2, paragraph 2

- the European Union Youth Orchestra,
- the European Union Baroque Orchestra (EUBO),
- Philharmony of the Nations,
- the European Choral Academy,
- la Fédération européenne des chœurs de l'Union,
- Les Chœurs de l'Union européenne,
- Europa Cantat (European Federation of Young Choirs),
- the European Opera Centre (Manchester),
- the European Union Jazz Youth Orchestra (Swinging Europe),
- the International Yehudi Menuhin Foundation,
- the European Chamber Orchestra,
- Association Européenne des Conservatoires, Académies de Musique et Musikhochschulen (AEC),
- Yuste Academy Foundation,
- European Council of Artists (ECA),
- European Forum for the Arts and Heritage (EFAH),
- Informal European Theatre Meeting (IETM),
- Convention théâtrale européenne,
- Union des théâtres de l'Europe,
- Prix Europe pour le théâtre,
- Prix Europa (prize given to the best television and radio programme),
- Europa Nostra,
- European Writers' Congress (EWC),
- European Network of Arts Organisations for Children and Young People (EU-NET ART),
- Fédération européenne des villages d'artistes (Euro Art),
- European Network of Cultural Administration Training Centres (ENCATC),
- European League of Institutes of the Arts (ELIA),
- Network of European Museums Organisations (NEMO),
- Momentum Europa,
- Pan-European Public Children's Network,
- Les Rencontres: Association of European Cities and Regions for Culture,

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- Europalia,
 - Euroballet,
 - International Festivals and Events Association Europe,
 - Pegasus Foundation,
 - Hors-les-Murs,
 - Huis Doorn (Netherlands),
 - European Music Festival,
 - Tuning Educational Structures in Europe,
 - St Boniface Memorial Foundation 2004,
 - European Community of Historic Armed Guilds.
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