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## Legislation

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## I

(Acts whose publication is obligatory)

**REGULATION (EC) No 785/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 21 April 2004**  
**on insurance requirements for air carriers and aircraft operators**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) In the framework of the common transport policy, and in order to foster consumer protection, it is important to ensure a proper minimum level of insurance to cover liability of air carriers in respect of passengers, baggage, cargo and third parties.
- (2) In the Community aviation market, the distinction between national and international air transport has been eliminated and it is, therefore, appropriate to establish minimum insurance requirements for Community air carriers.
- (3) Common action is necessary to ensure that these requirements also apply to air carriers from third countries in order to ensure a level playing field with Community air carriers.
- (4) In its Communication of 10 October 2001 regarding the repercussions of the terrorist attacks in the United States

on the air transport industry, the Commission stated its intention to examine the amounts and conditions of insurance required for the grant of operating licences by Member States in order to ensure a harmonised approach. Moreover, in its Communication of 2 July 2002 regarding insurance in the air transport sector following the terrorist attacks of 11 September 2001 in the United States, the Commission stated that it would continue to monitor the developments on the aviation insurance market with regard to the revision of the amounts and conditions of insurance required for the grant of operating licences by Member States.

- (5) By Council Decision 2001/539/EC <sup>(4)</sup> the Community concluded the Convention for the Unification of Certain Rules Relating to International Carriage by Air, agreed at Montreal on 28 May 1999 (Montreal Convention), which lays down new rules on liability in respect of the international carriage by air of persons, baggage and cargo. These rules are expected to replace those of the Warsaw Convention of 1929 and its subsequent amendments.
- (6) Article 50 of the Montreal Convention requires parties to ensure that air carriers are adequately insured to cover liability under that Convention. Warsaw Convention of 1929 and its subsequent amendments will continue to exist alongside the Montreal Convention for an indefinite period. Both Conventions provide for the possibility of unlimited liability.
- (7) Article 7 of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers <sup>(5)</sup>, requires air carriers to be insured to cover liability in case of accidents, in particular in respect of passengers, baggage, cargo, mail and third parties, albeit without specifying minimum amounts and conditions of insurance.

<sup>(1)</sup> OJ C 20 E, 28.1.2003, p. 193.

<sup>(2)</sup> OJ C 95, 23.4.2003, p. 16.

<sup>(3)</sup> Opinion of the European Parliament of 13 May 2003 (not yet published in the Official Journal), Council Common Position of 5 December 2003 (OJ C 54 E, 2.3.2004, p. 40), Position of the European Parliament of 11 March 2004 (not yet published in the Official Journal) and Decision of the Council of 30 March 2004.

<sup>(4)</sup> OJ L 194, 18.7.2001, p. 38.

<sup>(5)</sup> OJ L 240, 24.8.1992, p. 1.

- (8) It is appropriate to take into account the fact that the European Civil Aviation Conference adopted on 13 December 2000 Resolution ECAC/25-1 on minimum levels of insurance cover for passenger and third party liability, which was modified on 27 November 2002.
- (9) It is necessary to define minimum insurance requirements to cover passengers, baggage, cargo and third parties for air carriers and aircraft operators flying within, into, out of, or over the territory of a Member State, including its territorial waters.
- (10) Insurance obligations should remain with air carriers with a valid operating licence, and, in the case of Community air carriers, with a valid operating licence granted in accordance with Regulation (EEC) No 2407/92. The absence or expiry of such licence does not relieve the undertaking from such obligation.
- (11) While the Montreal Convention specifically regulates liability in respect of passengers, baggage and cargo, the liability for mail is, according to Article 2 of that Convention, to be subject to 'the rules applicable to the relationship between the carriers and the postal administrations'. In the Community, insurance for such liability is sufficiently regulated by Article 7 of Regulation (EEC) No 2407/92.
- (12) Mandatory insurance should not be required for State aircraft and for certain other types of aircraft.
- (13) Minimum insurance cover should be provided in situations where an air carrier or aircraft operator is liable in respect of passengers, baggage, cargo and third parties in accordance with rules of international Conventions, Community or national law, without interfering with such rules.
- (14) The insurance should cover aviation-specific liability in respect of passengers, baggage, cargo and third parties. Regarding passengers, baggage and cargo, insurance should include cover for death and personal injury caused by accidents and for loss or destruction of or damage to baggage and cargo. Regarding third parties, insurance should include cover for death, personal injury and damage to property caused by accidents.
- (15) This Regulation should not be interpreted as requiring double insurance. As far as the contracting carrier and the actual carrier within the meaning of Article 39 of the Montreal Convention can be held liable for the same damage, Member States may establish specific measures to avoid double insurance.
- (16) While the market practice of offering insurance on an aggregate basis may be conducive to insurability, in particular for risks of war and terrorism, by allowing insurers better control over their liabilities, this practice does not release an air carrier or aircraft operator from the obligation to respect minimum insurance requirements when the aggregate fixed by its insurance contract is reached.
- (17) It is necessary to require air carriers to provide evidence that they respect at all times the minimum insurance requirements to cover liability, as provided for in this Regulation. With regard to Community air carriers and with regard to aircraft operators using aircraft registered in the Community, depositing evidence of insurance in one Member State should be sufficient for all Member States, such insurance being effected by an undertaking authorised to do so under the applicable law.
- (18) With respect to overflights of the territory of a Member State by non-Community air carriers or aircraft registered outside the Community which do not involve a landing on or take-off from any Member State, any overflown Member State may, in accordance with international law, request evidence of compliance with the insurance requirements of this Regulation, for example by carrying out random checks.
- (19) The minimum insurance requirements should be reviewed after a period of time.
- (20) Procedures for monitoring the application of the minimum insurance requirements should be transparent and non-discriminatory and should not impede the free movement of goods, persons, services and capital.
- (21) The measures necessary for the implementation of this Regulation 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 <sup>(1)</sup>.
- (22) Where further rules are required to establish adequate insurance covering aviation-specific liability on points which are not covered by this Regulation, the Member States should have the possibility to introduce such rules.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

- (23) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation.
- (24) Since the objective of this Regulation, namely the introduction of minimum insurance requirements which can contribute to the objectives of the internal aviation market by reducing distortions of competition, cannot be sufficiently achieved by the Member States and can therefore 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 Regulation does not go beyond what is necessary in order to achieve that objective,

- (e) kites;
- (f) parachutes (including parascending parachutes);
- (g) aircraft, including gliders, with a MTOM of less than 500 kg, and microlights, which:
- are used for non-commercial purposes, or
  - are used for local flight instruction which does not entail the crossing of international borders,

in so far as the insurance obligations under this Regulation relating to the risks of war and terrorism are concerned.

3. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

4. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements included in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

##### **Objective**

1. The objective of this Regulation is to establish minimum insurance requirements for air carriers and aircraft operators in respect of passengers, baggage, cargo and third parties.
2. In respect of the carriage of mail, the insurance requirements are those set out in Regulation (EEC) No 2407/92 and in the national laws of the Member States.

#### *Article 2*

##### **Scope**

1. This Regulation shall apply to all air carriers and to all aircraft operators flying within, into, out of, or over the territory of a Member State to which the Treaty applies.
2. This Regulation shall not apply to:
  - (a) State aircraft as referred to in Article 3(b) of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944;
  - (b) model aircraft with an MTOM of less than 20 kg;
  - (c) foot-launched flying machines (including powered paragliders and hang gliders);
  - (d) captive balloons;

#### *Article 3*

##### **Definitions**

For the purposes of this Regulation:

- (a) 'air carrier' means an air transport undertaking with a valid operating licence;
- (b) 'Community air carrier' means an air carrier with a valid operating licence granted by a Member State in accordance with Regulation (EEC) No 2407/92;
- (c) 'aircraft operator' means the person or entity, not being an air carrier, who has continual effective disposal of the use or operation of the aircraft; the natural or legal person in whose name the aircraft is registered shall be presumed to be the operator, unless that person can prove that another person is the operator;
- (d) 'flight' means:
  - with regard to passengers and unchecked baggage, the period of transport of the passengers by aircraft including their boarding and disembarkation,

- with regard to cargo and checked baggage, the period of transport of baggage and cargo from the moment the baggage or cargo is handed to the air carrier until the moment of delivery to the entitled recipient,
  - with regard to third parties, the use of an aircraft from the moment when power is applied to its engines for the purpose of taxiing or actual take-off until the moment when it is on the surface and its engines have come to a complete stop; additionally, it shall mean the moving of an aircraft by towing and push-back vehicles or by powers which are typical for the drive and the lift of aircraft, particularly air streams;
- (e) 'SDR' means a Special Drawing Right as defined by the International Monetary Fund;
- (f) 'MTOM' means the Maximum Take Off Mass, which corresponds to a certified amount specific to all aircraft types, as stated in the certificate of airworthiness of the aircraft;
- (g) 'passenger' means any person who is on a flight with the consent of the air carrier or the aircraft operator, excluding on-duty members of both the flight crew and the cabin crew;
- (h) 'third party' means any legal or natural person, excluding passengers and on-duty members of both the flight crew and the cabin crew;
- (i) 'commercial operation' means an operation for remuneration and/or hire.

#### Article 4

### Principles of insurance

1. Air carriers and aircraft operators referred to in Article 2 shall be insured in accordance with this Regulation as regards their aviation-specific liability in respect of passengers, baggage, cargo and third parties. The insured risks shall include acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion.
2. Air carriers and aircraft operators shall ensure that insurance cover exists for each and every flight, regardless of whether the aircraft operated is at their disposal through ownership or any form of lease agreement, or through joint or franchise operations, code-sharing or any other agreement of the same nature.

3. This Regulation is without prejudice to the rules on liability as arising from:

- international Conventions to which the Member States and/or the Community are parties,
- Community law, and
- national law of the Member States.

#### Article 5

### Compliance

1. Air carriers and, when so required, aircraft operators, as referred to in Article 2, shall demonstrate compliance with the insurance requirements set out in this Regulation by providing the competent authorities of the Member State concerned with a deposit of an insurance certificate or other evidence of valid insurance.
2. For the purpose of this Article 'Member State concerned' shall mean the Member State which has granted the operating licence to the Community air carrier or the Member State where the aircraft of the aircraft operator is registered. For non-Community air carriers and aircraft operators using aircraft registered outside the Community, 'Member State concerned' shall mean the Member State to or from which the flights are operated.
3. By way of exception from paragraph 1, Member States overflown may require that air carriers and aircraft operators referred to in Article 2 produce evidence of valid insurance in accordance with this Regulation.
4. With regard to Community air carriers and aircraft operators using aircraft registered in the Community, the deposit of evidence of insurance in the Member State referred to in paragraph 2 is sufficient for all Member States, without prejudice to the application of Article 8(6).
5. In exceptional cases of insurance-market failure, the Commission may determine, in accordance with the procedure referred to in Article 9(2), the appropriate measures for the application of paragraph 1.

*Article 6***Insurance in respect of liability for passengers, baggage and cargo**

1. For liability in respect of passengers, the minimum insurance cover shall be 250 000 SDRs per passenger. However, in respect of non-commercial operations by aircraft with a MTOM of 2 700 kg or less, Member States may set a lower level of minimum insurance cover, provided that such cover is at least 100 000 SDRs per passenger.
2. For liability in respect of baggage, the minimum insurance cover shall be 1 000 SDRs per passenger in commercial operations.
3. For liability in respect of cargo, the minimum insurance cover shall be 17 SDRs per kilogram in commercial operations.
4. Paragraphs 1, 2 and 3 shall not apply with respect to flights over the territory of the Member States carried out by non-Community air carriers and by aircraft operators using aircraft registered outside the Community which do not involve a landing on, or take-off from, such territory.
5. The values referred to in this Article may be amended, as appropriate, where amendments in the relevant international treaties indicate the necessity thereof, in accordance with the procedure referred to in Article 9(2).

*Article 7***Insurance in respect of liability for third parties**

1. In respect of liability for third parties, the minimum insurance cover per accident, for each and every aircraft, shall be:

Category	MTOM (kg)	Minimum insurance (million SDRs)
1	< 500	0,75
2	< 1 000	1,5
3	< 2 700	3
4	< 6 000	7
5	< 12 000	18
6	< 25 000	80
7	< 50 000	150
8	< 200 000	300
9	< 500 000	500
10	≥ 500 000	700

If at any time insurance cover for damage to third parties due to risks of war or terrorism is not available to any air carrier or aircraft operator on a per-accident basis, such air carrier or aircraft operator may satisfy its obligation to insure such risks by insuring on an aggregate basis. The Commission shall closely monitor the application of this provision in order to ensure that such aggregate is at least equivalent to the relevant amount set out in the table.

2. The values referred to in this Article may be amended, as appropriate, where amendments in the relevant international treaties indicate the necessity thereof, in accordance with the procedure referred to in Article 9(2).

*Article 8***Enforcement and sanctions**

1. Member States shall ensure that air carriers and aircraft operators referred to in Article 2 comply with this Regulation.
2. For the purposes of paragraph 1 and without prejudice to paragraph 7, with respect to overflights by non-Community air carriers or aircraft registered outside the Community which do not involve a landing on or take-off from any Member State, as well as with respect to stops in Member States by such aircraft for non-traffic purposes, the Member State concerned may request evidence of compliance with the insurance requirements laid down in this Regulation.
3. Where necessary, Member States may request additional evidence from the air carrier, the aircraft operator or the insurer concerned.
4. Sanctions for infringement of this Regulation shall be effective, proportional and dissuasive.
5. With regard to Community air carriers, these sanctions may include the withdrawal of the operating licence, subject to and in accordance with the relevant provisions of Community law.
6. With regard to non-Community air carriers and to aircraft operators using aircraft registered outside the Community, the sanctions may include refusal of the right to land on the territory of a Member State.

7. Where Member States are not satisfied that the conditions of this Regulation are met, they shall not allow an aircraft to take off, before the air carrier or aircraft operator concerned has produced evidence of adequate insurance cover in accordance with this Regulation.

#### Article 9

##### Committee procedure

1. The Commission shall be assisted by the Committee set up by Article 11 of Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes <sup>(1)</sup>.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 21 April 2004.

*For the European Parliament*

*The President*

P. COX

4. The Committee may furthermore be consulted by the Commission on any other matter concerning the application of this Regulation.

#### Article 10

##### Report and cooperation

1. The Commission shall submit a report to the European Parliament and the Council on the operation of this Regulation by 30 April 2008.

2. Upon request, Member States shall submit information on the application of this Regulation to the Commission.

#### Article 11

##### Entry into force

This Regulation shall enter into force twelve months following the date of its publication in the *Official Journal of the European Union*.

*For the Council*

*The President*

D. ROCHE

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<sup>(1)</sup> OJ L 240, 24.8.1992, p. 8. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

**DECISION No 786/2004/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 21 April 2004**

**amending Decisions No 1720/1999/EC, No 253/2000/EC, No 508/2000/EC, No 1031/2000/EC, No 1445/2000/EC, No 163/2001/EC, No 1411/2001/EC, No 50/2002/EC, No 466/2002/EC, No 1145/2002/EC, No 1513/2002/EC, No 1786/2002/EC, No 291/2003/EC and No 20/2004/EC with a view to adapting the reference amounts to take account of the enlargement of the European Union**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

— No 508/2000/EC of 14 February 2000 establishing the 'Culture 2000' programme <sup>(4)</sup>,

Having regard to the Treaty establishing the European Community, and in particular Article 129, Article 137(2), Article 149, Article 150, Article 151(5) Article 152, Article 153, Article 156, Article 166(1), Article 175(1) and Article 285 thereof,

— No 1031/2000/EC of 13 April 2000 establishing the 'Youth' Community action programme <sup>(5)</sup>,

Having regard to the proposal from the Commission,

— No 1445/2000/EC of 22 May 2000 on the application of aerial-survey and remote-sensing techniques to the agricultural statistics for 1999 to 2003 <sup>(6)</sup>,

Having regard to the opinion of the European Economic and Social Committee,

— No 163/2001/EC of 19 January 2001 on the implementation of a training programme for professionals in the European audiovisual programme industry (MEDIA-Training) (2001 to 2005) <sup>(7)</sup>,

After consulting the Committee of the Regions,

— No 1411/2001/EC of 27 June 2001 on a Community Framework for cooperation to promote sustainable urban development <sup>(8)</sup>,

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

— No 50/2002/EC of 7 December 2001 establishing a programme of Community action to encourage cooperation between Member States to combat social exclusion <sup>(9)</sup>,

Whereas:

In order to take account of the enlargement of the European Union, the reference amounts, respectively the maximum overall amount, should be adapted in the following Decisions of the European Parliament and of the Council:

— No 466/2002/EC of 1 March 2002 laying down a Community action programme promoting non-governmental organisations primarily active in the field of environmental protection <sup>(10)</sup>,

— No 1720/1999/EC of 12 July 1999 adopting a series of actions and measures in order to ensure interoperability of and access to trans-European networks for the electronic interchange of data between administrations (IDA) <sup>(2)</sup>,

— No 1145/2002/EC of 10 June 2002 on Community incentive measures in the field of employment <sup>(11)</sup>,

— No 253/2000/EC of 24 January 2000 establishing the second phase of the Community action programme in the field of education 'Socrates' <sup>(3)</sup>,

<sup>(4)</sup> OJ L 63, 10.3.2000, p. 1. Decision as amended by Decision No 626/2004/EC (OJ L 99, 3.4.2004, p. 3).

<sup>(5)</sup> OJ L 117, 18.5.2000, p. 1.

<sup>(6)</sup> OJ L 163, 4.7.2000, p. 1. Decision as amended by Decision No 2066/2003/EC (OJ L 309, 26.11.2003, p. 9).

<sup>(7)</sup> OJ L 26, 27.1.2001, p. 1.

<sup>(8)</sup> OJ L 191, 13.7.2001, p. 1.

<sup>(9)</sup> OJ L 10, 12.1.2002, p. 1. Decision as amended by the 2003 Act of Accession.

<sup>(10)</sup> OJ L 75, 16.3.2002, p. 1.

<sup>(11)</sup> OJ L 170, 29.6.2002, p. 1.

<sup>(1)</sup> Opinion of the European Parliament of 9 March 2004 (not yet published in the Official Journal) and Council Decision of 5 April 2004.

<sup>(2)</sup> OJ L 203, 3.8.1999, p. 9. Decision as amended by Decision No 2045/2002/EC (OJ L 316, 20.11.2002, p. 1).

<sup>(3)</sup> OJ L 28, 3.2.2000, p. 1. Decision as amended by Decision No 451/2003/EC (OJ L 69, 13.3.2003, p. 6).

- No 1513/2002/EC of 27 June 2002 concerning the sixth framework programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006) <sup>(1)</sup>; the adapted amount must apply to the implementation of all activities provided for in the framework programme, according to Article 166(3) of the Treaty,
- No 1786/2002/EC of 23 September 2002 adopting a programme of Community action in the field of public health (2003 to 2008) <sup>(2)</sup>,
- No 291/2003/EC of 6 February 2003 establishing the European Year of Education through Sport 2004 <sup>(3)</sup>,
- No 20/2004/EC of 8 December 2003 establishing a general framework for financing Community actions in support of consumer policy for the years 2004 to 2007 <sup>(4)</sup>,

HAVE DECIDED AS FOLLOWS:

#### Article 1

Article 15 of Decision No 1720/1999/EC shall be replaced by the following:

*'Article 15*

#### **Funding**

1. The financial framework for Community action under this Decision for the period 2002 to 2004 shall be EUR 34,9 million.
2. Annual appropriations shall be authorised by the budgetary authority within the limit of the financial perspective.'

#### Article 2

Article 10(1) of Decision No 253/2000/EC shall be replaced by the following:

- '1. The financial framework for the implementation of this programme for the period specified in Article 1 is hereby set at EUR 2 060 million.'

<sup>(1)</sup> OJ L 232, 29.8.2002, p. 1.

<sup>(2)</sup> OJ L 271, 9.10.2002, p. 1.

<sup>(3)</sup> OJ L 43, 18.2.2003, p. 1.

<sup>(4)</sup> OJ L 5, 9.1.2004, p. 1.

#### Article 3

Article 3 of Decision No 508/2000/EC shall be amended as follows:

1. The heading 'Budget' shall be replaced by the heading 'Funding'
2. The first paragraph shall be replaced by the following:

'The financial framework for the implementation of the "Culture 2000" programme for the period referred to in Article 1 is hereby set at EUR 170,7 million.'

#### Article 4

Article 9(1) of Decision No 1031/2000/EC shall be replaced by the following:

'1. The financial framework for the implementation of this programme for the period specified in Article 1 is hereby set at EUR 605 million.'

#### Article 5

The first paragraph of Article 3 of Decision No 1445/2000/EC shall be replaced by the following:

'The financial framework for the implementation of this programme for the period 2004 to 2007 is hereby set at EUR 14,75 million. EUR 11 million shall be for the period up to 31 December 2006. For the period beginning on 1 January 2007, the amount proposed shall be deemed to be confirmed if, for the phase in question, it is consistent with the financial perspective in force for the period beginning on 1 January 2007.'

#### Article 6

Article 4(5) of Decision No 163/2001/EC shall be replaced by the following:

'5. The financial framework for the implementation of this programme for the period referred to in Article 1 is hereby set at EUR 52 million.'

#### Article 7

The first subparagraph of Article 6(1) of Decision No 1411/2001/EC shall be replaced by the following:

'1. This cooperation framework shall start on 1 January 2001 and shall end on 31 December 2004. The financial framework for the implementation of this cooperation framework for the period 2001 to 2004 shall be EUR 14,8 million.'

*Article 8*

Article 6(1) of Decision No 50/2002/EC shall be replaced by the following:

'1. The financial framework for the implementation of the programme for the period referred to in Article 1 is hereby set at EUR 85,04 million, including technical and administrative expenditure.'

*Article 9*

Article 7(2) of Decision No 466/2002/EC shall be replaced by the following:

'2. The financial framework for the implementation of this Programme for the period 2002 to 2006 is hereby set at EUR 34,3 million.'

*Article 10*

Article 12(1) of Decision No 1145/2002/EC shall be replaced by the following:

'1. The financial framework for implementing the Community activities referred to in this Decision for the period 1 January 2002 to 31 December 2006 shall be EUR 62,3 million.'

*Article 11*

Decision No 1513/2002/EC is hereby amended as follows:

1. Article 2(1) shall be replaced by the following:

'1. The maximum overall amount for Community financial participation in the entire sixth framework programme shall be EUR 17 883 million. The proportion assigned to each of the activities is fixed in Annex II.'

2. Annex II shall be replaced by the text in the Annex to this Decision.

*Article 12*

The first subparagraph of Article 7(1) of Decision No 1786/2002/EC shall be replaced by the following:

'1. The financial framework for the implementation of the programme for the period specified in Article 1 is hereby set at EUR 353,77 million. EUR 227,51 million shall be for the period up to 31 December 2006.

For the period beginning on 1 January 2007, the amount proposed shall be deemed to be confirmed if, for the phase in question, it is consistent with the financial perspective in force for the period beginning on 1 January 2007.'

*Article 13*

Article 10 of Decision No 291/2003/EC shall be amended as follows:

1. The heading 'Budget' shall be replaced by the heading 'Funding'
2. Paragraph 1 shall be replaced by the following:

'1. The financial framework for the implementation of this Decision is hereby set at EUR 12,1 million.'

*Article 14*

Article 5(1) and (2) of Decision No 20/2004/EC shall be replaced by the following:

'1. The financial framework for the implementation of this Decision for the period from 1 January 2004 to 31 December 2007 is set at EUR 81,8 million of which EUR 60,6 million shall be for the period until 31 December 2006.

2. For the period beginning on 1 January 2007, the amount proposed shall be deemed to be confirmed if, for the phase in question, it is consistent with the financial perspective in force for the period beginning on 1 January 2007.'

*Article 15*

This Decision shall enter into force on the day 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

## ANNEX II

**MAXIMUM OVERALL AMOUNT, RESPECTIVE SHARES AND INDICATIVE BREAKDOWN**

The maximum overall financial amount and the respective indicative shares of the various activities as referred to in Article 164 of the Treaty are as follows:

*(EUR million)*

First activity <sup>(1)</sup>	15 174
Second activity <sup>(2)</sup>	658
Third activity <sup>(3)</sup>	319
Fourth activity <sup>(4)</sup>	1 732
<b>Maximum overall amount</b>	<b>17 883</b>

<sup>(1)</sup> Covering the activities carried out under the heading "Focusing and integrating Community research", with the exception of international cooperation activities; research infrastructures, and the theme "Science and society" carried out under the heading "Structuring the European Research Area" and activities carried out under the heading "Strengthening the foundations of the European Research Area".

<sup>(2)</sup> Covering the international cooperation activities carried out under the heading "Focusing and integrating Community research", in the thematic priority areas and under the heading "Specific activities covering a wider field of research".

<sup>(3)</sup> Covering the specific activities on the theme "Research and innovation" carried out under the heading "Structuring the European Research Area" in addition to innovation activities carried out under the heading "Focusing and integrating Community research".

<sup>(4)</sup> Covering the activities concerning human resources and support for mobility carried out under the heading "Structuring the European Research Area".

These activities will be carried out under the following headings (the indicative financial breakdown is set out):

(EUR million)

1. Focusing and integrating Community research			14 682
Thematic priorities <sup>(1)</sup>		12 438	
Life sciences, genomics and biotechnology for health <sup>(2)</sup>	2 514		
— advanced genomics and its applications for health	1 209		
— combating major diseases	1 305		
Information society technologies <sup>(3)</sup>	3 984		
Nanotechnologies and nanosciences, knowledge-based multifunctional materials and new production processes and devices	1 429		
Aeronautics and space	1 182		
Food quality and safety	753		
Sustainable development, global change and ecosystems	2 329		
— sustainable energy systems	890		
— sustainable surface transport	670		
— global change and ecosystems	769		
Citizens and governance in a knowledge-based society	247		
Specific activities covering a wider field of research		1 409	
Policy support and anticipating scientific and technological needs	590		
Horizontal research activities involving SMEs	473		
Specific measures in support of international cooperation <sup>(4)</sup>	346		
Non-nuclear activities of the Joint Research Centre		835	
2. Structuring the European Research Area			2 854
Research and innovation	319		
Human resources	1 732		
Research infrastructure <sup>(5)</sup>	715		
Science and society	88		
3. Strengthening the foundations of the European Research Area			347
Support for the coordination of activities	292		
Support for the coherent development of policies	55		
		<b>Total</b>	<b>17 883</b>

<sup>(1)</sup> Of which at least 15 % for SMEs.

<sup>(2)</sup> Including up to EUR 475 million for cancer-related research.

<sup>(3)</sup> Including up to EUR 110 million for the further development of Géant and GRID.

<sup>(4)</sup> The amount of EUR 346 million will fund specific measures in support of international cooperation involving developing countries, Mediterranean countries (including the Western Balkans), and Russia and the New Independent States (NIS). Another EUR 312 million is earmarked to finance the participation of third-country organisations in the "Thematic Priorities" and in the "Specific activities covering a wider field of research", thus bringing the total amount devoted to international cooperation to EUR 658 million. Additional resources will be available under section 2.2 "Human resources and mobility" to fund research training for third-country researchers in Europe.

<sup>(5)</sup> Including up to EUR 218 million for the further development of Géant and GRID.

**DECISION No 787/2004/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 21 April 2004**

**amending Council Decision 96/411/EC and Decisions No 276/1999/EC, No 1719/1999/EC, No 2850/2000/EC, No 507/2001/EC, No 2235/2002/EC, No 2367/2002/EC, No 253/2003/EC, No 1230/2003/EC and No 2256/2003/EC with a view to adapting the reference amounts to take account of the enlargement of the European Union**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95, Article 153(2), Article 156(1), Article 157(3), Article 175(1) and Article 285 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee,

After consulting the Committee of the Regions,

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

Whereas:

In order to take account of the enlargement of the European Union, the reference amounts should be adapted in Council Decision 96/411/EC of 25 June 1996 on improving Community agricultural statistics <sup>(2)</sup>, and in the following Decisions of the European Parliament and of the Council:

— No 276/1999/EC of 25 January 1999 adopting a multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks <sup>(3)</sup>,

— No 1719/1999/EC of 12 July 1999 on a series of guidelines, including the identification of projects of common interest, for trans-European networks for the electronic interchange of data between administrations (IDA) <sup>(4)</sup>,

— No 2850/2000/EC of 20 December 2000 setting up a Community framework for cooperation in the field of accidental or deliberate marine pollution <sup>(5)</sup>,

— No 507/2001/EC of 12 March 2001 concerning a set of actions relating to the trans-European network for the collection, production and dissemination of statistics on the trading of goods within the Community and between the Community and non-member countries (Edicom) <sup>(6)</sup>,

— No 2235/2002/EC of 3 December 2002 adopting a Community programme to improve the operation of taxation systems in the internal market (Fiscalis programme 2003 to 2007) <sup>(7)</sup>,

— No 2367/2002/EC of 16 December 2002 on the Community statistical programme 2003 to 2007 <sup>(8)</sup>,

— No 253/2003/EC of 6 February 2003 adopting an action programme for customs in the Community (Customs 2007) <sup>(9)</sup>,

— No 1230/2003/EC of 26 June 2003 adopting a multiannual programme for action in the field of energy: 'Intelligent Energy — Europe' (2003 to 2006) <sup>(10)</sup>,

— No 2256/2003/EC of 17 November 2003 adopting a multiannual programme (2003 to 2005) for the monitoring of eEurope, dissemination of good practices and the improvement of network and information security (Modinis) <sup>(11)</sup>,

<sup>(1)</sup> Opinion of the European Parliament of 9 March 2004 (not yet published in the Official Journal) and Council Decision of 5 April 2004.

<sup>(2)</sup> OJ L 162, 1.7.1996, p. 14. Decision as last amended by Decision No 1919/2002/EC of the European Parliament and of the Council (OJ L 293, 29.10.2002, p. 5).

<sup>(3)</sup> OJ L 33, 6.2.1999, p. 1. Decision as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>(4)</sup> OJ L 203, 3.8.1999, p. 1. Decision as amended by Decision No 2046/2002/EC (OJ L 316, 20.11.2002, p. 4).

<sup>(5)</sup> OJ L 332, 28.12.2000, p. 1.

<sup>(6)</sup> OJ L 76, 16.3.2001, p. 1.

<sup>(7)</sup> OJ L 341, 17.12.2002, p. 1.

<sup>(8)</sup> OJ L 358, 31.12.2002, p. 1.

<sup>(9)</sup> OJ L 36, 12.2.2003, p. 1.

<sup>(10)</sup> OJ L 176, 15.7.2003, p. 29.

<sup>(11)</sup> OJ L 336, 23.12.2003, p. 1.

HAVE ADOPTED THIS DECISION:

*Article 1*

The funding allocated to the actions provided for in this Decision shall be entered into 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 perspective.'

The first subparagraph of Article 6(4) of Decision 96/411/EC shall be replaced by the following:

*Article 5*

'4. The financial framework for the implementation of this programme for the period 2003 to 2007 is hereby set at EUR 11,65 million. EUR 8,65 million shall be for the period 2003 to 2006.

Decision No 507/2001/EC is hereby amended as follows:

1. The first subparagraph of Article 6 shall be replaced by the following:

For the period beginning on 1 January 2007, the amount proposed shall be deemed to be confirmed if, for the phase in question, it is consistent with the financial perspective in force for the period beginning on 1 January 2007.'

'The financial framework for implementation of the Community action described in this Decision for the period 2001 to 2005 is fixed at EUR 53,6 million. An indicative breakdown, by category of actions referred to in Article 2, is shown in Annex II.'

*Article 2*

The first subparagraph of Article 1(3) of Decision No 276/1999/EC shall be replaced by the following:

2. Annex II shall be replaced by the text shown in Annex I to this Decision.

*Article 6*

'3. The financial framework for the implementation of the action plan for the period from 1 January 1999 to 31 December 2004 is hereby set at EUR 39,1 million.'

Article 10 of Decision No 2235/2002/EC shall be replaced by the following:

'Article 10

*Article 3*

Article 12 of Decision No 1719/1999/EC shall be amended as follows:

**Funding**

1. The heading 'Financial Reference Amount' shall be replaced by the heading 'Funding':

The financial framework for the implementation of the programme for the period 1 January 2003 to 31 December 2007 is hereby set at EUR 67,25 million. EUR 51,9 million shall be for the period up to 31 December 2006.

2. Paragraph 1 shall be replaced by the following:

For the period beginning on 1 January 2007, the amount proposed shall be deemed to be confirmed if, for the phase in question, it is consistent with the financial perspective in force for the period beginning on 1 January 2007.

'1. The financial framework for the implementation of the Community action under this Decision for the period 2002 to 2004 shall be EUR 40,6 million.'

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.'

*Article 4*

*Article 7*

Article 2(c) of Decision No 2850/2000/EC shall be replaced by the following:

The first and second subparagraphs of Article 3 of Decision No 2367/2002/EC shall be replaced by the following:

'(c) The financial framework for the implementation of this Decision for the period 2000 to 2006 is hereby set at EUR 12,6 million.

'The financial framework for the implementation of this programme for the period 2003 to 2007 is hereby set at EUR 220,6 million. EUR 170,83 million shall be for the period up to 31 December 2006.

For the period beginning on 1 January 2007, the amount proposed shall be deemed to be confirmed if, for the phase in question, it is consistent with the financial perspective in force for the period beginning on 1 January 2007.'

*Article 8*

Article 14 of Decision No 253/2003/EC shall be replaced by the following:

*'Article 14*

**Funding**

1. The financial framework for the implementation of this programme for the period 1 January 2003 to 31 December 2007 is hereby set at EUR 165,55 million. EUR 128,79 million shall be for the period up to 31 December 2006.
2. For the period beginning on 1 January 2007, the amount proposed shall be deemed to be confirmed if, for the phase in question, it is consistent with the financial perspective in force for the period beginning on 1 January 2007.
3. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.'

*Article 9*

Decision No 1230/2003/EC is hereby amended as follows:

1. The first subparagraph of Article 6(1) shall be replaced by the following:

'1. The financial framework for the implementation of this programme for the period 2003 to 2006 shall be EUR 250 million.'

2. The Annex shall be replaced by the text appearing in Annex II to this Decision.

*Article 10*

The first and second paragraphs of Article 4 of Decision No 2256/2003/EC shall be replaced by the following:

'The programme shall cover a period from 1 January 2003 to 31 December 2005. The financial framework for the implementation of this programme is hereby set at EUR 22,44 million.'

*Article 11*

This Decision is addressed to the Member States.

Done at Strasbourg, 21 April 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

D. ROCHE

## ANNEX I

## ANNEX II

**INDICATIVE BREAKDOWN BY CATEGORY OF EDICOM ACTION, IN ACCORDANCE WITH ARTICLE 2,  
FOR 2001 TO 2005**

Breakdown 2001 to 2005	Total
An information network of better quality, which is less costly and available more quickly, in accordance with the requirements of Community policies	22 %
A relevant information network adapted to the changing needs of users within the framework of Economic and Monetary Union and the international economic environment	14 %
A network of information which is better integrated into the general statistical environment and adapted to the development of the administrative environment	25 %
A network improving the statistical service offered to administrations, users and providers of data	12 %
A network based on tools for the collection of information in the light of the latest technological advances in order to improve functions available to information providers	9 %
Integrated and interoperable network	11 %
Technical and administrative assistance; support measures	7 %
Total (EUR million)	53,6'

## ANNEX II

## ANNEX

**INDICATIVE ALLOCATION OF THE ESTIMATED AMOUNT NEEDED <sup>(1)</sup>***(EUR million)*

Fields of action	2003 to 2006
1. Improvement of energy efficiency and the rational use of energy	88,9
2. New and renewable energy sources and diversification of energy production	101,9
3. Energy aspects of transport	41,6
4. Promotion of renewable energy sources and energy efficiency at international level, particularly in the developing countries	17,6
Total	250 <sup>(2)</sup>

<sup>(1)</sup> This allocation is indicative. The budgetary allocation between fields is flexible in order to deal more effectively with changing needs in the sector.

<sup>(2)</sup> The budget for an Executive Agency could be set by the budgetary authority as a percentage of the programme's overall financial allocation.'

**REGULATION (EC) No 788/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 21 April 2004**

**amending Council Regulation (EC) No 2236/95 and Regulations (EC) No 1655/2000, (EC) No 1382/2003 and (EC) No 2152/2003 with a view to adapting the reference amounts to take account of the enlargement of the European Union**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1), Article 80(2), Article 156, first paragraph, and Article 175 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee,

After consulting the Committee of the Regions,

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

Whereas:

In order to take account of the enlargement of the European Union, the reference amounts should be adapted in the following Regulations:

— (EC) No 2236/95 of the Council of 18 September 1995 laying down general rules for the granting of Community financial aid in the field of trans-European networks <sup>(2)</sup>,

— (EC) No 1655/2000 of the European Parliament and of the Council of 17 July 2000 concerning the Financial Instrument for the Environment (LIFE) <sup>(3)</sup>,

— (EC) No 1382/2003 of the European Parliament and of the Council of 22 July 2003 on the granting of Community financial assistance to improve the environmental performance of the freight transport system (Marco Polo Programme) <sup>(4)</sup>, and

— (EC) No 2152/2003 of the European Parliament and of the Council of 17 November 2003 concerning monitoring of forests and environmental interactions in the Community (Forest Focus) <sup>(5)</sup>,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Article 18 of Regulation (EC) No 2236/95 shall be amended as follows:

1. the heading 'Budgetary Resources' shall be replaced by the heading 'Funding';
2. the first paragraph shall be replaced by the following:

'The financial framework for the implementation of this Regulation for the period 2000 to 2006 shall be EUR 4 874,88 million.'

*Article 2*

Article 8 of Regulation (EC) No 1655/2000 shall be amended as follows:

1. the heading 'Duration of the third phase and budgetary resources' shall be replaced by the heading 'Duration of the third phase and funding';
2. Paragraphs 1 and 2 shall be replaced by the following:

'1. LIFE shall be implemented in phases. The third phase shall start on 1 January 2000 and shall end on 31 December 2004. The financial framework for the implementation of the third phase for the period 2000 to 2004 is hereby set at EUR 649,9 million.

2. The funding allocated to the actions provided for in this Regulation 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 perspective.'

<sup>(1)</sup> Opinion of the European Parliament of 9 March 2004 (not yet published in the Official Journal) and Council Decision of 5 April 2004.

<sup>(2)</sup> OJ L 228, 23.9.1995, p. 1. Regulation as amended by Regulation (EC) No 1655/1999 of the European Parliament and of the Council (OJ L 197, 29.7.1999, p. 1).

<sup>(3)</sup> OJ L 192, 28.7.2000, p. 1.

<sup>(4)</sup> OJ L 196, 2.8.2003, p. 1.

<sup>(5)</sup> OJ L 324, 11.12.2003, p. 1.

*Article 3*

Article 13 of Regulation (EC) No 1382/2003 shall be amended as follows:

1. the heading 'Budget' shall be replaced by the heading 'Funding';
2. the first paragraph shall be replaced by the following:

'The financial framework for the implementation of the Marco Polo Programme, for the period 1 January 2003 to 31 December 2006, shall be EUR 100 million.'

*Article 4*

Article 13 of Regulation (EC) No 2152/2003 shall be replaced by the following:

*'Article 13*

1. The financial framework for the implementation of the scheme for the period 2003 to 2006 shall be EUR 65 million, of which EUR 9 million can be used for fire prevention measures.
2. The annual appropriations shall be authorised by the budgetary authority within the framework of the annual budgetary procedure and the limits of the financial perspective.'

*Article 5*

This Regulation shall enter into force on the third day following the day of publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 21 April 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

D. ROCHE

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**REGULATION (EC) No 789/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 21 April 2004**

**on the transfer of cargo and passenger ships between registers within the Community and  
repealing Council Regulation (EEC) No 613/91**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE  
EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and  
Social Committee <sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article  
251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) The establishment and functioning of the internal market involve the elimination of technical barriers to the transfer of cargo and passenger ships between the registers of Member States. Measures to facilitate the transfer of cargo and passenger ships within the Community are also required to reduce the costs and administrative procedures involved in a change of register within the Community, thereby improving the operating conditions and the competitive position of Community shipping.
- (2) It is necessary, at the same time, to safeguard a high level of ship safety and environmental protection, in compliance with International Conventions.
- (3) The requirements set out in the 1974 International Convention for the Safety of life at Sea (1974 SOLAS), the 1966 International Convention on Load Lines

(LL 1966) and the 1973 International Convention for the Prevention of Pollution from Ships, as amended by the 1978 Protocol (MARPOL 73/78) provide for a high level of ship safety and environmental protection. The International Convention on Tonnage Measurement of Ships, 1969 provides for a uniform system for the measurement of the tonnage of merchant ships.

- (4) The international regime applicable to passenger ships has been strengthened and refined through the adoption of a considerable number of amendments to 1974 SOLAS by the International Maritime Organisation (IMO) and an increased convergence of the interpretations of the 1974 SOLAS rules and standards.
- (5) The transfer of cargo and passenger ships flying the flag of a Member State between the registers of Member States should not be impeded by technical barriers, provided that the ships have been certified as complying with the provisions of relevant international Conventions by Member States or, on their behalf, by the organisations recognised under Council Directive 94/57/EC of 22 November 1994, on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations <sup>(3)</sup>.
- (6) A Member State receiving a ship should however remain able to apply rules which differ in scope and nature from those referred to in the Conventions listed in Article 2(a).
- (7) In order to ensure a prompt and informed decision by the Member State of the receiving register, the Member State of the losing register should provide it with all relevant available information on the ship's condition and equipment. The Member State of the receiving register should, nevertheless, be able to subject the ship to an inspection to confirm its condition and equipment.

<sup>(1)</sup> OJ C 80, 30.3.2004, p. 88.

<sup>(2)</sup> Opinion of the European Parliament of 13 January 2004 (not yet published in the Official Journal) and Decision of the Council of 6 April 2004.

<sup>(3)</sup> OJ L 319, 12.12.1994, p. 20. Directive as last amended by Directive 2002/84/EC of the European Parliament and of the Council (OJ L 324, 29.11.2002, p. 53).

- (8) Ships which have been refused access to Member States' ports under Council Directive 95/21/EC of 19 June 1995, concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) <sup>(1)</sup> or which have been detained more than once following an inspection in the port during the three years preceding the application for registration should not be able to benefit from the possibility of being transferred under the simplified system to another register within the Community.
- (9) Relevant International Conventions leave important points of interpretation of the requirements to the discretion of the Parties. On the basis of their own interpretation, Member States issue to all ships flying their flags, that are subject to the provisions of relevant International Conventions, certificates certifying their compliance with these provisions. Member States enforce national technical regulations, some provisions of which contain requirements other than those in the Conventions and in associated technical standards. An appropriate procedure should therefore be established in order to reconcile divergences in the interpretation of existing requirements which may occur upon a request for transfer of register.
- (10) In order to enable the implementation of this Regulation to be monitored, Member States should provide the Commission with succinct yearly reports. In the first yearly report Member States should identify any measures taken to facilitate the implementation of this Regulation.
- (11) The provisions of Council Regulation (EEC) No 613/91 of 4 March 1991 on the transfer of ships from one register to another within the Community <sup>(2)</sup>, are significantly reinforced and extended by this Regulation. Regulation (EEC) No 613/91 should therefore be repealed.
- (12) The measures necessary for the implementation of this Regulation 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 <sup>(3)</sup>,

HAVE ADOPTED THIS REGULATION:

#### Article 1

#### Purpose

The purpose of this Regulation is to eliminate technical barriers to the transfer of cargo and passenger ships flying the flag of a Member State between the registers of the Member States while, at the same time, ensuring a high level of ship safety and environmental protection, in accordance with International Conventions.

#### Article 2

#### Definitions

For the purposes of this Regulation:

- (a) 'Conventions' means the 1974 International Convention for the Safety of Life at Sea (1974 SOLAS), the 1966 International Convention on Load Lines (LL 66), the 1969 International Convention on Tonnage Measurement of Ships, and the 1973 International Convention for the Prevention of Pollution from Ships, as amended by the 1978 Protocol relating thereto (MARPOL 73/78), in their up-to-date versions, and related codes of mandatory status adopted in the framework of the International Maritime Organisation (IMO), together with Protocols and amendments thereto in their up-to-date versions;
- (b) 'Requirements' means the safety, security and pollution-prevention requirements relating to the construction and equipment of ships laid down in the Conventions and, for passenger ships engaged on domestic voyages, those set out in Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships <sup>(4)</sup>;
- (c) 'Certificates' means certificates, documents and statements of compliance issued by a Member State or by a recognised organisation on its behalf in accordance with the Conventions, and for passenger ships engaged on domestic voyages, those issued in accordance with Article 11 of Directive 98/18/EC;
- (d) 'Passenger ship' means a ship carrying more than twelve passengers;

<sup>(1)</sup> OJ L 157, 7.7.1995, p. 1. Directive as last amended by Directive 2002/84/EC.

<sup>(2)</sup> OJ L 68, 15.3.1991, p. 1. Regulation as amended by Regulation (EC) No 2099/2002 of the European Parliament and of the Council (OJ L 324, 29.11.2002, p. 1).

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(4)</sup> OJ L 144, 15.5.1998, p. 1. Directive as last amended by Commission Directive 2003/75/EC (OJ L 190, 30.7.2003, p. 6).

- (e) 'Passenger' means every person other than:
- (i) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and
  - (ii) a child under one year of age;
- (f) 'Domestic voyage' means a voyage in sea areas from a port of a Member State to the same or another port within that Member State;
- (g) 'International voyage' means a voyage by sea from a port of a Member State to a port outside that Member State, or conversely;
- (h) 'Cargo ship' means a ship which is not a passenger ship;
- (i) 'Recognised organisation' means an organisation recognised in accordance with Article 4 of Directive 94/57/EC.

### Article 3

#### Scope

1. This Regulation shall apply to:
- (a) cargo ships, carrying valid certificates, which:
- (i) were built on or after 25 May 1980, or
  - (ii) were built before that date, but have been certified by a Member State or by a recognised organisation acting on its behalf as complying with the regulations for new ships defined in 1974 SOLAS, or, in the case of chemical tankers and gas carriers, with the relevant Standard codes for ships built on or after 25 May 1980;
- (b) passenger ships engaged on domestic and/or international voyages, carrying valid certificates, which:
- (i) were built on or after 1 July 1998, or
  - (ii) were built before that date, but have been certified by a Member State or by a recognised organisation acting on its behalf as complying with the requirements set out for ships built on or after 1 July 1998:
    - in Directive 98/18/EC, for ships engaged on domestic voyages,
    - in 1974 SOLAS, for ships engaged on international voyages.

2. This Regulation shall not apply to:
- (a) ships following delivery after completion of their construction that do not carry valid full-term certificates from the Member State of the losing register;
  - (b) ships that have been refused access to Member States' ports in accordance with Directive 95/21/EC during the three years preceding application for registration and to ships that have been detained following inspection in the port of a State signatory of the Paris Memorandum of Understanding of 1982 on Port State Control and for reasons relating to the requirements defined in Article 2(b), more than once during the three years preceding application for registration. Member States shall nevertheless give due and timely consideration to applications in respect of such ships;
  - (c) ships of war or troopships, or other ships owned or operated by a Member State and used only on government non-commercial service;
  - (d) ships not propelled by mechanical means, wooden ships of primitive build, pleasure yachts not engaged in trade or a fishing vessel;
  - (e) cargo ships of less than 500 gross tonnage.

### Article 4

#### Transfer of register

1. A Member State shall not withhold from registration, for technical reasons arising from the Conventions, a ship registered in another Member State which complies with the requirements and carries valid certificates and equipment approved or type-approved in accordance with Council Directive 96/98/EC of 20 December 1996 on marine equipment <sup>(1)</sup>.

In order to fulfil their obligations under regional environmental instruments ratified before 1 January 1992, Member States may impose additional rules in accordance with the optional Annexes to the Conventions.

2. This Article shall apply without prejudice, where applicable, to any specific requirements laid down for the operation of a ship under Article 7 of Directive 98/18/EC and Article 6 of Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships <sup>(2)</sup>.

<sup>(1)</sup> OJ L 46, 17.2.1997, p. 25. Directive as last amended by Directive 2002/84/EC.

<sup>(2)</sup> OJ L 123, 17.5.2003, p. 22.

3. Upon receiving the request for transfer, the Member State of the losing register shall provide the Member State of the receiving register, or make available to the recognised organisation acting on its behalf, all relevant information on the ship, in particular, on her condition and equipment. This information shall contain the history file of the vessel and, if applicable, a list of the improvements required by the losing register for registering the ship or renewing her certificates and of overdue surveys. The information shall include all the certificates and particulars of the ship as required by the Conventions and relevant Community instruments as well as Flag State inspection and Port State control records. The Member States shall cooperate to ensure proper implementation of this paragraph.

4. Before registering a ship, the Member State of the receiving register, or the recognised organisation acting on its behalf, may subject the ship to an inspection to confirm that the actual condition of the ship and her equipment correspond to the certificates referred to in Article 3. The inspection shall be performed within a reasonable time frame.

5. If, following the inspection and having given the ship owner a reasonable opportunity to rectify any deficiencies, the Member State of the receiving register, or the recognised organisation acting on its behalf, is unable to confirm correspondence with the certificates, it shall notify the Commission in accordance with Article 6(1).

#### Article 5

### Certificates

1. Upon the transfer and without prejudice to Directive 94/57/EC, the Member State of the receiving register, or the recognised organisation acting on its behalf, shall issue certificates to the ship under the same conditions as those under the flag of the Member State of the losing register, provided the reasons or the grounds on the basis of which the Member State of the losing register imposed any condition or granted any exemption or waiver continue to apply.

2. At the time of renewal, extension or revision of the certificates, the Member State of the receiving register, or the recognised organisation acting on its behalf, shall not impose requirements other than those initially prescribed for the full-term certificates insofar as requirements for existing ships and conditions remain unchanged.

#### Article 6

### Refusal of transfer and interpretation

1. The Member State of the receiving register shall immediately notify the Commission of any refusal to issue, or

to authorise the issuing of, new certificates to a ship for reasons based on divergences of interpretation of the requirements or of the provisions which the Conventions or relevant Community instruments leave to the discretion of the Parties.

Unless the Commission is informed of an agreement between the Member States concerned within one month, it shall initiate proceedings in order to take a decision in accordance with the procedure referred to in Article 7(2).

2. Where a Member State considers that a ship cannot be registered under Article 4 for reasons relating to serious danger to safety, security or to the environment, other than those referred to in paragraph 1, registration may be suspended.

The Member State shall immediately bring the matter to the attention of the Commission, stating the reasons for the suspension of the registration. The decision not to register the ship shall be confirmed or not in accordance with the procedure referred to in Article 7(2).

3. The Commission may consult the Committee referred to in Article 7 on any matter related to the interpretation and implementation of this Regulation, in particular in order to ensure that standards of safety, security and environmental protection are not reduced.

#### Article 7

### Committee procedure

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) set up by Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships <sup>(1)</sup> (Committee).

2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.

<sup>(1)</sup> OJ L 324, 29.11.2002, p. 1.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its Rules of Procedure.

#### Article 8

##### Reporting

1. Member States shall transmit to the Commission a succinct yearly report on the implementation of this Regulation. The report shall provide statistical data on the transfer of ships carried out in accordance with this Regulation and list any difficulties encountered in its implementation.

2. By 20 May 2008 the Commission shall submit a report to the European Parliament and the Council on the implementation of this Regulation, based in part on the reports submitted by the Member States. In this report, the Commission shall assess, inter alia, whether it is appropriate to amend the Regulation.

#### Article 9

##### Amendments

1. The definitions in Article 2 may be amended in accordance with the procedure referred to in Article 7(2) in

order to take account of developments at international level, in particular, in the IMO and to improve the effectiveness of this Regulation in the light of experience and of technical progress, insofar as such amendments do not broaden the scope of this Regulation.

2. Any amendment to the Conventions may be excluded from the scope of this Regulation, pursuant to Article 5 of Regulation (EC) No 2099/2002.

#### Article 10

##### Repeal

Regulation (EEC) No 613/91 is hereby repealed.

#### Article 11

##### Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 21 April 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

D. ROCHE

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**DECISION No 790/2004/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 youth**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 149(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) The Treaty establishes citizenship of the Union and provides that Community action in the field of education, vocational training and youth shall be aimed, inter alia, at encouraging the development of youth exchanges and of exchanges of socio-educative instructors.
- (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 the way in which to bring citizens, and primarily the young, closer to the European design and the European institutions. International non-governmental youth organisations enable young people to become active citizens, develop a sense of responsibility, express their opinions and values and take part in exchanges across national borders; in so doing, these organisations help to bring Europe closer to young citizens.

- (3) The Commission's White Paper entitled 'A new impetus for European youth' presented on 21 November 2001 argues that participation by young people should be encouraged and advocates strengthening the organisations within which young people can make their voice heard; it also states that information is essential to the development of active citizenship. In its Resolution <sup>(3)</sup> on the White Paper, the European Parliament also stressed the important role played by international and European youth organisations in enabling young people to participate on a long-term basis in democratic life in Europe.

- (4) In its White Paper on European governance <sup>(4)</sup> the Commission calls for general openness and for representatives of civil society to be consulted and included in the formation of EU policy. It recognises the role of non-governmental organisations in giving voice to the concerns of citizens.

- (5) The Resolution of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 27 June 2002 regarding the framework of European cooperation in the youth field <sup>(5)</sup> endorses the thematic priorities as proposed in the White Paper on European Youth, and in particular participation and information, especially with the aim of encouraging participation by young people in the exercise of active citizenship, and proposes mechanisms for implementing the open method of coordination by consulting young people through specific arrangements at national level and consulting the European Youth Forum at European level.

- (6) The European Youth Forum represents young people vis-à-vis the European Union and other international institutions. Its action is essential in order to coordinate and relay to the European institutions the views of the non-governmental youth organisations and to relay to these organisations information about European matters which are of interest to them. International Non-governmental Youth Organisations provide non-formal and informal learning, training and information to young people; they constitute networks

<sup>(1)</sup> OJ C 10, 14.1.2004, p. 18.

<sup>(2)</sup> Opinion of the European Parliament of 6 November 2003 (not yet published in the Official Journal). Council Common Position of 22 December 2003 (OJ C 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.

<sup>(3)</sup> OJ C 180 E, 31.7.2003, p. 145.

<sup>(4)</sup> OJ C 287, 12.10.2001, p. 1.

<sup>(5)</sup> OJ C 168, 13.7.2002, p. 2.

representing non-profit bodies active in the Member States and other European countries.

HAVE DECIDED AS FOLLOWS:

#### *Article 1*

##### **Programme objective and activities**

- (7) Headings A-3023 and A-3029 of the general budget of the European Union for the financial year 2003 and previous financial years provide support for the European Youth Forum and international non-governmental youth organisations.
- (8) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup>, hereinafter 'the Financial Regulation', requires a basic act to be provided to cover these existing support actions.
- (9) The European Parliament, the Council and the Commission undertook, at the time of the adoption of the Financial Regulation, to achieve the objective of ensuring that this basic act enters into force as from the financial year 2004.
- (10) Provision should be made for the geographic coverage of the programme to extend to the acceding States, and possibly, in the case of some actions, to all European countries, in view of the importance of strengthening links between the enlarged Union and its neighbours on the European continent.
- (11) Any non-Community financing from State resources should comply with Articles 87 and 88 of the Treaty.
- (12) 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 Commission on budgetary discipline and improvement of the budgetary procedure <sup>(2)</sup>, for the budgetary authority during the annual budgetary procedure.
- (13) Any support granted under this Decision should comply strictly with the principles of subsidiarity and proportionality,

1. This Decision establishes a Community action programme to promote bodies active at European level in the field of youth (hereinafter referred to as the Programme).

2. The general objective of the programme is to support the activities of these bodies. These activities are the ongoing work programme of a body, which pursues an aim of general European interest in the field of youth or an objective forming part of the European Union's policy in this area. In particular, these activities must contribute, or be capable of contributing, to the active participation of young citizens in public life and in society and to the development and implementation of Community cooperation actions in the field of youth in the broad sense. Cooperation with the European Youth Forum contributes to this general objective in so far as the European Youth Forum represents and coordinates non-governmental youth organisations and relays information on youth to the European institutions.

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 an operating grant, a body must satisfy the requirements of the Annex and have the following characteristics:

- (a) its activities must be in accordance with the principles underlying Community action in the youth policy area and take account of the priorities set out in the Annex;
- (b) it must have been legally established for more than one year;
- (c) it must operate at European level, either alone or in the form of various coordinated associations, and its structure and activities must have a potential impact throughout the Union or cover at least eight of the countries referred to in Article 3, including the Member States.

#### *Article 3*

##### **Participation of third countries**

1. Participation in actions under the programme may be opened to bodies established in:

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(2)</sup> OJ C 172, 18.6.1999, p. 1. Agreement as amended by Decision 2003/429/EC of the European Parliament and of the Council (OJ L 147, 14.6.2003, p. 25).

- (a) acceding States which signed the Treaty of Accession on 16 April 2003;
- (b) the EFTA/EEA countries, in accordance with the conditions laid down in the EEA Agreement;
- (c) Romania and Bulgaria, the conditions for participation to be laid down in accordance with the European Agreements, their additional protocols and the decisions of the respective Association Councils;
- (d) Turkey, the conditions for participation to be laid down in accordance with the Framework Agreement between the European Community and the Republic of Turkey of 26 February 2002 on the general principles for the participation of the Republic of Turkey in Community programmes <sup>(1)</sup>.

2. Participation in this programme may also be open to bodies established in the Balkan countries forming part of the Stabilisation and Association process for countries of South Eastern Europe <sup>(2)</sup> and to some countries of the Commonwealth of Independent States, in accordance with the conditions and procedures to be agreed with these countries <sup>(3)</sup>.

#### Article 4

##### Selection of beneficiaries

The programme covers two types of beneficiaries:

- (a) group 1: operating grants shall be directly awarded to the beneficiaries referred to in point 2 of the Annex;
- (b) group 2: operating grants shall be awarded in accordance with the overall criteria laid down in the Annex by means of a call for proposals to the permanent activities of a body pursuing an aim of general European interest in the field of youth.

#### Article 5

##### 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 the Annex.

#### Article 6

##### 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 13 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

#### Article 7

##### Implementation

The Commission shall be responsible for, and shall regularly inform the European Parliament, the Council and the Member States concerning, the implementation of this programme in accordance with the provisions set out in the annex.

#### Article 8

##### Monitoring and evaluation

No later than 31 December 2007, the Commission shall present to the European Parliament and the Council a report on the achievement of the programme's objectives. This report shall be based, inter alia, on an external evaluation report which must be available no later than the end of 2006 and which shall appraise at least the overall pertinence and coherence of the programme, the effectiveness of its execution (preparation, selection, implementation of the actions) and the overall and individual effectiveness of the various actions in terms of achievement of the objectives set out in Article 1 and in the Annex.

#### 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

<sup>(1)</sup> OJ L 61, 2.3.2002, p. 29.

<sup>(2)</sup> Former Yugoslav Republic of Macedonia, Albania, Serbia and Montenegro, Bosnia and Herzegovina, and Croatia.

<sup>(3)</sup> Belarus, Moldova, Russian Federation, Ukraine.

## ANNEX

## 1. ACTIVITIES SUPPORTED

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

## 1.1. The main activities of these youth organisations that are likely to contribute to the strengthening and effectiveness of Community action are as follows:

- representation of the views and interests of young people in all their diversity at Community level,
- youth exchanges and voluntary services,
- informal and non-formal learning and work programmes,
- the promotion of intercultural learning and understanding,
- debate on European matters and EU policies or youth policies,
- dissemination of information on Community action,
- actions promoting young citizens' participation and initiative.

## 1.2. The main activities of the European Youth Forum are as follows:

- representing young people vis-à-vis the European Union,
- coordinating the positions of its members vis-à-vis the European Union,
- relaying information on youth to the European institutions,
- relaying information from the European Union to national youth councils and non-governmental organisations,
- promoting and paving the way for young people to participate in democratic life,
- contributing to the new cooperation framework in the youth field which it has been decided to establish at the level of the European Union,
- contributing to the development of youth policies, youth work and educational opportunities and to relaying information concerning young people and developing representative structures for young people throughout Europe,
- engaging in discussion and reflection on youth in Europe and other parts of the world and on the European Union's action to assist young people.

## 2. IMPLEMENTATION OF THE ACTIVITIES SUPPORTED

The activities carried out by the bodies eligible for Community funding under the programme fall within one of the following areas:

2.1. *Part 1: Support for the European Youth Forum*

## 2.1.1. Grants may be awarded under this part to support the permanent activities of the European Youth Forum, a body pursuing an aim of general European interest whose members are the national youth councils and the international non-governmental youth organisations, in conformity with the following principles:

- independence of the European Youth Forum in the selection of its members ensuring the broadest possible representation of different types of youth organisations,
- autonomy of the European Youth Forum in the detailed specification of its activities, in conformity with section 1.2,

- broadest possible involvement in the European Youth Forum's activities of non-member youth organisations and young people who do not belong to organisations,
  - active contribution by the European Youth Forum to the political processes relevant to youth at European level, in particular by responding to the European institutions when they consult civil society and explaining the positions adopted by these institutions to its members,
  - geographic membership coverage extending to the countries mentioned in Article 3.
- 2.1.2. Under part 1, the eligible expenditure of the European Youth Forum comprises operating costs and expenses for carrying out its actions.
- 2.1.3. The grant to the European Youth Forum shall not fund all its eligible expenditure in the calendar year for which it is awarded. At least 20 % of the Forum's budget must be co-financed from non-Community sources. Such co-financing may be partly or wholly 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.
- 2.1.4. Pursuant to Article 113(2) of the Financial Regulation the principle of gradual reduction shall not apply to operating grants to the European Youth Forum, since it is a body pursuing an objective of general European interest.
- 2.1.5. In view of the need to ensure continuity of the European Youth Forum, the programme resources shall be allocated in accordance with the following guideline: the resources allocated under part 1 shall be not less than EUR 2 million.
- 2.1.6. Grants may be awarded to the Youth Forum upon receipt of an appropriate work plan and budget. Grants may be awarded on an annual basis within a framework partnership agreement with the Commission.
- 2.2. *Part 2: Support for permanent activities of bodies pursuing an aim of general European interest in the field of youth or an objective forming part of the European Union's policy in this area.*
- 2.2.1. Grants may be awarded under this part to support operational and administrative costs of the abovementioned bodies. This may relate to:
- (a) a non-profit-making body whose activities are solely for the benefit of young people or a body with wider aims, part of whose activities are solely for the benefit of young people; in either case, the body must involve young people in managing the activities conducted for their benefit;
  - (b) a European network representing non-profit-making bodies working for the benefit of young people and involving young people in their activities.
- An annual operating grant may be awarded to support the conduct of the permanent work programme of such a body.
- 2.2.2. Under part 2, the only 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 personnel costs, overheads (rental and property charges, equipment, office supplies, telecommunications, postal charges, etc.), costs of internal meetings, and publication, information and dissemination costs.
- 2.2.3. An operating grant under part 2 shall not fund all the body's eligible expenditure in the calendar year for which it is awarded. At least 20 % of the budgets of the bodies covered by this part must be co-financed from non-Community sources. The co-financing rate shall be determined each year in the call for proposals. Such co-financing may be partly or wholly 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.

2.2.4. 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 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.

2.2.5. The bodies receiving operating grants under part 2 shall be selected on the basis of calls for proposals.

With the bodies so selected framework partnership agreements may be concluded for the duration of the programme. The specific grants based on the framework agreements shall be awarded in accordance with the procedures laid down in these agreements.

However the framework agreements shall not exclude annual calls for proposals for additional beneficiaries.

### 2.3. Transitional provisions

2.3.1. 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.

2.3.2. 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.

## 3. CRITERIA FOR THE ASSESSMENT OF FUNDING APPLICATIONS

3.1. Funding applications shall be assessed in the light of:

- their consistency with the programme objectives,
- the quality of the planned activities,
- the likely multiplier effect on young people of these activities,
- the geographic impact of the activities carried out,
- the involvement of young people in the organisation of the bodies concerned.

3.2. The Commission shall give applicants the opportunity to correct errors of form within a specified period after the submission of their application.

## 4. TRANSPARENCY

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. 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, outsource 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.

## 6. CHECKS AND AUDITS

- 6.1. 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.
  - 6.2. 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.
  - 6.3. 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.
  - 6.4. The Court of Auditors and the European Anti-Fraud Office (OLAF) shall enjoy the same rights, especially of access, as the Commission.
  - 6.5. 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 (EC, Euratom) No 2185/96 <sup>(1)</sup>. 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 <sup>(2)</sup>.
  - 6.6. Wherever no regulation is specified in this basic act, the Financial Regulation and its rules for implementation shall apply.
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<sup>(1)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(2)</sup> OJ L 136, 31.5.1999, p. 1.

**DECISION No 791/2004/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 and support specific activities in the field of education and training**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 149(4) and 150(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

(1) The Treaty provides that the Community is to contribute to the development of quality education by supporting and supplementing the action of Member States, to implement a vocational training policy which supports and supplements the action of the Member States, and to foster cooperation with third countries.

(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 how to bring citizens closer to the European design and the European institutions.

(3) The detailed work programme on the follow-up of the objectives of education and training systems in Europe <sup>(3)</sup>, adopted by the Council on 14 June 2002, sets out a programme of activity that requires support at Community level.

(4) The Declaration of the European Union on the occasion of the 50th anniversary of the Universal Declaration on Human Rights, Vienna, 10 December 1998, states that the Union should further develop cooperation in the field of human rights, such as education and training activities, in coordination with other relevant organisations, and ensure the continuation of the European Masters Programme in human rights and democratisation, organised by 15 European universities.

(5) The Conclusions of the Cologne European Council of 4 June 1999 stated that, in order to enhance the sustainability and continuity of the European Masters programme in human rights and democratisation, 'further attention should be given to the issue of budget security'.

(6) Headings A-3010, A-3011, A-3012, A-3013, A-3014, A-3017, A-3022, A-3027, A-3044, B3-1000 and B3-304 of the general budget of the European Union for the financial year 2003 and previous financial years have proved their worth in the field of education and training.

(7) The College of Europe, providing postgraduate courses in law, economics, politics, social sciences and humanities with a European dimension, the European University Institute, contributing to the development of European cultural and scientific heritage by means of higher education and research, the European Institute of Public Administration, training national and European civil servants in the field of European integration, the Academy of European Law in Trier, providing university-level training of European law professionals and users, the European Inter-University Centre for Human Rights and Democratisation, providing a European Masters degree and Advanced Internships and other education, training and research services in promotion of human rights and democratisation, the European Agency for Development in Special Needs Education, working to improve the quality of education for pupils with special needs and to foster sustainable European cooperation in this field, and the International Centre for European Training, providing teaching, training and research on issues of Europeanisation, globalisation, federalism, regionalism and the

<sup>(1)</sup> OJ C 32, 5.2.2004, p. 52.

<sup>(2)</sup> Opinion of the European Parliament of 6 November 2003 (not yet published in the Official Journal), Council Common Position of 22 December 2003 (OJ C 72 E, 23.3.2004, p. 19), 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.

<sup>(3)</sup> OJ C 142, 14.6.2002, p. 1.

transformation of contemporary social structures, constitute bodies pursuing aims of general European interest.

- (8) There is an increased need to train national judges in the application of Community law and for such training to be supported by the Community, notably following adoption of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty <sup>(1)</sup>, which increases the power of national courts to apply these Treaty provisions.
- (9) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(2)</sup>, hereinafter 'the Financial Regulation', requires a basic act to be provided to cover these existing support actions.
- (10) The European Parliament, the Council and the Commission undertook, at the time of the adoption of the Financial Regulation, to achieve the objective of ensuring that this basic act enters into force as from the financial year 2004; the Commission undertook to take into account the remarks entered in the budget in the context of implementation.
- (11) It is necessary to ensure that the institutions to which the Community has allocated funding support over previous years enjoy an adequate measure of stability and continuity of funding subject to the Financial Regulation and its rules for implementation.
- (12) Provision should be made for the geographic coverage of the programme to extend to the acceding Member States, and possibly, in the case of some actions, to the EFTA/EEA countries and the candidate countries.
- (13) Any non-Community financing from State resources should comply with Articles 87 and 88 of the Treaty.
- (14) 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 Commission on

budgetary discipline and improvement of the budgetary procedure <sup>(3)</sup>, for the budgetary authority during the annual budgetary procedure.

- (15) 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 in the field of education and training (hereinafter referred to as 'the programme'), to support bodies and their activities which seek to extend and deepen knowledge of the building of Europe, or to contribute to the achievement of the common policy objectives in the field of education and training, both inside and outside the Community.
2. The general objective of the programme is to support the activities of bodies in the field of education and training.

The following activities are covered by the programme:

- (a) the ongoing work programme of a body operating at European or world level which pursues an aim of general European interest in the field of education and training or an objective forming part of the European Union's policy in this area;
- (b) a specific action promoting the European Union's action in this area, providing information on European integration and the objectives pursued by the Union in its international relations or supporting Community action and relaying it at national level.

In particular, these activities must contribute, or be capable of contributing, to the development and implementation of Community cooperation policy and actions in the field of education and training.

<sup>(1)</sup> OJ L 1, 4.1.2003, p. 1.

<sup>(2)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(3)</sup> 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).

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 the Annex and have the following characteristics:

- (a) it must be an independent and non-profit-making legal person primarily active in the field of education and training, 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 education and training and take account of the priorities set out in the Annex.

In exceptional circumstances, the Commission may grant a derogation from the requirement under point (b) of the first paragraph, provided that this would not compromise the protection of Community financial interests.

#### Article 3

##### Participation of third countries

Participation in actions under the programme may be opened to bodies established in:

- (a) acceding States which signed the Treaty of Accession on 16 April 2003;
- (b) the EFTA/EEA countries, in accordance with the conditions laid down in the EEA Agreement;
- (c) Romania and Bulgaria, the conditions for participation to be laid down in accordance with the European Agreements, their additional protocols and the decisions of the respective Association Councils;
- (d) Turkey, the conditions for participation to be laid down in accordance with the Framework Agreement between the European Community and the Republic of Turkey of 26 February 2002 on the general principles for the participation of the Republic of Turkey in Community programmes <sup>(1)</sup>.

<sup>(1)</sup> OJ L 61, 2.3.2002, p. 29.

#### Article 4

##### Selection of beneficiaries

The programme covers two groups of beneficiaries:

- (a) group 1: operating grants directly awarded in accordance to the beneficiaries listed by name in point 2 of the Annex;
- (b) group 2: support for European associations active in the field of education or training, support for activities in the field of higher education concerning European integration, including Jean Monnet chairs, support for activities contributing to the achievement of the future objectives of education and training systems in Europe and support for training of national judges in the field of European law and for organisations for judicial cooperation. Beneficiaries are selected by means of a call for proposals in accordance with the overall criteria laid down in the Annex.

#### Article 5

##### 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 the Annex.

#### Article 6

##### 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 77 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

#### Article 7

##### Implementation

The Commission shall be responsible for implementing this programme in accordance with the provisions set out in the Annex.

#### Article 8

##### Monitoring and evaluation

1. Not later than 31 December 2007, the Commission shall submit a report to the European Parliament and the Council on the achievement of the programme's objectives.

This report shall be based, inter alia, on an external evaluation report which must be available no later than the end of 2006 and which shall appraise at least the overall pertinence and coherence of the programme, the effectiveness of its execution (preparation, selection, implementation of the actions) and the overall and individual effectiveness of the various actions in terms of achievement of the objectives as set out in Article 1 and in the Annex.

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

2. The European Parliament and the Council shall, in accordance with the Treaty, decide on the continuation of the programme as from 1 January 2007.

*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

## 1. INTRODUCTION

The objectives laid down in Article 1 are to be implemented by means of the actions set out in this Annex.

This Annex contains two main types of actions:

- the first type, Actions 1 and 2, is aimed at supporting particular institutions or selected associations active at European level in the fields of education and training,
- the second type, Action 3, is aimed at supporting particular activities or projects focusing on European integration (Action 3A), or supporting European Union policies in the fields of education and training outside the Community programmes in these fields (Action 3B), or promoting training in European law, notably for national judges (Action 3C).

## 2. IMPLEMENTATION OF THE ACTIVITIES SUPPORTED

The activities carried out by the bodies eligible for Community funding under the programme fall within one of the following areas:

*Action 1:* Support for specified institutions active in the fields of education and training

Grants may be awarded under this action of the programme to support certain operational and administrative costs of the following institutions pursuing an aim of general European interest, acting in the following fields:

- the College of Europe (Bruges and Natolin campuses) in post-graduate studies in the European dimension of law, economics, political and social sciences and the humanities,
- the European University Institute, Florence, in its contribution to the development of Europe's cultural and scientific heritage by higher education and research,
- the European Institute of Public Administration, Maastricht, in the training of national and European officials to enable them to discharge their responsibilities in the field of European integration,
- the Academy of European Law in Trier, in university-level continuing education for European law practitioners and users,
- the European Inter-University Centre for Human Rights and Democratisation for the continuation of the European Masters Degree in Human Rights and Democratisation, the Advanced Internship Programme and other education, training and research activities in promotion of human rights and democratisation,
- the European Agency for Development in Special Needs Education in the improvement of the quality of special needs education and the institution of extensive and long-term European cooperation in this field,
- the International Centre for European Training in study, education, training and research on issues of European and world unification, federalism, regionalism and the changing structures of contemporary society, from a world federalist viewpoint.

The Commission may award grants to the institutions listed above upon receipt of an appropriate workplan and budget. Grants may be awarded on an annual basis or on a renewable basis within a framework partnership agreement with the Commission.

Grants awarded under this action shall not be subject to the principle of gradual reduction set out in Article 113(2) of the Financial Regulation.

The activities of the institutions supported under this action may take place within or beyond the European Union.

The resources to be committed under Action 1 will be not more than 65 % and not less than 58 % of the total budget available for this programme.

*Action 2: Support for European associations active in the field of education or training*

Grants may be awarded under this action of the programme to support certain operational and administrative costs of European associations active in the field of education and training, which fulfil the following minimum criteria:

- exist as a body pursuing an aim of general European interest as defined in Article 162 of the implementing rules of the Financial Regulation laid down by Commission Regulation (EC, Euratom) No 2342/2002 <sup>(1)</sup>,
- operate in the field of education and training at European level and pursue clear and well-defined objectives laid down in their official articles of association,
- have members in at least twelve Member States of the European Union,
- be composed of national, regional or local associations,
- be located and have legal status in one of the Member States of the European Union,
- undertake the majority of its activity in the Member States of the European Union, in countries belonging to the European Economic Area and/or in the candidate countries.

Grants will be awarded under this action following the selection of proposals submitted in response to one or more published calls for proposals. The Community grant will not cover more than 75 % of the eligible costs set out in an approved workplan for the association. Grants may be awarded on an annual basis or on a renewable basis within a framework partnership agreement with the Commission.

Grants awarded under this action shall not be subject to the principle of gradual reduction set out in Article 113(2) of the Financial Regulation.

The resources to be committed under Action 2 will not be more than 4 % of the total budget available for this programme.

*Action 3a: Support for activities in the field of higher education concerning European integration, including Jean Monnet chairs*

This action relates to activities promoting the European Union's action in the field of higher education, raising awareness in higher education circles of European integration and the objectives pursued by the Union in its international relations or supporting Community action and relaying it at national level.

Activities supported under this action may take place in countries within or outside the European Union.

<sup>(1)</sup> OJ L 357, 31.12.2002, p. 1.

In accordance with Article 2 of the Decision, this particularly relates to:

- implementation of European integration studies in universities,
- creation and support of national associations of teachers specialised in European integration,
- promotion of reflection and discussion on the process of European integration,
- promotion of academic research on EU priority subjects, such as the future of Europe or dialogue between peoples and cultures, including research by young academics.

Grants will be awarded under this action following the selection of proposals submitted in response to one or more published calls for proposals. The Community grant will not cover more than 75 % of the eligible costs of activities selected for funding under this action.

The resources to be committed under Action 3A will be not more than 24 % and not less than 20 % of the total budget available for this programme.

*Action 3B: Support for activities contributing to the achievement of the future objectives of education and training systems in Europe*

Action 3B relates to support, implementation, awareness-raising and promotion activities concerning the follow-up of the three objectives of education and training systems in Europe agreed by the European Council for 2010 <sup>(1)</sup>:

- improving the quality and effectiveness of education and training systems in the European Union,
- facilitating the access of all to education and training systems,
- opening up education and training systems to the wider world,

and the 13 sub-objectives associated with them. These activities may include forward-looking approaches covering the period up to 2010 and may cover both intra-European aspects and aspects concerning Europe's place in the world.

The types of activity to be supported under this action consist of the implementation of the open method of coordination in the field of education and training, notably through peer review, exchange of good practice, exchange of information and setting of indicators and benchmarks.

These activities are, in particular:

- support for studies, inquiries and research linked to the achievement of the concrete future objectives,
- meetings of experts, seminars, conferences and study visits supporting the implementation of the detailed work programme on the objectives,
- preparation and execution of information activities and publications seeking to raise awareness in education and training circles, including those intended to promote the European Union's action in these fields and to improve the quality, universal accessibility and openness to the wider world of European education and training systems,
- various activities supporting Community action by involving players in civil society operating at national or European level in the fields of education and training.

<sup>(1)</sup> Detailed work programme on the follow-up of the objectives of education and training systems in Europe (O) C 142, 14.6.2002, p. 1).

This action will be implemented by means of grants awarded following the selection of proposals submitted in response to one or more calls for proposals.

Grants may be awarded to institutions based in one of the Member States of the European Union, in countries belonging to the European Economic Area, or in candidate countries. For activities relating to the third objective (opening up of education and training systems to the wider world), grants may exceptionally be awarded to institutions based in other third countries.

The Community grant will not normally cover more than 75 % of the eligible costs of selected proposals.

The resources to be committed under Action 3B will be not more than 14 % and not less than 9 % of the total budget available for this programme.

*Action 3C: Support for training of national judges in the field of European law*

Grants may be awarded under this action to support actions undertaken by organisations for judicial cooperation and other actions designed to promote training in European law, notably for national judges.

Activities supported under this action may take place in Member States, in countries of the European Economic Area, or in candidate countries.

Grants will be awarded under this action following the selection of proposals submitted in response to one or more published calls for proposals. The Community grant will not normally cover more than 75 % of the eligible costs of the activity set out in an approved workplan.

The resources to be committed under Action 3C will not be more than 4 % of the total budget available for this programme.

### 3. TRANSPARENCY

The beneficiary of a grant awarded under any part of the 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.

### 4. CRITERIA FOR THE ASSESSMENT OF FUNDING APPLICATIONS

Requests for grant funding submitted in response to a call for proposals will be assessed in respect of the following criteria:

- relevance to the objectives of the programme and of the specific action concerned,
- relevance to any priorities or other criteria set out in the call for proposals,
- the quality of the proposal,
- the likely impact of the proposal on education and/or training at European level.

### 5. ELIGIBLE EXPENDITURE

In determining the amount of a grant awarded under any action of the programme, the Commission may have recourse to flat-rate financing based on published scales of unit costs.

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.

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 <sup>(1)</sup>. 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 <sup>(2)</sup>.

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<sup>(1)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(2)</sup> OJ L 136, 31.5.1999, p. 1.

**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 <sup>(3)</sup> 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 <sup>(1)</sup>,

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 <sup>(2)</sup>, 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 <sup>(4)</sup>.

<sup>(1)</sup> 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.

<sup>(2)</sup> OJ C 314, 5.12.1991, p. 1.

<sup>(3)</sup> OJ C 13, 18.1.2003, p. 5.

<sup>(4)</sup> 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 <sup>(1)</sup>, 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 <sup>(2)</sup> 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 <sup>(3)</sup>, 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 <sup>(4)</sup>.
- (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.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

<sup>(4)</sup> 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 <sup>(1)</sup>.
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.

<sup>(1)</sup> 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 <sup>(1)</sup>. 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 <sup>(2)</sup>.
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<sup>(1)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(2)</sup> 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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**REGULATION (EC) No 793/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 21 April 2004**

**amending Council Regulation (EEC) No 95/93 on common rules for the allocation of slots at  
Community airports**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) Following the conclusions of the European Council held in Stockholm on 23 and 24 March 2001, this Regulation constitutes a first step in a comprehensive revision process. In order to keep abreast of developments, in particular with respect to new entrants and market access issues, this Regulation should be reviewed after a fixed period of operation.
- (2) Experience has shown that Council Regulation (EEC) No 95/93 <sup>(4)</sup> should be strengthened to ensure the fullest and most flexible use of limited capacity at congested airports.
- (3) It is therefore necessary to amend that Regulation in accordance with Article 14 thereof and to clarify a number of its provisions.
- (4) It is desirable to follow international terminology and therefore to use the terms 'schedules facilitated airport' and 'coordinated airport' instead of 'coordinated airport' and 'fully-coordinated airport' respectively.

(5) Airports with a serious shortfall in capacity should be designated as 'coordinated airports' on the basis of objective criteria after a capacity analysis has been conducted. At coordinated airports detailed rules are required to ensure that the principles of transparency, neutrality and non-discrimination are fully adhered to. Specific activities such as helicopter operations should not be subject to slot allocation rules where these are not necessary.

(6) At schedules facilitated airports the schedules facilitator should act in an independent manner. At coordinated airports the coordinator plays a central role in the coordinating process. Therefore, coordinators should be in a fully independent position and their responsibilities should be specified in detail.

(7) It is necessary to specify in detail the role of the coordination committee which is established to advise and mediate in relation to slot allocation. Member State representatives should be invited to meetings of the coordination committee as observers without voting rights. Such observer status should be without prejudice to the possibility that such representatives could chair committee meetings. It is important to ensure that the coordination committee has no power to take decisions that would be binding on the coordinator.

(8) It is also necessary to make clear that slot allocation should be considered as giving air carriers permission to access the airport facilities for landing and taking-off at specific dates and times for the duration of the period for which the permission is granted. The need to develop rules and procedures for coordinating airport and airway slots should be examined.

<sup>(1)</sup> OJ C 270 E, 25.9.2001, p. 131.

<sup>(2)</sup> OJ C 125, 27.5.2002, p. 8.

<sup>(3)</sup> Opinion of the European Parliament of 11 June 2002 (OJ C 261 E, 30.10.2003, p. 116), Council Common Position of 19 February 2004 (not yet published in the Official Journal) and Position of the European Parliament of 1 April 2004 (not yet published in the Official Journal).

<sup>(4)</sup> OJ L 14, 22.1.1993, p. 1. Regulation as last amended by Regulation (EC) No 1554/2003 of the European Parliament and of the Council (OJ L 221, 4.9.2003, p. 1).

(9) However, in the interest of stability of operations, the existing system provides for the reallocation of slots with established historical precedence ('grandfather rights') to incumbent air carriers. In order to encourage regular operations at coordinated airports it is necessary to provide that grandfather rights relate to series of slots. At the same time, Member States should, when defining capacity parameters, be able to take account of operational and environmental constraints.

- (10) Slots with historical precedence should comply with the usage calculation as well as with all other relevant provisions of Regulation (EEC) No 95/93 so that air carriers can continue to claim these slots in the next equivalent scheduling period. The situation of grandfather rights in the case of joint operations, code-share or franchise agreements should be clarified.
- (11) Regular services at airports should be given priority which should be administered strictly without distinction between scheduled and non-scheduled services.
- (12) The definition of the term 'new entrant' should be such as to strengthen the provision of adequate air services to regions and to increase potential competition on intra-Community routes.
- (13) In order better to ensure that, amongst other things, third countries grant Community carriers comparable treatment, a procedure should be established enabling the Community more efficiently to take action against third countries which do not grant treatment comparable to that granted in the Community.
- (14) The measures necessary for the implementation of this Regulation 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 <sup>(1)</sup>.
- (15) At coordinated airports, access for an air carrier is only possible if a slot has been allocated. Measures should be introduced to guarantee the enforcement of this Regulation, in particular when air carriers repeatedly and intentionally fail to comply with the slot allocation rules.
- (16) There should be a procedure to review decisions taken by the coordinator.
- (17) For the avoidance of doubt, it should be specified that the application of the provisions of this Regulation is to be without prejudice to the competition rules of the Treaty, in particular Articles 81 and 82 thereof and Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings <sup>(2)</sup>,

HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 95/93 is hereby amended as follows:

1. Article 1(1) shall be replaced by the following:

'1. This Regulation shall apply to Community airports.'

2. Article 2 is amended as follows:

(a) Points (a) and (b) shall be replaced by the following:

'(a) "slot" shall mean the permission given by a coordinator in accordance with this Regulation to use the full range of airport infrastructure necessary to operate an air service at a coordinated airport on a specific date and time for the purpose of landing or take-off as allocated by a coordinator in accordance with this Regulation;

(b) "new entrant" shall mean:

(i) an air carrier requesting, as part of a series of slots, a slot at an airport on any day, where, if the carrier's request were accepted, it would in total hold fewer than five slots at that airport on that day, or

(ii) an air carrier requesting a series of slots for a non-stop scheduled passenger service between two Community airports where at most two other air carriers operate the same non-stop scheduled service between these airports or airport systems on that day, where, if the air carrier's request were accepted, the air carrier would nonetheless hold fewer than five slots at that airport on that day for that non-stop service, or

(iii) an air carrier requesting a series of slots at an airport for a non-stop scheduled passenger service between that airport and a regional airport where no other air carrier operates a direct scheduled passenger service between these airports or airport systems on that day, where, if the air carrier's request were accepted,

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(2)</sup> OJ L 395, 30.12.1989, p. 1. Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p. 1).

the air carrier would nonetheless hold fewer than five slots at that airport on that day for that non-stop service.

An air carrier holding more than 5 % of the total slots available on the day in question at a particular airport, or more than 4 % of the total slots available on the day in question in an airport system of which that airport forms part, shall not be considered as a new entrant at that airport.'

(b) Points (f) and (g) shall be replaced by the following:

'(f) (i) "air carrier" shall mean an air transport undertaking holding a valid operating licence or equivalent at the latest on 31 January for the following summer season or on 31 August for the following winter season. For the purpose of Articles 4, 8, 8a and 10, the definition of air carrier shall also include business aviation operators, when they operate according to a schedule; for the purposes of Articles 7 and 14; the definition of air carrier shall also include all civil aircraft operators;

(ii) "group of air carriers" shall mean two or more air carriers which together perform joint operations, franchise operations or code-sharing for the purpose of operating a specific air service;

(g) "coordinated airport" shall mean any airport where, in order to land or take off, it is necessary for an air carrier or any other aircraft operator to have been allocated a slot by a coordinator, with the exception of State flights, emergency landings and humanitarian flights;'

(c) The following points shall be added:

'(i) "schedules facilitated airport" shall mean an airport where there is potential for congestion at some periods of the day, week or year which is amenable to resolution by voluntary cooperation between air carriers and where a schedules facilitator has been appointed to facilitate the operations of air carriers operating services or intending to operate services at that airport;

(j) "managing body of an airport" shall mean the body which, in conjunction with other activities or otherwise, has the task under national laws or regulations of administering and managing the airport facilities and coordinating and controlling

the activities of the various operators present at the airport or within the airport system concerned;

(k) "series of slots" shall mean at least five slots having been requested for the same time on the same day of the week regularly in the same scheduling period and allocated in that way or, if that is not possible, allocated at approximately the same time;

(l) "business aviation" shall mean that sector of general aviation which concerns the operation or use of aircraft by companies for the carriage of passengers or goods as an aid to the conduct of their business, where the aircraft are flown for purposes generally considered not for public hire and are piloted by individuals having, at a minimum, a valid commercial pilot license with an instrument rating;

(m) "coordination parameters" shall mean the expression in operational terms of all the capacity available for slot allocation at an airport during each coordination period, reflecting all technical, operational and environmental factors that affect the performance of the airport infrastructure and its different sub-systems.'

3. Article 3 is amended as follows:

(a) Paragraph 1 shall be replaced by the following:

'(1) (a) A Member State shall be under no obligation to designate any airport as schedules facilitated or coordinated save in accordance with the provisions of this Article.

(b) A Member State shall not designate an airport as coordinated save in accordance with the provisions of paragraph 3.'

(b) In Paragraph 2 the term 'coordinated airport' shall be replaced by 'schedules facilitated airport'.

(c) Paragraph 3 shall be replaced by the following:

'3. The Member State responsible shall ensure that a thorough capacity analysis is carried out at an airport with no designation status or at a schedules facilitated airport by the managing body of that airport or by any other competent body when that Member State considers it necessary, or within six months:

(i) following a written request from air carriers representing more than half of the operations at an airport or from the managing body of the airport

when either considers that capacity is insufficient for actual or planned operations at certain periods; or

- (ii) upon request from the Commission, in particular where an airport is in reality accessible only for air carriers that have been allocated slots or where air carriers and in particular new entrants encounter serious problems in securing landing and take off possibilities at the airport in question.

This analysis, based on commonly recognised methods, shall determine any shortfall in capacity, taking into account environmental constraints at the airport in question. The analysis shall consider the possibilities of overcoming such shortfall through new or modified infrastructure, operational changes, or any other change, and the time frame envisaged to resolve the problems. It shall be updated if paragraph 5 has been invoked, or when there are changes at the airport influencing significantly its capacity and capacity usage. Both the analysis and the method used shall be made available to the parties having requested the analysis and, upon request, to other interested parties. The analysis shall be communicated to the Commission at the same time.'

- (d) Paragraph 4 shall be replaced by the following paragraphs:

'4. On the basis of the analysis, the Member State shall consult on the capacity situation at the airport with the managing body of the airport, the air carriers using the airport regularly, their representative organisations, representatives of general aviation using the airport regularly and air traffic control authorities.

5. Where capacity problems occur for at least one scheduling period, the Member State shall ensure that the airport is designated as coordinated for the relevant periods only if:

- (a) the shortfall is of such a serious nature that significant delays cannot be avoided at the airport, and
- (b) there are no possibilities of resolving these problems in the short term.

6. By way of derogation from paragraph 5, Member States may, in exceptional circumstances, designate as coordinated the airports affected for the appropriate period.'

- (e) The present paragraph 5 shall become paragraph 7 and the term 'fully coordinated airport' shall be replaced by 'coordinated airport'.

4. Article 4 shall be amended as follows:

- (a) The title shall be replaced by the following: 'The schedules facilitator and the coordinator'.

- (b) Paragraphs 1 to 6 shall be replaced by the following:

'(1) The Member State responsible for a schedules facilitated or coordinated airport shall ensure the appointment of a qualified natural or legal person as schedules facilitator or airport coordinator respectively after having consulted the air carriers using the airport regularly, their representative organisations and the managing body of the airport and the coordination committee, where such a committee exists. The same schedules facilitator or coordinator may be appointed for more than one airport.

(2) The Member State responsible for a schedules facilitated or coordinated airport shall ensure:

- (a) that at a schedules facilitated airport, the schedules facilitator acts under this Regulation in an independent, neutral, non-discriminatory and transparent manner;

- (b) the independence of the coordinator at a coordinated airport by separating the coordinator functionally from any single interested party. The system of financing the coordinators' activities shall be such as to guarantee the coordinator's independent status;

- (c) that the coordinator acts according to this Regulation in a neutral, non-discriminatory and transparent way.

3. The schedules facilitator and the coordinator shall participate in such international scheduling conferences of air carriers as are permitted by Community law.

4. The schedules facilitator shall advise air carriers and recommend alternative arrival and/or departure times when congestion is likely to occur.

5. The coordinator shall be the sole person responsible for the allocation of slots. He shall allocate the slots in accordance with the provisions of this Regulation and shall make provision so that, in an emergency, slots can also be allocated outside office hours.

6. The schedules facilitator shall monitor the conformity of air carriers' operations with the schedules recommended to them. The coordinator shall monitor the conformity of air carriers' operations with the slots allocated to them. These conformity checks shall be carried out in cooperation with the managing body of the airport and with the air traffic control

authorities and shall take into account the time and other relevant parameters relating to the airport concerned. The coordinator shall submit on request to the Member States concerned and to the Commission an annual activity report, concerning, in particular, the application of Articles 8a and 14, as well as any complaints regarding the application of Articles 8 and 10 submitted to the coordination committee and the steps taken to resolve them.

7. All schedules facilitators and coordinators shall cooperate to detect inconsistencies in schedules.'

- (c) The present paragraph 7 shall become paragraph 8 and the introductory wording shall be replaced by the following:

'The coordinator shall on request and within a reasonable time make available free of charge for review to interested parties, in particular to members or observers of the coordination committee, either in written form or in any other easily accessible form, the following information:'

- (d) The present paragraph 8 shall become paragraph 9 and shall be replaced by the following:

'9. The information referred to in paragraph 8 shall be made available at the latest at the time of the relevant scheduling conferences and as appropriate during the conferences and thereafter. On request, the coordinator shall provide such information in a summarised format. A cost-related fee may be charged for the provision of such summarised information.'

- (e) The following paragraph shall be added:

'10. Where relevant and generally accepted schedules information standards are available, the schedules facilitator, the coordinator and the air carriers shall apply them provided that they comply with Community law.'

5. Articles 5 to 9 shall be replaced by the following:

'Article 5

#### **Coordination committee**

1. At a coordinated airport, the Member State responsible shall ensure that a coordination committee is set up. The same coordination committee may be designated for more than one airport. Membership of this committee shall be open at least to the air carriers using

the airport(s) in question regularly and their representative organisations, the managing body of the airport concerned, the relevant air traffic control authorities and the representatives of general aviation using the airport regularly.

The tasks of the coordination committee shall be:

- (a) to make proposals concerning or advise the coordinator and/or the Member State on:

- the possibilities for increasing the capacity of the airport determined in accordance with Article 3 or for improving its usage;
- the coordination parameters to be determined in accordance with Article 6;
- the methods of monitoring the use of allocated slots;
- local guidelines for the allocation of slots or the monitoring of the use of allocated slots, taking into account, inter alia, possible environmental concerns, as provided for in Article 8(5);
- improvements to traffic conditions prevailing at the airport in question;
- serious problems encountered by new entrants, as provided for in Article 10(9);
- all questions relating to the capacity of the airport;

- (b) to mediate between all parties concerned on complaints on the allocation of slots, as provided for in Article 11.

2. Member State representatives and the coordinator shall be invited to the meetings of the coordination committee as observers.

3. The coordination committee shall draw up written rules of procedure covering, inter alia participation, elections, the frequency of meetings, and language(s) used. Any member of the coordination committee may propose local guidelines as provided for in Article 8(5). At the request of the coordinator, the coordination committee shall discuss suggested local guidelines for the allocation of slots as well as those suggested for the monitoring of the use of allocated slots. A report of the discussions in the coordination committee shall be submitted to the Member State concerned with an indication of the respective positions stated within the committee.

*Article 6***Coordination parameters**

1. At a coordinated airport the Member State responsible shall ensure the determination of the parameters for slot allocation twice yearly, while taking account of all relevant technical, operational and environmental constraints as well as any changes thereto.

This exercise shall be based on an objective analysis of the possibilities of accommodating the air traffic, taking into account the different types of traffic at the airport, the airspace congestion likely to occur during the coordination period and the capacity situation.

The parameters shall be communicated to the airport coordinator in good time before the initial slot allocation takes place for the purpose of scheduling conferences.

2. For the purpose of the exercise referred to in paragraph 1, where the Member State does not do so, the coordinator shall define relevant coordination time intervals after consultation of the coordination committee and in conformity with the established capacity.

3. The determination of the parameters and the methodology used as well as any changes thereto shall be discussed in detail within the coordination committee with a view to increasing the capacity and number of slots available for allocation, before a final decision on the parameters for slot allocation is taken. All relevant documents shall be made available on request to interested parties.

*Article 7***Information for schedules facilitators and coordinators**

1. Air carriers operating or intending to operate at a schedules facilitated or coordinated airport shall submit to the schedules facilitator or coordinator respectively all relevant information requested by them. All relevant information shall be provided in the format and within the time-limit specified by the schedules facilitator or coordinator. In particular, an air carrier shall inform the coordinator, at the time of the request for allocation, whether it would benefit from the status of new entrant, in accordance with Article 2(b), in respect of requested slots.

For all other airports with no particular designation status, the managing body of the airport shall provide, when

requested by a coordinator, any information in its possession about the planned services of air carriers.

2. Where an air carrier fails to provide the information referred to in paragraph 1, unless it can satisfactorily demonstrate that mitigating circumstances exist, or provides false or misleading information, the coordinator shall not take into consideration the slot request or requests by that air carrier to which the missing, false or misleading information relates. The coordinator shall give that air carrier the opportunity to submit its observations.

3. The schedules facilitator or the coordinator, the managing body of the airport and the air traffic control authorities shall exchange all the information they require for the exercise of their respective duties, including flight data and slots.

*Article 8***Process of slot allocation**

1. Series of slots are allocated from the slot pool to applicant carriers as permissions to use the airport infrastructure for the purpose of landing or take-off for the scheduling period for which they are requested, at the expiry of which they have to be returned to the slot pool as set up according to the provisions of Article 10.

2. Without prejudice to Articles 7, 8a, 9, 10(1) and 14, paragraph (1) of this Article shall not apply when the following conditions are satisfied:

- a series of slots has been used by an air carrier for the operation of scheduled and programmed non-scheduled air services, and
- that air carrier can demonstrate to the satisfaction of the coordinator that the series of slots in question has been operated, as cleared by the coordinator, by that air carrier for at least 80 % of the time during the scheduling period for which it has been allocated.

In such case that series of slots shall entitle the air carrier concerned to the same series of slots in the next equivalent scheduling period, if requested by that air carrier within the time-limit referred to in Article 7(1).

3. Without prejudice to Article 10(2), in a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, preference shall

be given to commercial air services and in particular to scheduled services and programmed non-scheduled air services. In the case of competing requests within the same category of services, priority shall be given for year round operations.

4. Re-timing of series of slots before the allocation of the remaining slots from the pool referred to in Article 10 to the other applicant air carriers shall be accepted only for operational reasons or if slot timings of applicant air carriers would be improved in relation to the timings initially requested. It shall not take effect prior to the express confirmation by the coordinator.

5. The coordinator shall also take into account additional rules and guidelines established by the air transport industry world-wide or Community-wide as well as local guidelines proposed by the coordination committee and approved by the Member State or any other competent body responsible for the airport in question, provided that such rules and guidelines do not affect the independent status of the coordinator, comply with Community law and aim at improving the efficient use of airport capacity. These rules shall be communicated by the Member State in question to the Commission.

6. If a requested slot cannot be accommodated, the coordinator shall inform the requesting air carrier of the reasons therefor and shall indicate the nearest available alternative slot.

7. The coordinator shall, in addition to the planned slot allocation for the scheduling period, endeavour to accommodate single slot requests with short notice for any type of aviation, including general aviation. To this end, slots remaining in the pool referred to in Article 10 after distribution among the applicant carriers and slots available at short notice may be used.

#### Article 8a

#### Slot mobility

1. Slots may be:

(a) transferred by an air carrier from one route or type of service to another route or type of service operated by that same air carrier;

(b) transferred:

(i) between parent and subsidiary companies, and between subsidiaries of the same parent company,

(ii) as part of the acquisition of control over the capital of an air carrier,

(iii) in the case of a total or partial take-over when the slots are directly related to the air carrier taken over;

(c) exchanged, one for one, between air carriers.

2. The transfers or exchanges referred to in paragraph 1 shall be notified to the coordinator and shall not take effect prior to the express confirmation by the coordinator. The coordinator shall decline to confirm the transfers or exchanges if they are not in conformity with the requirements of this Regulation and if the coordinator is not satisfied that:

(a) airport operations would not be prejudiced, taking into account all technical, operational and environmental constraints;

(b) limitations imposed according to Article 9 are respected;

(c) a transfer of slots does not fall within the scope of paragraph 3.

3. (a) Slots allocated to a new entrant as defined in Article 2(b) may not be transferred as provided for in paragraph 1(b) of this Article for a period of two equivalent scheduling periods, except in the case of a legally authorised takeover of the activities of a bankrupt undertaking.

(b) Slots allocated to a new entrant as defined in Article 2(b)(ii) and (iii) may not be transferred to another route as provided for in paragraph 1(a) of this Article for a period of two equivalent scheduling periods unless the new entrant would have been treated with the same priority on the new route as on the initial route.

(c) Slots allocated to a new entrant as defined in Article 2(b) may not be exchanged as provided for in paragraph 1(c) of this Article for a period

of two equivalent scheduling periods, except in order to improve the slot timings for these services in relation to the timings initially requested.

#### Article 8b

#### Exclusion of compensation claims

The entitlement to series of slots referred to in Article 8(2) shall not give rise to any claims for compensation in respect of any limitation, restriction or elimination thereof imposed under Community law, in particular in application of the rules of the Treaty relating to air transport. This Regulation shall not affect the powers of public authorities to require the transfer of slots between air carriers and to direct how these are allocated pursuant to national competition law or to Articles 81 or 82 of the Treaty or Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (\*). These transfers can only take place without monetary compensation.

#### Article 9

#### Public service obligations

1. Where public service obligations have been imposed on a route in accordance with Article 4 of Regulation (EEC) No 2408/92, a Member State may reserve at a coordinated airport the slots required for the operations envisaged on that route. If the reserved slots on the route concerned are not used, they shall be made available to any other air carrier interested in operating the route in accordance with the public service obligations, subject to paragraph 2. If no other carrier is interested in operating the route and the Member State concerned does not issue a call for tenders under Article 4(1)(d) of Regulation (EEC) No 2408/92, the slots shall either be reserved for another route subject to public service obligations or be returned to the pool.

2. The tender procedure established in Article 4(1)(d) to (g) and 4(1)(i) of Regulation (EEC) No 2408/92 shall be applied for the use of the slots referred to in paragraph 1 above if more than one Community air carrier is interested in serving the route and has not been able to obtain slots within one hour before or after the times requested from the coordinator.

(\* ) OJ L 395, 30.12.1989, p. 1. Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p. 1).'

6. Article 10 is replaced by the following:

#### 'Article 10

#### Slot pool

1. The coordinator shall set up a pool, which shall contain all the slots not allocated on the basis of Article 8(2) and 8(4). All new slot capacity determined pursuant to Article 3(3) shall be placed in the pool.

2. A series of slots that has been allocated to an air carrier for the operation of a scheduled or a programmed non-scheduled air service shall not entitle that air carrier to the same series of slots in the next equivalent scheduling period if the air carrier cannot demonstrate to the satisfaction of the coordinator that they have been operated, as cleared by the coordinator, by that air carrier for at least 80 % of the time during the scheduling period for which they have been allocated.

3. Slots allocated to an air carrier before 31 January for the following summer season, or before 31 August for the following winter season, but which are returned to the coordinator for reallocation before those dates shall not be taken into account for the purposes of the usage calculation.

4. If the 80 % usage of the series of slots cannot be demonstrated, all the slots constituting that series shall be placed in the slot pool, unless the non-utilisation can be justified on the basis of any of the following reasons:

(a) unforeseeable and unavoidable circumstances outside the air carrier's control leading to:

— grounding of the aircraft type generally used for the air service in question;

— closure of an airport or airspace;

— serious disturbance of operations at the airports concerned, including those series of slots at other Community airports related to routes which have been affected by such disturbance, during a substantial part of the relevant scheduling period;

(b) interruption of air services due to action intended to affect these services which makes it practically and/or technically impossible for the air carrier to carry out operations as planned;

- (c) serious financial damage for a Community air carrier concerned, with, as a result, the granting of a temporary license by the licensing authorities pending financial reorganisation of the air carrier in accordance with Article 5(5) of Regulation (EEC) No 2407/92;
- (d) judicial proceedings concerning the application of Article 9 for routes where public service obligations have been imposed according to Article 4 of Regulation (EEC) No 2408/92 resulting in the temporary suspension of the operation of such routes.

5. At the request of a Member State or on its own initiative the Commission shall examine the application of paragraph 4 by the coordinator of an airport falling within the scope of this Regulation.

It shall take a decision within two months of receipt of the request in accordance with the procedure referred to in Article 13(2).

6. Without prejudice to Article 8(2) of this Regulation and without prejudice to Article 8(1) of Regulation (EEC) No 2408/92, slots placed in the pool shall be distributed among applicant air carriers. 50 % of these slots shall first be allocated to new entrants unless requests by new entrants are less than 50 %. The coordinator shall treat the requests of new entrants and other carriers fairly, in accordance with the coordination periods of each scheduling day.

Among requests from new entrants, preference shall be given to air carriers qualifying for new entrant status under both Article 2(b)(i) and (ii) or Article 2(b)(i) and (iii).

7. A new entrant which has been offered a series of slots within one hour before or after the time requested but has not accepted this offer shall not retain its new entrant status for that scheduling period.

8. In the case of services operated by a group of air carriers, only one of the participating air carriers can apply for the required slots. The air carrier operating such a service assumes responsibility for meeting the operating criteria required to maintain historical precedence referred to in Article 8(2).

Slots allocated to one air carrier may be used by (an)other air carrier(s) participating in a joint operation, provided that the designator code of the air carrier to whom the

slots are allocated remains on the shared flight for coordination and monitoring purposes. Upon discontinuation of such operations, the slots so used will remain with the air carrier to whom they were initially allocated. Air carriers involved in shared operations shall advise coordinators of the detail of such operations prior to the beginning of such operations.

9. If serious problems continue to exist for new entrants, the Member State shall ensure that a meeting of the airport coordination committee is convened. The purpose of the meeting shall be to examine possibilities for remedying the situation. The Commission shall be invited to that meeting.'

7. Article 11 shall be replaced by the following:

*'Article 11*

### **Complaints and rights of appeal**

1. Without prejudice to rights of appeal under national law, complaints regarding the application of Articles 7(2), 8, 8a, 10 and 14(1) to (4) and (6) shall be submitted to the coordination committee. The committee shall, within a period of one month following submission of the complaint, consider the matter and if possible make proposals to the coordinator in an attempt to resolve the problem. If the complaint cannot be settled, the Member State responsible may, within a further two month period, provide for mediation by an air carriers' or airports' representative organisation or other third party.

2. Member States shall take appropriate measures, in accordance with national law, to protect coordinators with regard to claims for damages relating to their functions under this Regulation, save in cases of gross negligence or wilful misconduct.'

8. In Article 12, the title and paragraph 1 shall be replaced by the following:

### **'Relations with third countries**

1. Whenever it appears that, with respect to the allocation and use of slots at its airports, a third country:

- (a) does not grant Community air carriers treatment comparable to that granted by this Regulation to air carriers from that country, or

- (b) does not grant Community air carriers de facto national treatment, or
- (c) grants air carriers from other third countries more favourable treatment than Community air carriers,

the Commission may, in accordance with the procedure referred to in Article 13(2), decide that a Member State or Member States shall take measures, including the suspension in whole or in part of the application of this Regulation in respect of an air carrier or air carriers of that third country with a view to remedying the discriminatory behaviour of the third country concerned.'

establishing itself and place them in the pool on 31 January for the following summer season or on 31 August for the following winter season if the undertaking does not hold an operating licence or equivalent on that date or if it is not stated by the competent licensing authority that it is likely that an operating licence or equivalent will be issued before the relevant scheduling period commences.

3. The coordinator shall withdraw and place in the pool the series of slots of an air carrier, which it has received following an exchange pursuant to Article 8a(1)(c) if they have not been used as intended.

4. Air carriers that repeatedly and intentionally operate air services at a time significantly different from the allocated slot as part of a series of slots or uses slots in a significantly different way from that indicated at the time of allocation and thereby cause prejudice to airport or air traffic operations shall lose their status as referred to in Article 8(2). The coordinator may decide to withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool after having heard the air carrier concerned and after issuing a single warning.

5. Member States shall ensure that effective, proportionate and dissuasive sanctions or equivalent measures are available to deal with repeated and intentional operation of air services at times significantly different from the allocated slots or with the use of slots in a significantly different way from that indicated at the time of allocation, where this causes prejudice to airport or air traffic operations.

6. (a) Without prejudice to Article 10(4), if the 80 % usage rate as defined in Article 8(2) cannot be achieved by an air carrier, the coordinator may decide to withdraw from that air carrier the series of slots in question for the remainder of the scheduling period and place them in the pool after having heard the air carrier concerned.

(b) Without prejudice to Article 10(4), if after an allotted time corresponding to 20 % of the period of the series validity no slots of that series of slots have been used, the coordinator shall place the series of slots in question in the pool for the remainder of the scheduling period, after having heard the air carrier concerned.

(\*) OJ L 184, 17.7.1999, p. 23.'

9. Articles 13 and 14 shall be replaced by the following:

*'Article 13*

#### **Committee procedure**

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission(\*) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The committee may also be consulted by the Commission on any other matter concerning application of this Regulation.
4. The committee shall adopt its rules of procedure.

*Article 14*

#### **Enforcement**

1. An air carrier's flight plan may be rejected by the competent Air Traffic Management authorities if the air carrier intends to land or take off at a coordinated airport, during the periods for which it is coordinated, without having a slot allocated by the coordinator.
2. The coordinator shall withdraw the series of slots provisionally allocated to an air carrier in the process of

10. The following Article shall be inserted:

*'Article 14a*

**Report and cooperation**

1. The Commission shall submit a report to the European Parliament and the Council on the operation of this Regulation at the latest three years after its entry into force. The report shall address in particular the functioning of Articles 8, 8a and 10.

2. Member States and the Commission shall cooperate in the application of this Regulation, particularly as regards the collection of information for the report mentioned in paragraph 1.'

*Article 2*

1. This Regulation shall enter into force three months after its publication in the *Official Journal of the European Union*.

2. Article 11(2) and Article 14(5) of Regulation (EEC) No 95/93 shall apply from 30 July 2005.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 21 April 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

D. ROCHE

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