

Official Journal

of the European Union

L 58

English edition

Legislation

Volume 50

24 February 2007

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DECISIONS

Council

COUNCIL DECISION

of 12 February 2007

establishing for the period 2007 to 2013, as part of General Programme on Security and Safeguarding Liberties, the Specific Programme 'Prevention, Preparedness and Consequence Management of Terrorism and other Security related risks'

(2007/124/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard and to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission,

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

Whereas:

- (1) Prevention, preparedness and consequence management of terrorism and other security related risks are essential aspects of the protection of people and critical infrastructure within the area of freedom, security and justice.
- (2) The revised European Union Plan of Action on Combating Terrorism as adopted by the European Council of 17-18 June 2004, identified as priority issues, *inter alia*, the prevention and consequence management of terrorist attacks, and the protection of critical infrastructures.
- (3) On 2 December 2004, the Council adopted the revised European Union Solidarity Programme on the Consequences of Terrorist Threats and Attacks, highlighting the

importance of risk and threat assessments, protection of critical infrastructure, mechanisms for the detection and identification of terrorist threats, and the political and operational preparedness and capability for consequence management.

- (4) The Council in December 2005 decided that the European Programme for Critical Infrastructure protection (EPCIP) will be based on an all hazards approach while countering threats from terrorism is regarded as priority. New Counter Terrorism Strategy which contains four strands: Prevent, protect, pursue and respond, was also adopted at December 2005 European Council.
- (5) The Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions, established by Council Decision 2001/792/EC, Euratom ⁽²⁾ of 23 October 2001, addresses immediate response to all major emergencies, but has not been designed specifically for prevention, preparedness and consequence management of terrorist attacks.
- (6) The Hague Programme ⁽³⁾, set up by the European Council in November 2004, has called for integrated and coordinated management of crises within the EU with cross-border effects.

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

⁽²⁾ OJ L 297, 15.11.2001, p. 7.

⁽³⁾ OJ C 53, 3.3.2005, p. 1.

- (7) Within the scope of its competence the Community shall contribute to taking the necessary measures to prevent terrorists from attacking the values of democracy, the rule of law, open society and the freedom of our citizens and societies, and to limit the consequences of any attack wherever possible.
- (8) In the interest of efficacy, cost-efficiency and transparency, the specific efforts on prevention, preparedness and consequence management of terrorism should be streamlined and financed by one single programme.
- (9) With regard to legal certainty and coherence, and to the complementarity with other financial programmes, the terms 'prevention and preparedness', 'consequence management' and 'critical infrastructure' should be defined.
- (10) The primary responsibility for protecting critical infrastructures falls on the Member States, owners, operators and users (users being defined as organisations that exploit and use the infrastructure for business and service provision purposes). Member States authorities will provide leadership and coordination in developing and implementing a nationally consistent approach to the protection of critical infrastructure within their jurisdictions, taking into account existing Community competences. The responsibility for carrying out risk and threat assessments therefore lies primarily with the Member States.
- (11) Commission actions, together with transnational projects where appropriate, are essential to achieve an integrated and coordinated EC approach. In addition, it is useful and appropriate to support projects within Member States to the extent that they can provide useful experience and knowledge for further actions at Community level, in particular risk and threat assessments. In this regard it is appropriate to adopt all hazards approach while considering the terrorist threat as a priority.
- (12) It is also appropriate to provide for third countries and international organisations to participate in transnational projects.
- (13) Complementarity needs to be ensured with other Community and Union programmes such as the European Union Solidarity Fund and the Civil Protection Financial Instrument, the Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions, Seventh Framework Programme for Research, Technological Development and Demonstration Activities and the Structural Funds.
- (14) Since the objectives of this Decision cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or impact of the programme, be better achieved at the Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary to achieve those objectives.
- (15) The expenditure of the programme should be compatible with the ceiling under Heading 3 of the financial framework. It is necessary to foresee flexibility in the definition of the programme to allow for eventual adjustments in any envisaged actions, in order to respond to the evolution of needs in the course of the period 2007-2013. The decision should, therefore, be limited to the generic definition of envisaged actions and their respective administrative and financial arrangements.
- (16) Appropriate measures should also be taken to prevent irregularities and fraud and the necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the Communities' financial interests ⁽¹⁾, (Euratom, EC) No 2185/96 ⁽²⁾ of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽³⁾.
- (17) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾ and Commission Regulation (EC, Euratom) No 2342/2002 ⁽⁵⁾ of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002, which safeguard the Community's financial interests, apply, taking into account the principles of simplicity and consistency in the choice of budgetary instruments, a limitation on the number of cases where the Commission retains direct responsibility for their implementation and management, and the required proportionality between the amount of resources and the administrative burden related to their use.
- (18) 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 ⁽⁶⁾, with a distinction being made between those measures which are subject to the management committee procedure and those which are subject to the advisory committee procedure, the advisory committee procedure being in certain cases, with a view to increased efficiency, the more appropriate.
- ⁽¹⁾ OJ L 312, 23.12.1995, p. 1.
⁽²⁾ OJ L 292, 15.11.1996, p. 2.
⁽³⁾ OJ L 136, 31.5.1999, p. 1.
⁽⁴⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).
⁽⁵⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Commission Regulation (EC, Euratom) No 1248/2006 (OJ L 227, 19.8.2006, p. 3).
⁽⁶⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

(19) The Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community provide for no powers, other than those in Articles 308 and 203, respectively, for adopting this Decision

(20) The European Economic and Social Committee has delivered an opinion ⁽¹⁾.

(21) In order to ensure the effective and timely implementation of the programme, this Decision should apply from 1 January 2007,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

1. This Decision establishes the Specific Programme 'Prevention, Preparedness and Consequence Management of Terrorism and other Security related risks', hereinafter referred to as 'the Programme', in order to contribute to supporting Member States' efforts to prevent, prepare for, and to protect people and critical infrastructure against risks linked with terrorist attacks and other security related risks, as part of the General Programme on Security and Safeguarding Liberties.

2. The Programme shall cover the period from 1 January 2007 to 31 December 2013.

3. This Decision shall not apply to matters that are covered by the Civil Protection Financial Instrument.

Article 2

Definitions

For the purposes of this Decision, the following definitions shall apply:

- (a) 'prevention and preparedness' refers to measures aimed at preventing and/or reducing risks linked to terrorism and other security related risks;
- (b) 'consequence management' refers to the coordination of measures taken in order to react to and to reduce the impact of the effects of a security related incident, in particular resulting from terrorist attacks in order to ensure a smooth coordination of crisis management and security actions;
- (c) 'critical infrastructure' includes in particular those physical resources, services, information technology facilities, networks and infrastructure assets which, if disrupted or destroyed, would have a serious impact on the critical societal functions, including the supply chain, health, safety,

security, economic or social well-being of people or of the functioning of the Community or its Member States.

Article 3

General objectives

1. The Programme shall contribute to support Member States' efforts to prevent, prepare for, and to protect people and critical infrastructure against terrorist attacks and other security related incidents.

2. The Programme is intended to contribute to ensuring protection in the areas such as the crisis management, environment, public health, transport, research and technological development and economic and social cohesion, in the field of terrorism and other security related risks within the area of freedom, security and justice.

Article 4

Specific objectives

1. Within the general objectives, and unless covered by other financial instruments, the Programme shall stimulate, promote and develop measures on prevention, preparedness and consequence management based, *inter alia*, on comprehensive threat and risk assessments, subject to the supervision by the Member States and with due regard to existing Community competence in that matter, and aiming to preventing or reducing risks linked with terrorism and other security related risks.

2. With regard to prevention and preparedness of risks linked with terrorism and other security related risks the Programme aims at protecting people and critical infrastructure, in particular by:

- (a) stimulating, promoting, and supporting risk assessments on critical infrastructure, in order to upgrade security;
- (b) stimulating, promoting, and supporting the development of methodologies for the protection of critical infrastructure, in particular risk assessment methodologies;
- (c) promoting and supporting shared operational measures to improve security in cross-border supply chains, provided that the rules of competition within the internal market are not distorted;
- (d) promoting and supporting the development of security standards, and an exchange of know-how and experience on protection of people and critical infrastructure;
- (e) promoting and supporting Community wide coordination and cooperation on protection of critical infrastructure.

⁽¹⁾ OJ C 65, 17.3.2006, p. 63.

3. With regard to consequence management the Programme aims at:

- (a) stimulating, promoting and supporting exchange of know-how and experience, in order to establish best practices with the view to coordinate the response measures and to achieve cooperation between various actors of crisis management and security actions;
- (b) promoting joint exercises and practical scenarios including security and safety components, in order to enhance coordination and cooperation between relevant actors at the European level.

Article 5

Eligible actions

1. With a view to pursuing the general and specific objectives set out in Articles 3 and 4, the Programme shall provide under the conditions set out in the annual work programme financial support for the following types of action:

- (a) projects initiated and managed by the Commission with a European dimension;
- (b) transnational projects, which shall involve partners in at least two Member States, or at least one Member State and one other country which may either be an acceding or a candidate country;
- (c) national projects within Member States, which:
 - (i) prepare transnational projects and/or Community actions ('starter measures');
 - (ii) complement transnational projects and/or Community actions ('complementary measures');
 - (iii) contribute to developing innovative methods and/or technologies with a potential for transferability to actions at Community level, or develop such methods or technologies with a view to transferring them to other Member States and/or other country which may either be an acceding or a candidate country.
- 2. In particular, financial support may be provided for
 - (a) actions on operational cooperation and coordination (strengthening networking, mutual confidence and understanding, development of contingency plans, exchange and dissemination of information, experience and best practice);
 - (b) analytical, monitoring, evaluation and audit activities;
 - (c) development and transfer of technology and methodology, particularly regarding information sharing and inter-operability;
 - (d) training, exchange of staff and experts; and

- (e) awareness and dissemination activities.

Article 6

Access to the Programme

1. Access to the Programme shall be opened to bodies and organisations with legal personality established in the Member States. Bodies and organisations which are profit oriented shall have access to grants only in conjunction with non-profit oriented or State organisations. Non-governmental organisations may apply for funding of the projects referred to in Article 5(2) provided that they ensure sufficient level of confidentiality.

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

Article 7

Types of intervention

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

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

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

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

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

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

Article 8

Implementing measures

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

2. To implement the Programme, the Commission shall, within the limits of the general objectives defined in Article 3, adopt an annual work programme, by the end of September specifying its

specific objectives, thematic priorities, a description of accompanying measures envisaged in Article 7(3) and if necessary a list of other actions.

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

3. The annual work programme shall be adopted in accordance with the procedure referred to in Article 9(3).

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

- (a) conformity with the annual work programme, the general objectives as specified in Article 3 and measures taken in the different domains as specified in Articles 4 and 5;
- (b) quality of the proposed action regarding its conception, organisation, presentation and expected results;
- (c) amount requested for community financing and its appropriateness as to expected results;
- (d) impact of the expected results on the general objectives defined in Article 3 and on measures taken in the different domains as specified in Articles 4 and 5.

5. Decisions related to actions submitted under Article 5(1)(a) shall be adopted by the Commission in accordance with the management procedure referred to in Article 9(3). Decisions related to actions submitted under Article 5(1)(b) and (c) shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 9(2).

Decisions on applications for grants involving profit-oriented bodies or organisations shall be adopted by the Commission in accordance with the management procedure referred to in Article 9(3).

Article 9

Committee

1. The Commission shall be assisted by a committee (hereinafter referred to as the Committee).
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
3. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

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

4. The Committee shall adopt its rules of procedure.

Article 10

Complementarity

1. Synergies, consistency and complementarity shall be sought with other Union and Community instruments, *inter alia*, with the specific programmes 'Prevention of and Fight against Crime' and 'Criminal Justice', the Seventh Framework Programme for Research, Technological Development and Demonstration Activities, the European Union Solidarity Fund and the Civil Protection Financial Instrument.

2. The Programme may share resources with other Community and Union instruments, in particular the 'Prevention of and Fight against Crime' programme, in order to implement actions meeting the objectives of both the Programme and other Community/Union instruments.

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

Article 11

Budgetary resources

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

Article 12

Monitoring

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

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

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

4. On the basis of the results of the reports and on-the-spot checks referred to in paragraphs 1 and 2, the Commission shall ensure that, if necessary, the scale or the conditions of allocation

of the financial support originally approved and also the timetable for payments is adjusted.

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

Article 13

Protection of Community financial interests

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

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

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

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

5. The Commission shall ensure that any undue payment is repaid to the Commission. Interest shall be added to any sums

not repaid in good time under the conditions laid down by the Financial Regulation.

Article 14

Evaluation

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

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

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

- (a) an annual presentation on the implementation of the Programme;
- (b) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of the Programme no later than 31 March 2010;
- (c) a communication on the continuation of the Programme no later than 31 December 2010;
- (d) an *ex-post* evaluation report no later than 31 March 2015.

Article 15

Publication of projects

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

Article 16

Taking of effect and application

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

It shall apply from 1 January 2007.

Done at Brussels, 12 February 2007.

For the Council

The President

F.-W. STEINMEIER

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL DECISION

of 12 February 2007

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

(2007/125/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

Whereas:

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

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

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

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

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

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

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

⁽²⁾ OJ C 53, 3.3.2005, p. 1.

⁽³⁾ OJ L 153, 8.6.2001, p. 1.

⁽⁴⁾ OJ L 203, 1.8.2002, p. 5.

- (9) As crime crosses borders, it is appropriate to allow third countries and international organisations to participate in transnational projects.
- (10) Complementarity needs to be ensured regarding other Union and Community programmes, such as the Seventh Framework Programme for Research, Technological Development and Demonstration Activities, the European Union Solidarity Fund, the Civil Protection Financial Instrument and the Structural Funds.
- (11) Since the objectives of this Decision, particularly the prevention of and the fight against organised and transborder crime, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or impact of the programme, be better achieved at the level of European Union, the Council may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty establishing the European Community, made applicable to the Union by Article 2 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in Article 5 of the Treaty establishing the European Community, this Decision does not go beyond what is necessary to achieve those objectives.
- (12) In accordance with Article 41(3) of the Treaty on European Union, the operating expenditure should be financed by the general budget of the European Union under Title VI.
- (13) The expenditure of the programme should be compatible with the ceiling under Heading 3 of the financial framework. It is necessary to foresee flexibility in the definition of the programme to allow for eventual adjustments in any envisaged actions, in order to respond to the evolution of needs in the course of the period 2007-2013. The decision should, therefore, be limited to the generic definition of envisaged actions and their respective administrative and financial arrangements.
- (14) The measures required to implement this Decision should be adopted according to the procedures laid down in it, with the assistance of a committee.
- (15) Appropriate measures should also be taken to prevent irregularities and fraud and the necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the Communities' financial interests ⁽¹⁾, (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission ⁽²⁾ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽³⁾.
- (16) Council Regulation (EC, Euratom) 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾ and Commission Regulation (EC, Euratom) 2342/2002 ⁽⁵⁾ of 23 December 2002 laying down detailed rules for the implementation of Council Regulation 1605/2002, which safeguard the Community's financial interests, applies taking into account the principles of simplicity and consistency in the choice of budgetary instruments, a limitation on the number of cases where the Commission retains direct responsibility for their implementation and management, and the required proportionality between the amount of resources and the administrative burden related to their use.
- (17) It is appropriate to replace Decision 2002/630/JHA from 1 January 2007 by this Decision and by Decision establishing the Specific Programme 'Criminal Justice'.
- (18) In order to ensure the effective and timely implementation of the programme, this Decision should apply from 1 January 2007,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

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

Article 2

General objectives

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

⁽⁴⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

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

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽²⁾ OJ L 292, 15.11.1996, p. 2.

⁽³⁾ OJ L 136, 31.5.1999, p. 1.

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

1. The Programme shall consist of four themes:

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

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

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

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

*Article 4***Eligible actions**

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

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

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

(c) national projects within Member States, which:

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

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

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

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

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

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

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

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

Article 6

Types of intervention

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

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

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

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

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

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

Article 7

Implementing measures

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

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

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

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

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

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

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

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

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

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

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

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

Article 8

Committee

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

2. The Committee shall adopt its rules of procedure.

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

Article 9

Advisory procedure

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

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

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

Article 10

Management procedure

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

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

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

Article 11

Complementarity

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

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

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

Article 12

Budgetary resources

The budgetary resources allocated to the actions provided for in the Programme shall be entered in the annual appropriations of

the general budget of the European Union. The available annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

Article 13

Monitoring

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

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

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

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

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

Article 14

Protection of Community financial interests

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

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

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

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

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

Article 15

Evaluation

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

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

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

- (a) an annual presentation on the implementation of the Programme;
- (b) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of the Programme no later than 31 March 2010;

(c) a communication on the continuation of the Programme no later than 31 December 2010;

(d) an *ex-post* evaluation report no later than 31 March 2015.

Article 16

Publication of projects

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

Article 17

Transitional provisions

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

2. Actions started before 31 December 2006 pursuant to Decision 2002/630/JHA shall continue to be governed, until their completion, by that Decision.

Article 18

Taking of effect and application

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

It shall apply from 1 January 2007.

Done at Brussels, 12 February 2007.

For the Council

The President

F.-W. STEINMEIER

COUNCIL DECISION

of 12 February 2007

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

(2007/126/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal of the Commission,

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

Whereas:

- (1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the field of judicial cooperation in criminal matters.
- (2) According to Article 31 of the Treaty on European Union, common action in criminal matters shall include, in particular, cooperation between the competent authorities of the Member States.
- (3) Building on the conclusions of the Tampere European Council, The Hague Programme, adopted by the European Council in November 2004, reaffirms the priority of strengthening Freedom, Security and Justice in the European Union, in particular by enhancing judicial cooperation in criminal matters, based on the mutual recognition principle.
- (4) The framework programme established by Council Decision 2002/630/JHA of 22 July 2002 establishing a framework programme on police and judicial cooperation in criminal matters (AGIS) ⁽²⁾ has contributed considerably to strengthening cooperation between police and other law enforcement agencies and the judiciary in the Member States and to improving mutual understanding and mutual trust between their police, judicial, legal and administrative systems.
- (5) The ambitious objectives set by the Treaty on European Union and The Hague Programme should be realised through the establishment of a flexible and effective programme that will facilitate planning and implementation.
- (6) The programme should improve mutual confidence within the judiciary. Mutual confidence, according to the Hague Programme, should be strengthened by developing

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

- (7) The programme should also facilitate the implementation of the mutual recognition principle by improving mutual knowledge on previous convictions passed in the European Union, in particular through the creation of a computerised system of exchange of information on criminal records.
- (8) The European Judicial Training Network founded by institutions specifically responsible for the training of the professional judiciary of all Member States promotes a training programme for judges and public prosecutors with a genuine European dimension. This contributes to strengthening the mutual confidence and improves mutual understanding between judicial authorities and different legal systems.
- (9) Since the objectives of this Decision cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the programme, be better achieved at the level of European Union, the Council may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty establishing the European Community, made applicable to the Union by Article 2 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in Article 5 of the Treaty establishing the European Community, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (10) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾, hereinafter 'the Financial Regulation', and Commission Regulation (EC, Euratom) No 2342/2002 ⁽⁴⁾ of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002, which safeguard the Community's financial interests, applies taking into account the principles of simplicity and consistency in the choice of budgetary instruments, a

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

⁽²⁾ OJ L 203, 1.8.2002, p. 1.

⁽³⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

⁽⁴⁾ OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Commission Regulation (EC, Euratom) No 1248/2006 (OJ L 227, 19.8.2006, p. 3).

limitation on the number of cases where the Commission retains direct responsibility for their implementation and management, and the required proportionality between the amount of resources and the administrative burden related to their use.

- (11) Appropriate measures should also be taken to prevent irregularities and fraud and the necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the Communities' financial interests ⁽¹⁾, (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission ⁽²⁾ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) ⁽³⁾.
- (12) The Financial Regulation requires a basic act to be adopted to cover operating grants.
- (13) The measures required to implement this Decision should be adopted according to the procedures laid down in it, with the assistance of a committee.
- (14) It is appropriate to replace Decision 2002/630/JHA from 1 January 2007 by this Decision and by Decision establishing the Specific Programme 'Prevention of and Fight against Crime'.
- (15) In order to ensure the effective and timely implementation of the programme, this Decision should apply from 1 January 2007,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

1. This Decision establishes the Specific Programme 'Criminal Justice', hereinafter referred to as 'the Programme', as part of the General Programme on Fundamental Rights and Justice, in order to contribute to the strengthening of the area of Freedom, Security and Justice.

2. The Programme shall cover the period from 1 January 2007 to 31 December 2013.

Article 2

General objectives

- 1. The Programme shall have the following general objectives:
 - (a) to promote judicial cooperation with the aim of contributing to the creation of a genuine European area of justice in criminal matters based on mutual recognition and mutual confidence;

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

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

Article 3

Specific objectives

The Programme shall have the following specific objectives:

- (a) to foster judicial cooperation in criminal matters aiming at:
 - (i) promoting mutual recognition of judicial decisions and judgments;
 - (ii) eliminating obstacles created by disparities between the judicial systems of Member States and promoting the necessary approximation of substantive criminal law concerning serious crime, in particular with cross border dimension;
 - (iii) further enhancing the establishment of minimum standards concerning aspects of procedural criminal law with the view to promoting the practical aspects of judicial cooperation;
 - (iv) guaranteeing a proper administration of justice by avoiding conflicts of jurisdiction;
 - (v) improving the exchange of information, through the use of computerised systems, in particular information extracted from national criminal records;
 - (vi) promoting rights of the accused as well as social and legal assistance to victims;

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

⁽²⁾ OJ L 292, 15.11.1996, p. 2.

⁽³⁾ OJ L 136, 31.5.1999, p. 1.

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

Article 5

Target groups

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

Article 6

Access to the Programme

1. Access to the Programme shall be open to institutions and public or private organisations, including professional organisations, universities, research institutes and legal and judicial training/further training institutes for legal practitioners, non-governmental organisations of the Member States. Bodies and organisations which are profit oriented shall have access to the Programme only in conjunction with non profit oriented or state organisations.

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

Article 4

Eligible actions

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

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

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

Article 7

Types of intervention

1. Community funding may take the following legal forms:

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

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

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

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

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

Article 8

Implementing measures

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

2. To implement the Programme, the Commission shall, within the limits of the general objectives set out in Article 2, adopt an annual work programme, by the end of September specifying its specific objectives, thematic priorities, a description of accompanying measures envisaged in Article 7(3) and if necessary a list of other actions.

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

3. The annual work programme shall be adopted in accordance with the management procedure laid down in Article 11.

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

- (a) conformity with the annual work programme, the general objectives as specified in Article 2 and measures taken in the different domains as specified in Articles 3 and 4;

(b) quality of the proposed action regarding its conception, organisation, presentation and expected results;

(c) amount requested for community financing and its appropriateness as to expected results;

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

5. The applications for operating grants, referred to in Article 4 (c) and (d), shall be assessed in the light of:

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

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

Decisions on applications for grants involving profit-oriented bodies or organisations shall be adopted by the Commission in accordance with the management procedure laid down in Article 11.

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

Article 9

Committee

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

2. The Committee shall adopt its Rules of Procedure.

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

Article 10

Advisory procedure

1. Where reference is made to this Article, the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chair may lay down according to the urgency of the matter, if necessary by taking a vote.
2. The opinion shall be recorded in the minutes; each Member State may request that its position be recorded in the minutes.
3. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which the opinion has been taken into account.

Article 11

Management procedure

1. Where reference is made to this Article, the representative of the Commission shall submit to the committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chair may lay down according to the urgency of the matter. In the case of decisions which the Council is required to adopt on a proposal from the Commission, the opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty establishing the European Community. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chair shall not vote.
2. The Commission shall adopt measures which shall apply immediately. However, if the measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of three months from the date of such communication.
3. The Council, acting by qualified majority, may take a different decision within the period provided for by paragraph 2.

Article 12

Complementarity

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

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

Article 13

Budgetary resources

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

Article 14

Monitoring

1. The Commission shall ensure that for any action financed by the Programme, the beneficiary submits technical and financial reports on the progress and that a final report is submitted within three months of the completion of the action. The Commission shall determine the form and structure of the reports.
2. The Commission shall ensure that the contracts and agreements resulting from the implementation of the Programme provide in particular for supervision and financial control by the Commission (or any representative authorised by it), if necessary by means of on-the-spot checks, including sample checks, and audits by the Court of Auditors.
3. The Commission shall ensure that for a period of five years following the last payment in respect of any action, the beneficiary of financial assistance keeps available for the Commission all the supporting documents regarding expenditure on the action.
4. On the basis of the results of the reports and on-the-spot checks referred to in paragraphs 1 and 2, the Commission shall ensure that, if necessary, the scale or the conditions of allocation of the financial assistance originally approved and also the timetable for payments is adjusted.
5. The Commission shall ensure that every other step necessary to verify that the actions financed are carried out properly and in compliance with the provisions of this Decision and the Financial Regulation be taken.

Article 15

Protection of Community financial interests

1. The Commission shall ensure that, when actions financed under this Decision are implemented, the financial interests of the Community are protected by the application of measures to prevent fraud, corruption and any other illegal activities, by effective checks and by the recovery of the amounts unduly paid and, if irregularities are detected, by effective, proportional and

dissuasive penalties, in accordance with Regulations (EC, Euratom) No 2988/95, (Euratom, EC) No 2185/96 and (EC) No 1073/1999.

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

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

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

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

Article 16

Evaluation

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

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

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

- (a) an annual presentation on the implementation of the Programme;
- (b) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of the Programme no later than 31 March 2011;
- (c) a communication on the continuation of the Programme no later than 30 August 2012;
- (d) an *ex-post* evaluation report no later than 31 December 2014.

Article 17

Publication of projects

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

Article 18

Transitional provisions

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

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

Article 19

Taking of effect and application

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

It shall apply from 1 January 2007.

Done at Brussels, 12 February 2007.

For the Council

The President

F.-W. STEINMEIER