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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COMMON POSITION adopted by the Council with a view to the adoption of a Decision of the European Parliament and of the Council establishing for the period 2007-2013 a specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme) as part of the General Programme "Fundamental Rights and Justice"

**DECISION No .../.../EC OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL**

of

**establishing for the period 2007-2013 a specific programme
to prevent and combat violence against children, young people
and women and to protect victims and groups at risk**

(Daphne III programme)

as part of the General Programme

"Fundamental Rights and Justice"

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 152 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

¹ OJ C 69, 21.3.2006, p. 1.

² OJ C 192, 16.8.2006, p. 25.

³ Opinion of the European Parliament of 5 September 2006 (not yet published in the Official Journal), Council Common Position of ... (not yet published in the Official Journal) and Position of the European Parliament of 5 September 2006 (not yet published in the Official Journal).

Whereas:

- (1) The Treaty lays down that in the definition and implementation of all Community policies and activities a high level of human health has to be ensured; Article 3(1)(p) thereof requires Community action to include a contribution to the attainment of a high level of health protection.
- (2) Community action should complement national policies directed towards improving public health, obviating sources of danger to human health.
- (3) Physical, sexual and psychological violence against children, young people and women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life, constitute a breach of their right to life, safety, freedom, dignity and physical and emotional integrity and a serious threat to the physical and mental health of the victims of such violence. Such violence, being so widespread throughout the Community, constitutes a genuine violation of fundamental rights, a health scourge and an obstacle to the enjoyment of safe, free and just citizenship.
- (4) The World Health Organization (WHO) defines health as a state of complete physical, mental and social well being and not merely the absence of disease or infirmity. According to a 1996 WHO Assembly resolution, violence is a leading worldwide public health problem. In its report on violence and health of 3 October 2002 WHO recommends promoting primary prevention responses, strengthening responses for victims of violence and increasing collaboration and exchange of information on violence prevention.

- (5) These principles are recognised in numerous conventions, declarations and protocols of the main international organisations and institutions such as the United Nations, the International Labour Organization (ILO) the World Conference on Women and the World Congress against Commercial Sexual Exploitation of Children.
- (6) The fight against violence should be placed within the context of the protection of fundamental rights, as recognised by the Charter of Fundamental Rights of the European Union¹ and the accompanying explanations, bearing in mind its status, which recognises, inter alia, the right to dignity, equality and solidarity. It includes a number of specific articles relating to protection and promotion of physical and mental integrity, equal treatment for men and women, the rights of the child and non-discrimination, as well as recognising the prohibition of inhuman or degrading treatment, slavery and forced labour, and child labour. It recognises that a high level of human health protection is necessary in the definition and implementation of all Community policies and activities.
- (7) The Commission has been called upon by the European Parliament to draw up and implement action programmes to combat such violence, inter alia, in its Resolutions of 19 May 2000 on the communication from the Commission to the Council and the European Parliament: "For further actions in the fight against trafficking in women"²; of 20 September 2001 on female genital mutilation³; of 17 January 2006 on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation⁴; and of 2 February 2006 on the current situation in combating violence against women and any future action⁵.

¹ OJ C 364, 18.12.2000, p. 1.

² OJ C 59, 23.2.2001, p. 307.

³ OJ C 77 E, 28.3.2002, p. 126.

⁴ OJ C 287 E, 24.11.2006, p. 75.

⁵ OJ C 288 E, 25.11.2006, p. 66.

- (8) The Community action programme set up by Decision No 293/2000/EC of the European Parliament and of the Council of 24 January 2000 adopting a programme of Community action ("Daphne programme") (2000 to 2003) on preventive measures to fight violence against children, young people and women¹ has helped to raise awareness within the European Union and to increase and consolidate cooperation between organisations in the Member States active in combating violence.
- (9) The Community action programme set up by Decision No 803/2004/EC of the European Parliament and of the Council of 21 April 2004 adopting a programme of Community action (2004 to 2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk ("Daphne II programme")² further developed the results already achieved by the Daphne programme; according to Article 8(2) of Decision No 803/2004/EC the Commission shall take the necessary steps to ensure the consistency of the annual appropriations with the new financial perspectives.
- (10) It is desirable to ensure continuity for the projects supported by the Daphne and Daphne II programmes.
- (11) It is important and necessary to recognise the serious immediate and long-term implications of violence against children, young people and women for their physical and mental health and for their psychological and social development, as well as for the equal opportunities of those concerned, for individuals, families and communities, and the high social and economic costs to society as a whole.

¹ OJ L 34, 9.2.2000, p. 1.

² OJ L 143, 30.4.2004, p. 1.

- (12) Violence against women takes many forms ranging from domestic violence, which is prevalent at all levels of society, to harmful traditional practices associated with the exercise of physical violence against women, such as genital mutilation and honour-related crimes, which constitute a particular form of violence against women.
- (13) Children, young people or women who witness a near relative being assaulted should be regarded as victims of violence in accordance with the programme established by this Decision ("the programme").
- (14) With regard to the prevention of violence, including abuse and sexual exploitation perpetrated against children, young people and women and the protection of victims and groups at risk, the European Union can bring added value to the actions predominantly to be undertaken by Member States by the following means: the dissemination and exchange of information, experience and good practices; the promotion of an innovative approach; the joint establishment of priorities; the development of networking as appropriate; the selection of Community-wide projects including projects supporting free-phone child helplines and hotlines for missing and sexually exploited children; the motivation and mobilisation of all parties concerned; and Europe-wide awareness-raising campaigns against violence. These actions should also encompass support for children, young people and women who are victims of trafficking in human beings.
- (15) As the root-causes and consequences of violence can often be effectively addressed by local and regional organisations acting in cooperation with their counterparts from other Member States, the programme should attach due weight to the preventive measures and actions in support of victims taking place at a local and regional level.

- (16) Since the objectives of this Decision, namely to prevent and combat all forms of violence against children, young people and women, cannot be sufficiently achieved by the Member States because of the need for an exchange of information at the Community level and for the Community-wide dissemination of good practices, and can be better achieved at Community level due to the need for a coordinated and multidisciplinary approach and by reason of the scale or impact of the programme, 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 in order to achieve those objectives.
- (17) This Decision lays down, for the entire duration of the programme, a financial envelope constituting the prime reference, within the meaning of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management¹, for the budgetary authority during the annual budgetary procedure.

¹ OJ C 139, 14.6.2006, p. 1.

- (18) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities¹, hereinafter "the Financial Regulation", and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Regulation (EC, Euratom) No 1605/2002², which safeguard the Community's financial interests, have to be applied, 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.
- (19) 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 Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests³, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities⁴ 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)⁵.

¹ OJ L 248, 16.9.2002, p. 1, as corrected in OJ L 25, 30.1.2003, p. 43. Regulation as last amended by Regulation (EC) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

² OJ L 357, 31.12.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 1248/2006 (OJ L 227, 19.8.2006, p. 3).

³ OJ L 312, 23.12.1995, p. 1, as corrected in OJ L 36, 10.2.1998, p. 16.

⁴ OJ L 292, 15.11.1996, p. 2.

⁵ OJ L 136, 31.5.1999, p. 1.

- (20) The Financial Regulation requires a basic act to be provided to cover operating grants.
- (21) 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 Commission¹.
- (22) The balanced participation of women and men in the decision-making process is a key element in the achievement of substantive equality between women and men. The Member States should, therefore, use their best endeavours to achieve a gender balance in the composition of the committee referred to in Article 10,

HAVE DECIDED AS FOLLOWS:

Article 1

Subject matter and scope

1. Building on the policies and objectives laid down in the Daphne and Daphne II programmes, this Decision establishes a specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk ("Daphne III programme"), hereinafter referred to as "the programme", as part of the general programme "Fundamental Rights and Justice", in order to contribute to a high level of protection from violence so as to enhance the protection of physical and mental health.

¹ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

2. The programme shall cover the period from 1 January 2007 to 31 December 2013.
3. For the purposes of the programme, the term "children" covers an age range of 0-18 years, in accordance with international instruments concerning the rights of the child.
4. However, projects with actions particularly designed for beneficiary groups such as, for example, "teenagers" (13 to 19 years old) or people from 12 to 25 years old, shall be considered as targeting the category of "young people".

Article 2

General objectives

1. The aim of the programme shall be to contribute to the protection of children, young people and women against all forms of violence and to attain a high level of health protection, well-being and social cohesion.
2. Without prejudice to the objectives and powers of the European Community, the general objectives of the programme shall contribute, especially where it concerns children, young people and women, to the development of Community policies, and more specifically to those related to public health, human rights and gender equality, as well as to actions aimed at protection of children's rights, and the fight against trafficking in human beings and sexual exploitation.

Article 3
Specific objective

The programme shall have the specific objective of contributing to the prevention of, and the fight against, all forms of violence occurring in the public or the private domain against children, young people and women, including sexual exploitation and trafficking in human beings, by taking preventive measures and by providing support and protection for victims and groups at risk. This shall be achieved by means of the following transnational actions, or other types of actions as referred to in Article 4:

- (a) assisting and encouraging non-governmental organisations (NGOs) and other organisations active in this field, as referred to in Article 7;
- (b) developing and implementing awareness-raising actions targeting specific audiences, such as specific professions, competent authorities, identified sectors of the general public and groups at risk, with a view both to improving understanding of and promoting the adoption of zero tolerance towards violence, and to encouraging support for victims and the reporting of incidences of violence to the competent authorities;
- (c) disseminating the results obtained under the Daphne and Daphne II programmes, including their adaptation, transfer and use by other beneficiaries or in other geographical areas;

- (d) identifying and enhancing actions contributing to positive treatment of people at risk of violence, namely following an approach that encourages respect for them and promotes their well-being and self-fulfilment;
- (e) setting up and supporting multidisciplinary networks with a view to strengthening cooperation between NGOs and other organisations active in this field;
- (f) ensuring the expansion of evidence-based information and the knowledge base, the exchange, identification and dissemination of information and good practice, including through research, training, study visits and staff exchange;
- (g) designing and testing awareness-raising and educational materials regarding the prevention of violence against children, young people and women, and supplementing and adapting those already available for use in other geographical areas or for other target groups;
- (h) studying phenomena related to violence and its impact, both on victims and on society as a whole, including the health-care, social and economic costs, in order to address the root causes of violence at all levels of society;
- (i) developing and implementing support programmes for victims and people at risk and intervention programmes for perpetrators, whilst ensuring the safety of victims.

Article 4
Types of actions

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

- (a) specific actions taken by the Commission, such as studies and research, opinion polls and surveys, development of indicators and methodologies, collection, development and dissemination of data and statistics, seminars, conferences and experts meetings, organisation of public campaigns and events, development and maintenance of a helpdesk service and websites, preparation and dissemination of information materials (including IT applications and training resources), establishment and facilitation of a stakeholder think-tank providing expert advice related to violence, support to other networks of national experts, and analytical, monitoring and evaluation activities;
- (b) specific transnational projects of Community interest involving at least two Member States under the conditions set out in the annual work programmes;
- (c) support to the activities of NGOs or other organisations, pursuing an aim of general European interest regarding the general objectives of the programme set out in Article 2 under the conditions set out in the annual work programmes.

Article 5
Participation of third countries

The following countries may participate in the actions of the programme:

- (a) countries with which the European Union has signed a Treaty of Accession;
- (b) candidate countries benefiting from a pre-accession strategy, in accordance with the general principles and the general terms and conditions for the participation of those countries in Community programmes laid down, respectively, by the framework agreement and by decisions of the Association Councils;
- (c) EFTA States that are parties to the EEA Agreement, in accordance with the provisions of that Agreement;
- (d) the countries of the western Balkans, in accordance with the arrangements to be established with those countries under the framework agreements on the general principles for their participation in Community programmes.

Projects may associate candidate countries not participating in the programme where this would contribute to their preparation for accession, or other third countries not participating in the programme where it serves the aim of the projects.

Article 6
Beneficiary and Target Groups

1. The programme shall benefit children, young people and women who are, or risk becoming, victims of violence.
2. The main target groups of the programme shall be, inter alia, families, teachers and educational staff, social workers, police and border guards, local, national and military authorities, medical and paramedical staff, judicial staff, NGOs, trade unions and religious communities.

Article 7
Access to the programme

Access to the programme shall be open to private or public organisations and institutions (local authorities at the appropriate level, university departments and research centres) working to prevent and combat violence against children, young people and women or to protect against such violence or to provide support for victims or to implement targeted actions to promote rejection of such violence or to encourage attitude and behaviour change towards vulnerable groups and victims of violence.

Article 8

Types of intervention

1. Community funding may take the following legal forms:
 - grants,
 - public procurement contracts.
2. Community grants shall be awarded following consideration of applications arising from 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. Community grants shall be provided through operating grants and grants to actions. The maximum rate of co-financing shall be specified in the annual work programmes.
3. Furthermore, expenditure may be made available for complementary measures, through public procurement contracts, in which case Community funds shall cover the purchase of services and goods, directly related to the aims of the programme. This shall cover, inter alia, expenditure on information and communication, preparation, implementation, monitoring, checking and evaluation of projects, policies, programmes and legislation.

Article 9

Implementing measures

1. The Commission shall implement the Community assistance in accordance with the Financial Regulation.

2. To implement the programme, the Commission shall, within the limits of the general objectives of the programme set out in Article 2, adopt an annual work programme specifying its specific objectives, thematic priorities, a description of accompanying measures envisaged in Article 8 and if necessary a list of other actions. The annual work programme shall establish the minimum percentage of annual expenditure to be awarded to grants.
3. The annual work programme shall be adopted in accordance with the management procedure referred to in Article 10(2).
4. The measures necessary for the implementation of this Decision in relation to all other matters shall be adopted in accordance with the advisory procedure referred to in Article 10(3).
5. The evaluation and award procedures relating to grants to actions shall take into account, inter alia, the following criteria:
 - (a) the general and specific objectives as specified in Articles 2 and 3 and measures taken in the different areas as specified in Article 3 and conformity with the annual work programme;
 - (b) the quality of the proposed action regarding its conception, organisation, presentation and expected results;
 - (c) the amount requested for Community financing and its cost effectiveness as to expected results;

- (d) the impact of the expected results on the general and specific objectives of the programme defined in Articles 2 and 3 and on measures taken in the different areas as specified in Article 3;
 - (e) innovation.
6. The applications for operating grants, referred to in Article 4(c), 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 effectiveness ratio of the activity proposed.

Article 10

Committee

1. The Commission shall be assisted by a committee.

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.

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 11

Complementarity

1. Synergies and complementarity with other Community instruments will be sought, particularly the general programmes "Security and Safeguarding Liberties" and "Solidarity and Management of Migration Flows", the 7th Research and Development Framework Programme as well as the programmes on health protection, "Employment and Social Solidarity – PROGRESS" and "Safer Internet Plus". Complementarity will also be sought with the European Institute for Gender Equality. The statistical element of information on violence will be developed in collaboration with Member States, using as necessary the Community Statistical Programme.
2. The programme may share resources with other Community instruments, in particular the general programmes "Security and Safeguarding Liberties", "Solidarity and Management of Migration Flows" and the 7th Research and Development Framework Programme in order to implement actions meeting the objectives of all the programmes.

3. Operations financed under this Decision shall not receive assistance for the same purpose from other Community financial instruments. The Commission shall ensure that the beneficiaries of the programme 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

Funding

1. The financial envelope for the implementation of this Decision is set at EUR 116,85 million for the period set out in Article 1.
2. The allocations for 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. For any action financed by the programme, the Commission shall ensure that the beneficiary submits technical and financial reports on the progress of work. A final report shall also be submitted within three months of the completion of the action. The Commission shall determine the form and content of the reports.

2. The Commission shall ensure that the contracts and agreements resulting from the implementation of the programme will 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. For a period of five years following the last payment in respect of any action, the Commission shall require that 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 sample checks referred to in paragraphs 1 and 2, the Commission shall, if necessary, adjust the scale or the conditions of allocation of the financial assistance originally approved and also the timetable for payments.
5. The Commission shall take 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.

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 preventive measures against 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 Regulation (EC, Euratom) No 2988/95, Regulation (Euratom, EC) No 2185/96, and with Regulation (EC) No 1073/1999.

2. For the Community actions financed under the programme, 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 thereunder by an unjustified item of expenditure.
3. The Commission shall reduce, suspend or recover the amount of financial assistance granted for an action 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 request the beneficiary to submit observations within a specified period. If the beneficiary does not give a satisfactory answer, the Commission may cancel the remaining financial assistance and demand repayment of sums already paid.
5. Any undue payment shall be 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 will be monitored regularly in order to follow the implementation of activities carried out thereunder.
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 interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of the programme not later than 31 March 2011 accompanied by a list of the projects and measures financed;
 - (b) a communication on the continuation of the programme not later than 31 May 2012;
 - (c) an ex-post evaluation report, on the implementation and results of the programme not later than 31 December 2014.

Article 16

Publication of projects

The Commission shall annually publish a list of the projects financed under the programme together with a brief description of each project.

Article 17
Transitional measures

Decision No 803/2004/EC is hereby repealed. Actions commenced pursuant to that Decision shall continue to be governed by it, until their completion.

Article 18
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.

It shall apply from

Done at Brussels,

For the European Parliament
The President

For the Council
The President
