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THE EUROPEAN UNION**

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NOTE

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Subject : Proposal for a Decision of the European Parliament and of the Council
establishing for the period 2007-2013 the specific programme “Civil Justice” as
part of the general programme “Fundamental Rights and Justice”
- Political agreement

Delegations will find attached the text of the proposal for a Decision of the European Parliament and of the Council establishing for the period 2007-2013 the specific programme “Civil Justice” as part of the general programme “Fundamental Rights and Justice”.

This text, on the basis of which a Common Position will be drawn up, is a consolidated version of the text of the general agreement¹, the text of the amendments set out in the Annex to the note to Coreper II² and the text of those amendments from the European Parliament³ which the Council can accept.

¹ 5288/1/06 REV 1 JUSTCIV 5 CODEC 27 + COR 1.

² 14546/06 JUSTCIV 235 CODEC 1188.

³ 16587/06 CODEC 1524 JUSTCIV 279.

Proposal for a
DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing for the period 2007-2013 the specific programme “Civil Justice”
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 61(c) and **Article 67(5)** thereof,

Having regard to the proposal from the Commission¹,

(...)

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

Whereas:

- (1) The European Community has set itself the objective of maintaining and developing an area of freedom, security and justice, in which the free movement of persons is assured. To that end, the Community must adopt, among others, measures in the field of judicial cooperation in civil matters necessary for the proper functioning of the internal market.

¹ OJ C , , p.

- (2) Following previous programmes, such as Grotius¹ and the Robert Schuman² project, Council Regulation (EC) No 743/2002³ established, for the period 2002 to 2006, a general Community framework of activities to facilitate the implementation of judicial cooperation in civil matters.
- (3) The European Council meeting in Brussels on 4 and 5 November 2004 adopted The Hague Programme “Strengthening freedom, security and justice in the European Union”.
- (3a) The Council and the Commission adopted in June 2005 an Action Plan implementing the Hague Programme strengthening freedom, security and justice in the European Union.**
- (4) The ambitious objectives set by the Treaty and The Hague Programme should be realised through the establishment of a flexible and effective programme that will facilitate planning and implementation.
- (5) The Civil Justice Programme should provide for initiatives taken by the Commission, in compliance with the principle of subsidiarity, for actions in support of organisations promoting and facilitating judicial cooperation in civil matters, and for actions in support of specific projects.
- (6) A general Civil Justice Programme to improve mutual understanding of the legal and judicial systems of the Member States will contribute to lowering the barriers to judicial cooperation in civil matters, which will improve the functioning of the internal market.
- (6a) According to The Hague Programme strengthening mutual cooperation requires an explicit effort to improve mutual understanding among judicial authorities and different legal systems. European networks of national public authorities should deserve special attention and support in this respect.**

¹ OJ L 287, 8.11.1996, p. 3.

² OJ L 196, 14.7.1998, p. 24.

³ OJ L 115, 1.5.2002, p. 1.

- (6b) **This Decision provides for a possibility to co-finance the activities of certain European networks to the extent that the expenditure is incurred in pursuing an objective of general European interest. However, such co-financing should not imply that a future programme would cover such networks, nor should it prejudice other European networks from benefiting from support to their activities in accordance with this Decision.**
- (7) (...)
- (8) (...)
- (8a) **Any institution, association or network receiving a grant from this Programme should acknowledge the Community support received in accordance with the visibility guidelines to be laid down by the Commission.**
- (9) This Decision establishes a financial **envelop** for the entire duration of the programme, which is to be the **prime** reference for the budgetary authority 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 management**¹.
- (10) Since the objectives of the Civil Justice Programme cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the initiative, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.

¹ OJ C 139, 14.6.2006, p. 1.

(10a) 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 interests¹, (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission² 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.

(11) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁴ (hereinafter “the Financial Regulation”), and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002⁵, 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.

(12) The Financial Regulation requires a basic act to be provided to cover operating grants.

¹ OJ L 312, 23.12.1995, p. 1.

² OJ L 292, 15.11.1996, p. 2.

³ OJ L 136, 31.05.1999, p. 1.

⁴ OJ L 248, 16.9.2002, p. 1.

⁵ OJ L 357, 31.12.2002, p. 1.

(13) 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 (...), **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.**

(13a) deleted

(14) **In accordance with Article 3 of the Protocol of the position of the United Kingdom and Ireland annexed to the Treaty on the European Union and the Treaty establishing the European Community, the United Kingdom and Ireland have notified their wish to take part in the adoption and application of this Decision.**

(15) **In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision, and is not bound by it or subject to its application.**

(16) **The European Economic and Social Committee has delivered an opinion on this Decision.²**

¹ OJ L 184, 17.7.1999, p. 23.

² **OJ.....**

HAVE DECIDED AS FOLLOWS:

Article 1

Creation of the Programme

1. This Decision establishes the specific programme “Civil Justice”, hereinafter referred to as “the Programme”, as part of the general programme “Fundamental Rights and Justice”, in order to contribute to the **progressive establishment** of the area of freedom, security and justice.
2. The Programme shall cover the period from 1 January 2007 to 31 December 2013.
3. **In this Decision the term "Member State" shall mean Member States with the exception of Denmark.**

Article 2

General objectives

1. This 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 civil matters based on mutual recognition and mutual confidence.
 - (b) To promote **the elimination of obstacles to the good functioning of cross-border (...) civil (...) proceedings in the Member States (...)**.
 - (c) To improve the daily life of individuals and businesses by enabling them to assert their rights throughout the European Union, notably by fostering access to justice.

- (d) To improve the contacts, **exchange of information and networking** between legal, judicial and administrative authorities and the legal professions, **including by way of support of judicial training, with the aim of better mutual understanding among such authorities and professionals.**
2. Without prejudice to the objectives and powers of the European Community, the general objectives of the Programme contribute to the development of the community policies, and more specifically to the creation of a judicial area.

Article 3

Specific objectives

The Programme shall have the following specific objectives:

- 1 To foster judicial cooperation in civil matters aiming at:
- a) ensuring legal certainty and improving access to justice;
 - b) promoting mutual recognition of (...) decisions (...) **in civil and commercial cases;**
 - c) eliminating obstacles **to cross-border litigation** created by disparities in civil law and civil procedures and promoting the necessary **compatibility** of legislation **for that purpose;**
 - d) guaranteeing a proper administration of justice by avoiding conflicts of jurisdiction.
2. To improve mutual knowledge of Member States' legal and judicial systems in civil matters and to promote and strengthen networking, mutual cooperation, exchange and dissemination of information, experience and best practices.

3. To ensure the sound implementation, the correct and concrete application and the evaluation of Community instruments in the areas of judicial cooperation in civil and commercial matters.
4. To improve information on the legal systems in the Member States and access to justice.
5. To promote the training **of legal practitioners** in Union and Community law (...).
6. To evaluate the general conditions necessary to **reinforce** mutual confidence, **while fully respecting the independence of judiciary**.
7. To **facilitate** the operation of the European judicial network in civil and commercial matters created by Council Decision No 2001/470/CE of 28 May 2001, establishing a European Judicial Network in civil and commercial matters.

Article 4

Actions

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

1. specific actions **initiated** by the Commission, such as, studies and research, opinion polls and surveys, formulation of indicators and common methodologies, collection, development and dissemination of data and statistics, seminars, conferences and expert meetings, organisation of public campaigns and events, development and maintenance of websites, preparation and dissemination of information material, support for and management of networks of national experts, analytical, monitoring and evaluation activities; or

2. specific transnational projects of Community interest presented by **an authority or any other body of a Member State, an international or non-governmental organisation, and involving in any case at least two Member States or at least one Member State and one other state which may either be an acceding or a candidate country(...)** ; or
3. support to 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
4. **operating grants to co-finance expenditure associated with the permanent work programme of the European Network of Councils for the Judiciary and the Network of the Presidents of the Supreme Judicial Courts of the European Union, insofar as it is incurred in pursuing an objective of general European interest by promoting exchanges of views and experience on matters concerning the jurisprudence, organisation and functioning of its members in the performance of their judicial and/or advisory functions with regard to Community Law.**

Article 5

Participation

1. The following countries, hereinafter referred to as «participating countries», may participate in the actions of the programme: **the acceding countries**, the candidate countries, as well as the western Balkan countries included in the stabilisation and association process in accordance with the conditions laid down in the association agreements or their additional protocols relating to participation in Community programmes concluded or to be concluded with those countries;

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

Article 6

Target Groups

1. The programme is targeted at, inter alia, legal practitioners, the national authorities and the citizens of the Union in general.
2. “Legal practitioners” means, inter alia, judges, prosecutors, advocates, solicitors, notaries, academic and scientific personnel, ministry officials, court officers, bailiffs, court interpreters and other professionals associated with the judiciary in the area of civil law.

Article 7

Access to the programme

Access to this programme shall be open to institutions and public or private organisations, including professional organisations, universities, research institutes and legal and judicial training institutes for legal practitioners, **international organisations and** non-governmental organisations of the Member States.

(...)

Article 8

Types of intervention

1. Community funding may take the following legal forms:
 - grants,
 - public procurement contracts.

2. Community grants shall be awarded further to calls for proposals (...) and shall be provided through operating grants and grants to actions. The maximum rate of co-financing will be specified in the annual work programmes.
3. Furthermore, expenditure is foreseen for accompanying measures, through public procurement contracts, in which case Community funds will cover the purchase of services and goods. This will 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 financial support in accordance with Council Regulation (EC, Euratom) N° 1605/2002 of 25 June 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 specifying its specific objectives, thematic priorities, a description of accompanying measures envisaged in Article 8 and if necessary a list of other actions.
3. The annual work programme will be adopted in accordance with the procedure set out in Article 10 A(2).
4. The evaluation and award procedures relating to grants to 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(3), 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. **The Commission shall examine each of the draft actions submitted to it under Article 4 (2) and (3). Decisions related to these actions shall be adopted in accordance with the procedure referred to in Article 10 (2).**

Article 10

Advisory Committee

1. The Commission shall be assisted by a Committee (**further referred to as "the Article 10 Committee"**).
2. 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.
3. The Committee shall adopt its Rules of Procedure.

Article 10 A

Management Committee

1. The Commission shall be assisted by a Committee (**further referred to as "the Article 10 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 three months.

3. **The Committee shall adopt its Rules of Procedure.**

Article 11

Complementarity

1. Synergies and complementarity will be sought with other Community instruments, particularly the criminal justice specific programme of the general programme “Fundamental rights and Justice”, and the general programmes “Security and Safeguarding Liberties” and “Solidarity and Management of Migration Flows”. The statistical element of information on civil justice will be developed in collaboration with Member States, using as necessary the Community Statistical Programme.
2. The programme may **exceptionally** share resources with other Community instruments, in particular the criminal justice specific programme of the general programme “Fundamental Rights and Justice”, in order to implement actions meeting the objectives of both programmes (...).
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 Community budget and from other sources, as well as information about ongoing applications for funding.**

Article 12

Budgetary Resources

1. The **financial envelop** for the implementation of this instrument is set at EUR 109.3 million for the period set out in Article 1.
2. The budgetary resources allocated to the actions provided for in this 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 shall submit, 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 will make the reports available to Member States.** The Commission shall determine the form and content of the reports.
2. Without prejudice to the audits carried out by the Court of Auditors in liaison with the competent national audit bodies or departments pursuant to Article 248 of the Treaty, or any inspection carried out pursuant to Article 279(c) of the Treaty, officials and other staff of the Commission may carry out on-the-spot checks, including sample checks, on actions financed under the programme.
3. Contracts and agreements resulting from this Decision shall provide in particular for supervision and financial control by the Commission (or any representative authorized by it), if necessary on-the-spot, and audits by the Court of Auditors.
4. **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 shall keep available for the Commission all the supporting documents regarding expenditure on the action.
5. On the basis of the results of the reports and sample 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 **will be adjusted.**
6. 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, **will be taken.**

Article 14

Protection of Community financial interests

1. The Commission shall ensure that, when actions financed under the present 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 Council Regulations (EC, Euratom) No 2988/95 and (Euratom, EC) No 2185/96, and with Regulation (EC) No 1073/1999 of the European Parliament and of the Council.
2. For the Community actions financed under this 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 Communities or budgets managed by them, by an unjustified item of expenditure.
3. The Commission shall **ensure that** the amount of financial assistance granted for an action **will be 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 **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 sums already paid **are demanded to be repaid**.

5. **The Commission shall ensure that** 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 under this 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 interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of this programme, **including on the work carried out by the beneficiaries of operating grants referred to in Article 4(4)**, no later than 31 March 2011;
 - (aa) **an annual presentation on the implementation of the programme;**
 - (b) a Communication on the continuation of this programme no later than 30 August 2012;
 - (c) an ex post evaluation report no later than 31 December 2014.

Article 15 a

Publication of actions

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

Article 15b

Visibility

The Commission shall lay down guidelines to ensure the visibility of the funding granted under this Decision.

Article 16

Entry into force

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

It shall apply from 1 January 2007.

Done at Brussels,

For the European Parliament

For the Council

The President

The President
