



COMMISSION OF THE EUROPEAN COMMUNITIES

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2000/0220 (CNS)

Proposal for a

COUNCIL REGULATION

**extending the programme of incentives and exchanges for legal practitioners in the
area of civil law (Grotius - civil)**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Adoption and implementation of the Grotius programme

On 28 October 1996 the Council adopted the Joint Action on a programme of incentives and exchanges for legal practitioners (Grotius),¹ on the basis of the former Article K.3 of the Treaty on European Union

The purpose of the Grotius programme is to facilitate judicial cooperation between Member States by fostering mutual knowledge of legal and judicial systems. It provides funding for training, exchange and work-experience programmes, organisation of meetings, studies and research, and the distribution of information. It is aimed at legal practitioners, namely judges (including examining magistrates), prosecutors, advocates, solicitors, academic and scientific personnel, ministry officials, criminal investigation officers, court officers, bailiffs, court interpreters and other professionals associated with the judiciary.

Details on the origins of the programme are given in the explanatory memorandum of the proposal for a Council Decision which the Commission adopted on 31 May 1996.²

The Grotius programme was set up for the period 1996-2000. The final annual programme and the call for applications for the last year of the Grotius programme, as established by the October 1996 Joint Action, were published in January 2000.³

The two annual reports from the Commission to Parliament and the Council drawn up so far on implementation of the Grotius programme⁴ demonstrate its importance in strengthening judicial cooperation. The Commission feels that legal practitioners should be able to continue receiving assistance under this programme. Thought has therefore been given to the future of the Grotius programme.

Changes to the institutional framework

The Grotius programme is concerned with judicial cooperation in the areas of both civil and criminal law. It was set up in 1996, at a time when judicial cooperation in both those areas was included on the list of matters of common interest set out in what was then Article K.1 of the Treaty on European Union. Consequently, the Council Joint Action was adopted on the basis of the then Article K.3.

The Treaty of Amsterdam, which entered into force on 1 May 1999, amended the provisions of the Treaties concerning judicial cooperation.

Judicial cooperation in the area of civil law is now covered by Article 61 of the Treaty establishing the European Community. Those aspects of the Grotius programme relating to judicial cooperation in this area therefore now fall within the scope of Article 61.

Judicial cooperation in the area of criminal law is now covered by Article 29 of the Treaty on European Union. Those aspects of the Grotius programme relating to judicial cooperation in

¹ OJ L 287, 8.11.1996, p. 3.

² COM(96) 253 final.

³ OJ C 12, 15.1.2000, p. 17.

⁴ Reports on the implementation of the Grotius, Sherlock, Stop and Oisin programmes (SEC (98) 1048 and SEC (99) 1955).

this area therefore now fall within the scope of Article 29. The Commission has also given consideration to the future of that part of the programme and to the horizontal aspects but these are not covered by this Regulation.

When considering the future of the Grotius programme as it relates to judicial cooperation in civil matters (Grotius-Civil), the Commission has been particularly interested in the relations between this programme and the other funding programmes linked to the creation of an area of freedom, security and justice, related to Title IV of the Treaty establishing the European Community (particularly Odysseus)⁵ or to Title VI of the Treaty on European Union (particularly Grotius, for judicial cooperation in criminal matters, Stop,⁶ Oisin⁷ and Falcone⁸). The Commission is also interested in synergy between the Grotius-civil programme and the Robert Schuman project.

Synergy between the Grotius-civil programme and the Robert Schuman project

On 22 June 1998 Parliament and the Council adopted a Decision establishing an action programme to improve awareness of Community law within the legal professions (Robert Schuman project),⁹ on the basis of the former Article 100a of the Treaty establishing the European Community.

The Robert Schuman project is a financial support instrument which encourages and supports initiatives in the areas of training and information designed to raise awareness of Community law among members of the legal professions involved in the administration of justice, namely judges, prosecutors and lawyers.

It was set up for a period of three years. The call for expressions of interest for the last year of this project, as established by the June 1998 Decision, will be published in January 2001.

The Commission has carried out an analysis and first assessment of the Robert Schuman project for the 1997-98 pilot phase which demonstrated its importance in raising awareness of Community law among members of the legal professions involved in the administration of justice. The Commission considers that they should be able to continue receiving assistance under this programme. Initial thought has therefore been given to the future of the Robert Schuman project.

Article 9 of that Decision lays down that "the Commission shall be responsible, jointly with the Member States, for ensuring the overall consistency of this programme and other Community training or information initiatives and that "the Robert Schuman project shall

⁵ Joint Action of 19 March 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, introducing a programme of training, exchanges and cooperation in the field of asylum, immigration and crossing of external borders (98/244/JHA) - OJ L 99, 31.3.1998, p. 2.

⁶ Joint Action of 29 November 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, establishing an incentive and exchange programme for persons responsible for combating trade in human beings and the sexual exploitation of children (96/700/JHA) - OJ L 322, 12.12.1996, p. 7.

⁷ Joint Action of 20 December 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union providing a common programme for the exchange and training of, and cooperation between, law enforcement authorities (97/12/JHA) - OJ L 7, 10.1.1997, p. 5.

⁸ Joint Action of 19 March 1998 adopted by the Council, on the basis of Article K.3 of the Treaty on European Union, establishing a programme of exchanges, training and cooperation for persons responsible for action to combat organised crime (98/245/JHA) - OJ L 99, 31.3.1998, p. 8.

⁹ OJ L 196, 14.7.1998, p. 24.

complement action taken under other Community programmes, in particular ... the Grotius programme"

The Commission concludes that there is synergy between the Grotius-civil programme and the Robert Schuman project and intends to take this into account in its analysis of the future of these programmes.

Given that the Robert Schuman project expires at the end of 2001, the revised Grotius-civil programme - whatever form it takes - can only be implemented from 2002 onwards.

Between expiry of the Grotius programme in 2000 and the implementation of the revised Grotius-civil programme from 2002, legal practitioners should be able to continue receiving financial support from the European Community for initiatives designed to facilitate judicial cooperation between Member States by fostering mutual knowledge of legal and judicial systems.

The Grotius-civil programme should therefore be extended to cover the year 2001.

Substantive provisions

Article 1 provides for the extension of those aspects of the Grotius programme which relate to judicial cooperation in the area of civil law, though solely on a transitional basis to cover 2001. In particular, this involves maintaining the necessary implementing procedures.

Article 2 lays down the financial reference amount for the programme's implementation in 2001, subject to actual allocation of the appropriations by the budgetary authority. This amount has been calculated as follows:

The Joint Action of 28 October 1996 provided for a financial reference amount of €8.8 million for implementation of the programme for the period 1996-2000. Extending the programme solely in the area of civil law means that the financial reference amount for 2001 should correspond to one year's implementation of the civil law aspects. The budget for a single year is determined by a two-stage calculation: division of the overall budget by the number of years and multiplication by the percentage of grants for judicial cooperation in the area of civil law.

$$\frac{\text{€8.8 million}}{5 \text{ years}} \times \text{approx. } 37 \% = \text{€650 000}$$

The purpose of Article 3 is to make sure that the programme's implementation is monitored.

Proposal for a

COUNCIL REGULATION

extending the programme of incentives and exchanges for legal practitioners in the area of civil law (Grotius - civil)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) thereof,

Having regard to the proposal from the Commission,¹⁰

Having regard to the opinion of the European Parliament,¹¹

Having regard to the opinion of the Economic and Social Committee,¹²

Whereas:

- (1) On 28 October 1996 the Council adopted the Joint Action on a programme of incentives and exchanges for legal practitioners (Grotius),¹³ on the basis of the former Article K.3 of the Treaty on European Union. This programme sets out to facilitate judicial cooperation between Member States by fostering mutual knowledge of legal and judicial systems. It provides funding for training, exchange and work-experience programmes, organisation of meetings, studies and research, and the distribution of information. It is aimed at legal practitioners.
- (2) The Grotius programme was set up for the period 1996-2000. The annual programme and the call for applications for the last year of the Grotius programme, as established by the Joint Action of 28 October 1996, were published in January 2000.¹⁴ The two annual reports from the Commission to the European Parliament and the Council drawn up so far on implementation of the Grotius programme¹⁵ demonstrate its importance in strengthening judicial cooperation. Legal practitioners should be able to continue receiving assistance under this programme.
- (3) The Grotius programme is concerned with judicial cooperation in the areas of both civil and criminal law. Judicial cooperation in the area of civil law, which was one of

¹⁰ OJ ..., ..., p. ...

¹¹ OJ ..., ..., p. ...

¹² OJ ..., ..., p. ...

¹³ OJ L 287, 8.11.1996, p. 3.

¹⁴ OJ C 12, 15.1.2000, p. 17.

¹⁵ Reports on the implementation of the Grotius, Sherlock, Stop and Oisín programmes (SEC (98) 1048 and SEC (99) 1955).

the areas of common interest referred to in the former Article K.1 of the Treaty on European Union, is now covered by Article 61 of the Treaty establishing the European Community. Those aspects of the Grotius programme relating to judicial cooperation in the area of civil law therefore now fall within the scope of Article 61 of the Treaty establishing the European Community. Judicial cooperation in the area of criminal law, which was one of the areas of common interest referred to in the former Article K.1 of the Treaty on European Union, is now covered by Article 29 of the Treaty on European Union. Those aspects of the Grotius programme relating to judicial cooperation in the area of criminal law therefore now fall within the scope of Article 29 of the Treaty on European Union. This Regulation does not cover that area.

- (4) The Commission is considering the future of the part of the Grotius programme concerned with judicial cooperation in the area of civil law ("Grotius-civil"). This analysis focuses particularly on relations between this programme and other funding programmes, namely the Robert Schuman project,¹⁶ and the programmes connected with the creation of an area of freedom, security and justice, related to Title IV of the Treaty establishing the European Community or Title VI of the Treaty on European Union.
- (5) Pending the conclusion of this analysis, legal practitioners should be able to continue receiving financial support from the European Community for initiatives designed to facilitate judicial cooperation between Member States by fostering mutual knowledge of legal and judicial systems. The Grotius-civil programme should therefore be extended to cover the year 2001.
- (6) This Regulation establishes a financial framework for the duration of the programme, which constitutes the prime reference for the budgetary authority within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure¹⁷,

HAS ADOPTED THIS DECISION:

Article 1

Those aspects of the Grotius programme which relate to judicial cooperation in the area of civil law shall be extended to cover the year 2001. The programme was established by the Joint Action 96/636/JHA, adopted by the Council on 28 October 1996 on the basis of the former Article K.3 of the Treaty on European Union, establishing a programme of incentives and exchanges for legal practitioners (Grotius).

The provisions of the Joint Action in question relating in particular to procedural matters shall continue to apply to the implementation of this programme in 2001.

¹⁶ The Robert Schuman project is a financial support instrument created in 1998 (Decision of the European Parliament and of the Council of 22 June 1998 establishing an action programme to improve awareness of Community law within the legal professions, OJ L 196, 14.7.1998, p. 24) for a period of three years, with the aim of encouraging and supporting initiatives in the area of training and information designed to raise awareness of Community law among members of the legal professions involved in the administration of justice, namely judges, prosecutors and lawyers in the Member States.

¹⁷ OJ C 172, 18.6.1999, p. 1.

Article 2

The financial framework for the implementation of the programme in 2001 shall be €650 000.

This appropriation shall be established by the budgetary authority within the limit of the financial perspective.

Article 3

The Commission shall report to the European Parliament and the Council on the implementation of the programme at the end of the 2001 budgetary year.

Article 4

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

Done at Brussels, [...]

For the Council
The President

| FINANCIAL STATEMENT | | | | |
|----------------------------|--|------------------------------------|-------------------------------|---------------------------------|
| | | DATE: | | |
| 1. | BUDGET HEADING: B5 - 820 : Training, exchange and cooperation programmes in the fields of justice and home affairs. | APPROPRIATIONS: €650.000 | | |
| 2. | TITLE: Regulation extending the programme of incentives and exchanges for legal practitioners in the area of civil law (Grotius - civil) | | | |
| 3. | LEGAL BASIS: Art 61(c) of the EC Treaty | | | |
| 4. | AIMS: <p>The Council decided in 1996 to set up a programme of incentives and exchanges for legal practitioners - the Grotius programme. The reasons were twofold:</p> <ul style="list-style-type: none"> - The Union's aim of developing close cooperation in the field of justice and home affairs included measures to raise awareness of and familiarity with the rights, institutions and procedures of the other Member States. - In order to strengthen complementarity between and enhance the positive effects of individual initiatives, it was necessary to set up an overall programme bringing them together within a structured framework and to provide Community funding. <p>The Grotius programme, set up in 1996 on the basis of Article K.3 of the Treaty on European Union, expires in 2000. The reports issued on its implementation indicate that it should be extended.</p> <p>With the entry into force of the Amsterdam Treaty, judicial cooperation in the areas of civil and criminal law now have two different legal bases (Title IV of the Treaty establishing the European Community and Title VI of the Treaty on European Union respectively). This Regulation is concerned only with the extension of that part of the Grotius programme that relates to judicial cooperation in civil matters ("Grotius-civil").</p> <p>The Commission is considering the future of the Grotius-civil programme, particularly its relations with the Robert Schuman project, a programme to raise awareness of Community law among members of the legal professions. It will not be possible to implement the revised Grotius programme before the expiry of the Robert Schuman project, at the end of 2001.</p> <p>It is therefore proposed that the part of the Grotius programme relating to civil law be continued for a further year as a transitional measure.</p> | | | |
| 5. | FINANCIAL IMPACT | 12-MONTH PERIOD | CURRENT FINANCIAL YEAR | FOLLOWING FINANCIAL YEAR |
| | | (€ million) | [n] (€ million) | [n+1] (€ million) |
| 5.0 | EXPENDITURE CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER | 650.000 | | |

| | | | | | |
|---------------|---|---------|-------|-------|---------------|
| 5.1 | REVENUE - EC OWN RESOURCES (LEVIES/CUSTOMS DUTIES - NATIONAL | 650.000 | | | |
| 5.0.1 | ESTIMATED EXPENDITURE | [n+2] | [n+3] | [n+4] | [n+5] |
| 5.1.1 | ESTIMATED REVENUE | | | | |
| 5.2 | <p>METHOD OF CALCULATION</p> <p>Grants will be available for the following activities: training in languages and in comparative law, work experience and visits abroad, organisation of conferences, coordination of research on subjects relevant to judicial cooperation, and dissemination of information on foreign law and judicial cooperation.</p> <p>Subject to the annual budgetary procedure, an indicative budget of €650 000 is to be earmarked for the implementation of this programme in 2001.</p> <p>This new amount has been calculated on the basis of the amount allocated to the Grotius programme in 1996:</p> <p>the Joint Action of 28 October 1996 provided for a financial reference amount of €8.8 million for the implementation of the Grotius programme for the period 1996-2000. The initial amount of €8.8 million was calculated on the basis of the following indications and objectives, broken down by programme component: training (legal terminology and comparative law), exchange and work-experience programmes, organisation of meetings, research, documentation. Extending the programme solely in the area of civil law means that the financial reference amount for 2001 should correspond to one year's implementation of the civil law aspects. The budget for a single year is determined by a two-stage calculation: division of the overall budget by the number of years of implementation and multiplication by the percentage of grants for judicial cooperation in the area of civil law.</p> $\frac{\text{€8.8 million}}{5 \text{ years}} \times \text{approx. } 37 \% = \text{€650 000}$ | | | | |
| 6.0 | CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET? | | | | YES/NO |
| 6.1 | CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET? | | | | YES/NO |
| 6.2 | WILL A SUPPLEMENTARY BUDGET BE NECESSARY? | | | | YES/NO |
| 6.3 | WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS? | | | | YES/NO |
| OBSERVATIONS: | | | | | |