



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.05.2001
COM(2001) 221 final

2001/0109(CNS)

Proposal for a

COUNCIL REGULATION

**establishing a general framework for Community activities to facilitate the
implementation of a European judicial area in civil matters**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION AND GENERAL OBJECTIVE

1.1. An area of freedom, security and justice

With the entry into force of the Treaty of Amsterdam, the European Union set itself the objective to create an area of freedom, security and justice. In 1998, the Council adopted an Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice. The Action Plan, which was submitted in December 1998 to the European Council in Vienna, lists a number of priorities to be achieved within five years of the entry into force of the Treaty of Amsterdam. In Tampere on 15 and 16 October 1999, the European Council reaffirmed the importance of this objective and agreed on a number of policy orientations and priorities to speedily make this area a reality. The European Council also invited the Commission to make a proposal for “an appropriate scoreboard” in order to “keep under constant review progress made towards implementing the necessary measures and meeting the deadlines” set by the Treaty of Amsterdam, the Vienna Action Plan and the Tampere conclusions.

In response to this invitation, the Commission presented a Communication entitled “Scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union”, of which the last biannual update was adopted 30 November 2000¹. The Scoreboard lists the objectives, responsible institutions(s), actions, timetable for adoption (until 2004) and the current state of play for each action. In civil matters, a total of 18 main actions are listed in the latest version of the Scoreboard.

1.2. Judicial cooperation in civil matters

The entry into force of the Treaty of Amsterdam entailed the transfer of judicial cooperation in civil matters from the third pillar (Article K.1(6) TEU) to the first pillar (Article 61(c) TEC). The overriding aim is to create a European judicial area in civil matters, where citizens have a common sense of justice throughout the Union and where justice is seen as facilitating the day-to-day life of people. This includes improving access to justice and full judicial cooperation between the Member States. Individuals and business must be able to approach courts and authorities in any Member State as easily as in their own, and not be prevented or discouraged from exercising their rights by the complexity of the legal and administrative systems in the Member States.

Equally important is that legal certainty is provided to individuals and business; to that end, judgments and decisions should be respected and enforced throughout the Union. Enhanced mutual recognition of judicial decisions and judgments and the necessary approximation of legislation will facilitate cooperation between authorities and the judicial protection of individual rights. To that end, better compatibility and more convergence between the legal systems must be achieved also.

¹ COM(2000) 782 final, 30.11.2000.

On 30 November 2000, also in response to the Tampere conclusions, the Council adopted a joint programme of the Council and the Commission of measures for implementation of the principle of mutual recognition of decisions in civil and commercial matters. The programme lists a number of measures to be taken to extend the principle of mutual recognition to all the areas related to civil and commercial matters by abolishing all intermediate procedures for recognition and execution of foreign judgments and decisions.

A new step was taken at the Intergovernmental Conference in Nice on 11 December 2000, where it was agreed that decisions relating to judicial cooperation in civil matters (Article 65 TEC) will be taken by co-decision procedure, with qualified majority in the Council, as of when the Treaty of Nice enters into force.

1.2.1. Overview of legislative activity

Following the entry into force of the Treaty of Amsterdam, the Council had adopted the following acts by 31 December 2000:

- Council Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (44/2001, also called “Brussels I”);
- Council Regulation on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses (1347/2000, also called “Brussels II”);
- Council Regulation on insolvency proceedings (1346/2000);
- Council Regulation on the service in the Member States of judicial and extrajudicial documents in civil and commercial matters (1348/2000, also called “Transmission of acts”).

The following legislative proposals have been submitted to the Council:

- Proposal for a regulation on taking of evidence;
- Proposal for a regulation on rights of access to children.

A considerable number of further proposals for legislative acts could be foreseen on different subjects, such as: minimum standards of legal aid in cross-border cases; alternative dispute resolution; compensation for crime victims; parental responsibility; common procedural rules on small claims, uncontested claims and maintenance claims; minimum standards for specific aspects of civil procedure; jurisdiction and applicable law in matters concerning matrimonial property and succession; applicable law in contractual/non-contractual obligations; applicable law in matrimonial matters.

2. PREVIOUS ACTIONS – THE GROTIUS AND GROTIUS-CIVIL PROGRAMMES

On 28 October 1996, the Council adopted a Joint Action on a programme of incentives and exchanges for legal practitioners (Grotius)², on the basis of the former Article K.3 of the Treaty on European Union.

The purpose of the Grotius programme was to facilitate judicial cooperation between Member States by fostering mutual knowledge of legal and judicial systems. It was aimed at legal practitioners and provides funding for training, exchange and work-experience programmes, organization of meetings, studies and research, and the distribution of information. The programme was set up for the period 1996-2000, and the call for proposals for the last year was published in January 2000.

On 12 February 2001, the Council adopted a Regulation extending the Grotius programme, for a one-year transition period only, in the area of civil law (Grotius-civil)³. The aim of the extension was to avoid a disruption of the Grotius programme as concerns civil matters, and to allow the Commission to prepare a new global and comprehensive proposal for its replacement. The activities and objectives of the Grotius-civil programme are the same as those of the Grotius programme. The call for proposals for 2001 was published in February 2001⁴.

The three annual reports from the Commission to the European Parliament and the Council drawn up so far on the implementation of the Grotius programme⁵ demonstrated its importance in strengthening judicial cooperation.

An external evaluation report carried out for the Commission was completed in March 2000, covering the years 1996-1998. The report confirmed the success of the programme, noting that no alternative mechanism exists and that demand had considerably exceeded supply in terms of financing, by between 350% and 550% per year. Main recommendations for the future involved better focussing on actions leading to operationally useful results and the need for measures to improve the dissemination of results from completed projects.

3. THE PROPOSAL FOR A COUNCIL REGULATION

As described, rapid and extensive developments have taken place following the entry into force of the Treaty of Amsterdam. The Community now has an ambitious agenda ahead of itself in the area of judicial cooperation in civil matters. Following an analysis of the Grotius programme, it has therefore been found that a wider and more general framework for activities is needed, to provide the support necessary for policy development in this field.

The proposed regulation establishes the legal basis for financing activities under the budget of the European Communities in the policy area of judicial cooperation in civil matters. It should not be seen as establishing a new action plan, but rather a general long-term framework for activities and prioritised objectives. On the basis of the framework, operational programmes and specific projects can be elaborated.

² OJ L 287, 8.11.1996, p. 3.

³ OJ L 43, 14.2.2001, p. 1.

⁴ OJ C 54, 21.2.2001, p. 12.

⁵ SEC(1998) 1048, 18.6.1998, SEC(1999) 1955, 17.12.1999, SEC(2001) 18, 8.1.2001.

The objectives of the framework have been closely linked to those set by the Treaty, by the Vienna Action Plan and by the Tampere conclusions. Moreover, the new Community instruments adopted, or to be adopted, in this field, need appropriate monitoring to ensure that they are effectively implemented and applied. This is easily forgotten but equally important as adopting the instruments themselves, and has therefore been included as a separate objective.

In terms of activities supported, the new framework allows for the continuation of the types of actions supported under the Grotius programme, following its success, but it also goes further and has a wider scope. It allows for Commission actions to supplement the co-financed projects, to ensure that all political priorities will receive adequate and timely support, and it allows also for Commission actions of its own initiative to fulfil the objective of ensuring the sound implementation and application of Community instruments. In addition, the framework allows for support to organizations that continuously are active in judicial cooperation in civil matters, without necessarily carrying out specific projects. This possibility will further increase the flexibility of the framework.

3.1. Articles

Article 1

This Article establishes the framework for activities for the period 2002-2006 and sets out its overall political objective. It excludes Denmark, Ireland and the United Kingdom from the application of the Regulation, in accordance with their respective protocols annexed to the Treaty on European Union and the EC Treaty.

Article 2

This Article lists the specific objectives of the framework for activities. The first objective is the cornerstone of the framework, with its direct connection to the policy of judicial cooperation in civil matters. The second objective is essential in providing the necessary basis for judicial cooperation, that is, mutual knowledge of legal systems. The third objective reflects the need to ensure the sound implementation and monitoring of Community instruments in this area. It should be noted that several of the regulations recently adopted contain obligations for the Commission to elaborate reports on the application of these instruments. The fourth objective reflects a priority of the Tampere conclusions; to ensure that progress in establishing an area of freedom and security is accessible and made known to the public.

Article 3

This Article lists the types of activities that can be supported under the framework for activities and that all activities should meet at least one of the objectives in Article 2. Although the objectives are to a certain extent separate, projects could be foreseen that address several objectives, for example, both the first and the second. Actions taken by the Commission could be in relation to the objective of ensuring the sound implementation and monitoring of Community instruments in this area, through manuals, databases, publications and studies. The second type of activity consists of subsidies for running costs of non-governmental non-profit organisations, and the third type consists of subsidies for co-financing of specific projects with other sources in the public and/or private sector.

Article 4

This Article opens up the framework for activities for participation of third countries, under the conditions listed in it. In view of enlargement, it has been considered important to give the accession countries the possibility to accede to the framework. Their participation in the framework could play a substantial role in their preparations for accession. They also have the possibility to participate in specific projects under the conditions in Article 6. As cooperation in justice and home affairs is not included in the EEA Agreement, the countries party to that agreement have not been expressly mentioned. However, Article 4(3) opens the door for their participation at a later stage.

Article 5

This Article describes the conditions for running costs grants to non-governmental non-profit organizations. The aim is to support organizations with a truly European dimension only; therefore, only those involving at least 10 Member States (of the present EU 15) will, as a general rule, be eligible.

Article 6

This Article provides for co-financing of projects of the same type as those supported under the Grotius and the Grotius-civil programmes. The possibility to support projects aiming at creating organizations of the type described in Article 5 has been added in paragraph 2.

Article 7

This Article refers to the authorisation of the annual appropriations for the framework for activities. It stipulates that co-financing from other Community programmes is excluded and specifies the maximum rate of co-financing from the Community budget within the framework for activities. As concerns financial support for the running costs of non-governmental organisations, the rate of co-financing has been limited to 50% to avoid a situation of dependency on Community grants. As concerns specific projects, the rate of co-financing has been lowered from 80% to 50% compared to the Grotius and Grotius-civil programmes, in order to bring about more accurate estimates of costs from the applicants and to mobilise more national co-financing. This should be feasible, as the start-up phase for those types of projects has been completed during the implementation of the Grotius programme.

Article 8

Paragraphs 1 and 2 refer to the annual work programme. Strong emphasis will be placed on this programme, to ensure that the yearly-prioritised objectives follow the development of the Scoreboard. It will also be used to ensure a proper distribution between different types of activities over the course of the framework. Coordination with the Member States will be ensured through the Advisory Committee. The programme will be published each year, in the Official Journal and on the Internet.

Paragraph 3 lists the qualitative award criteria that will be applied when evaluating and selecting proposals. Problem-solving oriented projects will be a priority, as they will be most effective in contributing to policy development. In order to remedy the lack of dissemination of results under the Grotius programme, a high emphasis will be placed on what arrangements the applicants foresee to that effect. To avoid duplication with previous projects carried out under the Grotius and Grotius-civil programmes, complementarity of new proposals with those projects will be essential. To reduce the impact in terms of management capacity for the

Commission and to ensure sufficient impact of the projects, priority will be given to large projects. Apart from the criteria listed in the paragraph, those stipulated by the Commission's Vademecum on Grant management will apply.

Article 9

This Article stipulates that grant agreements (the Commission's standard Grant Agreement will be used) shall be concluded following all financing decisions under Article 3(2) and (3).

Article 10

This Article lays down the principle provisions for monitoring the actions financed under the framework for activities. The basis will be provided by the reports from the beneficiaries upon completion of the projects. The evaluation report on the Grotius programme noted that many beneficiaries requested guidelines from the Commission on what the report should look like. The evaluation report also noted a large divergence in quality with regard to the final reports from the projects. In response to these findings, the Commission intends to develop a "model" for the final reports, to be provided to all beneficiaries.

Article 11

The first paragraph of the Article obliges the Commission to ensure the publicity of the activities financed, in line with the basic obligation contained in the Vademecum. The second paragraph foresees that the Commission, on a case-by-case basis, shall assess how the dissemination of the results of the projects can be promoted. As mentioned in relation to Article 8, a strong emphasis will be placed on such measures. A component on dissemination could be included in the co-financed project itself, the Commission could finance the appropriate dissemination of the results following completion of the project, or such activities could be the subject of a separate project.

Article 12

This Article sets up the Advisory Committee that will assist the Commission in the implementation of the framework. Two committee meetings per year are foreseen; one on the annual work programme and one on the selection of proposals.

Article 13

This Article specifies the sanctions that may be applied in the case of a beneficiary not meeting its obligations.

Article 14

This Article specifies the two main reports on the framework that will be produced. The Commission will make an implementation report, a mid-term review, which will give the possibility to revise, if necessary, any implementing measures. The second report, which may be undertaken by an external party, will act as an *ex-post* evaluation to be ready in time for a possible renewal of the framework.

Proposal for a

COUNCIL REGULATION

establishing a general framework for Community activities to facilitate the implementation of a European judicial area in civil matters

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 Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas:

- (1) The European Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice, in which the free movement of persons is assured. To this end, the Community should adopt, among others, measures in the field of judicial cooperation in civil matters necessary for the proper functioning of the internal market.
- (2) On 3 December 1998, the Council adopted an Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice (the Vienna Action Plan)⁴.
- (3) The European Council meeting in Tampere on 15 and 16 October 1999 adopted the conclusions “Towards a union of freedom, security and justice: the Tampere milestones”.
- (4) On 30 November 2000, the Council adopted a joint programme of the Commission and the Council of measures for implementation of the principle of mutual recognition of decisions in civil and commercial matters⁵.
- (5) Council Joint Action 96/636/JHA⁶ established, for the period 1996-2000, a programme of incentives and exchanges for legal practitioners (Grotius).

¹ OJ C

² OJ C

³ OJ C

⁴ OJ C 19, 23.1.1999, p. 1.

⁵ OJ C 12, 15.1.2001, p. 1.

⁶ OJ L 287, 8.11.1996, p. 3.

- (6) By Council Regulation (EC) No 290/2001⁷, the programme of incentives and exchanges for legal practitioners in the area of civil law (Grotius-civil) was extended for a one-year transition period only, pending the outcome of a thorough analysis of how Community actions and support should be focussed in the future.
- (7) A flexible and effective general framework for activities in the area of civil law is necessary if the ambitious objectives set by the EC Treaty, the Vienna Action Plan and the Tampere conclusions are to be realised.
- (8) The framework for activities should provide for initiatives taken by the Commission, in compliance with the principle of subsidiarity, for actions in support of organisations and bodies promoting and facilitating judicial cooperation in civil matters, and for actions in support of specific projects.
- (9) A number of actions will be required for the further development of a European judicial area and should therefore be undertaken at Community-level; the planning and implementation of those actions will benefit from being grouped together in a general framework for activities.
- (10) A framework for activities 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.
- (11) Measures to ensure the sound implementation and application of Community instruments in the area of judicial cooperation in civil matters are necessary and will be more effective if they are coordinated within a general framework for activities.
- (12) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the EC Treaty, the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the European dimension necessary for achieving its objectives, the expected economies of scale and the cumulative effects of the actions envisaged, be better achieved by the Community. This Regulation confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose.
- (13) The participation in this framework for activities of the candidate countries for accession to the European Union will provide a useful preparation for accession, in particular as regards these countries' ability to apply the Community *acquis*.
- (14) In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁸, measures for the implementation of this Regulation should be adopted by use of the advisory procedure provided for in Article 3 of that Decision.

⁷ OJ L 43, 14.2.2001, p. 1.

⁸ OJ L 184, 17.7.1999, p. 23.

- (15) The United Kingdom and Ireland, in accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community, are not participating in the adoption of this Regulation, and are therefore not bound by it nor subject to its application.
- (16) Denmark, in accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, is not participating in the adoption of this Regulation, and is therefore not bound by it nor subject to its application,

HAS ADOPTED THIS REGULATION:

CHAPTER I

OBJECTIVES AND ACTIVITIES

Article 1

Subject matter

1. This Regulation establishes, for the period from 1 January 2002 to 31 December 2006, a general framework for Community activities to facilitate the implementation of a European judicial area in civil matters.
2. This Regulation shall not apply to Denmark, Ireland and the United Kingdom.

Article 2

Objectives

The framework for activities shall have the following objectives:

- (1) to promote judicial cooperation, aiming in particular at:
 - (a) ensuring legal certainty and improving access to justice,
 - (b) promoting mutual recognition of judicial decisions and judgments,
 - (c) promoting the necessary approximation of legislation, or
 - (d) eliminating obstacles created by disparities in civil law and civil procedures;
- (2) to improve mutual knowledge of legal and judicial systems between the Member States;
- (3) to ensure the sound implementation and application of Community instruments in the area of judicial cooperation in civil matters; and
- (4) to improve information to the public on access to justice, judicial cooperation and the legal systems of the Member States.

Article 3

Types of activities

The activities supported or carried out under this framework for activities shall meet at least one of the objectives in Article 2 and shall consist of:

- (1) actions taken by the Commission; or
- (2) actions providing financial support for the running costs of European non-governmental organisations, under the conditions set out in Article 5; or
- (3) actions providing financial support for specific projects of Community interest under the conditions set out in Article 6.

Article 4

Participation of third countries

This framework for activities shall be open to the participation of:

- (1) the candidate countries of central and eastern Europe (CEECs), in accordance with the conditions established in the Europe Agreements, in their additional protocols and in the decisions of the respective Association Councils;
- (2) Cyprus, Malta and Turkey, on the basis of bilateral agreements to be concluded with these countries; and
- (3) other countries, when agreements and procedures so allow.

Article 5

Activities of non-governmental organisations

Financial support for the actions referred to in Article 3(2) may be granted to support activities of European non-governmental organisations that meet the following criteria:

- (1) they must be non-profit-making organisations;
- (2) they must pursue activities with a European dimension and involve, as a general rule, at least two thirds of the Member States;
- (3) they must have as a main objective to promote judicial cooperation in civil matters.

Article 6

Specific projects

1. The specific projects referred to in Article 3(3) shall consist of:
 - (a) training;
 - (b) exchanges and work experience placements;
 - (c) studies and research;

- (d) meetings and seminars;
 - (e) dissemination of information.
2. Financial support may also be granted to projects for the creation of new organisations intended to meet the criteria specified in Article 5.
 3. Projects may be submitted by institutions and public or private organisations, including professional organisations, research institutes and legal and judicial training/further training institutes for legal practitioners.
 4. To be eligible for co-financing, the projects must involve at least three countries participating in this framework for activities.

Projects may also associate practitioners from Denmark, Ireland and the United Kingdom, from the candidate countries where this would contribute to their preparation for accession, or from other countries not participating in this framework for activities where this serves the aims of the projects.

CHAPTER II

FINANCING, IMPLEMENTATION AND PROCEDURES

Article 7

Financing

1. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.
2. The co-financing of activities under this framework for activities shall be exclusive of any other financing by another programme financed by the budget of the European Communities.
3. The proportion of financial support from the Community budget may not, in principle, exceed 50% of the running costs for actions referred to in Article 3(2) or of the expenditure involved for projects referred to in Article 3(3).

Article 8

Implementation of the framework for activities

1. The Commission shall, if possible before 30 June each year, publish an annual work programme setting out the priorities in terms of objectives and types of activities for the following year, including a description of the selection and award criteria and the procedures for submission and approval of proposals.
2. The Commission shall adopt the annual work programme in accordance with the procedure referred to in Article 12(2).

3. The Commission shall pay particular attention to the following criteria when evaluating and selecting proposals:
 - (a) ability to contribute to the objectives in Article 2;
 - (b) problem-solving orientation;
 - (c) European dimension;
 - (d) measures foreseen to ensure dissemination of the results;
 - (e) complementarity with other past, present or future activities; and
 - (f) size of the action, in particular in terms of economies of scale and cost-effectiveness.
4. The Commission shall adopt the measures to be taken in accordance with the procedure referred to in Article 12(2).

Article 9

Financing decisions

1. The Commission's financing decisions under Article 3(2) and (3) shall be followed by grant agreements between the Commission and the beneficiaries.
2. The financing decisions and contracts arising therefrom shall be subject to financial control by the Commission and to audits by the Court of Auditors.

Article 10

Monitoring

1. The Commission shall ensure the regular monitoring and supervision of the implementation of the actions financed by the Community. This shall be done on the basis of reports using procedures agreed between the Commission and the beneficiary; it may include checks *in situ* by means of sampling.
2. Beneficiaries shall submit a report to the Commission for each action within three months of its completion. The Commission shall determine the form of this report, including the type of information that must be included in it.
3. Beneficiaries of financial support shall keep at the Commission's disposal all the documentary evidence of expenditure for a period of five years from the last payment concerning an action.

Article 11

Dissemination of information

1. The Commission shall ensure the yearly publication of a list of the beneficiaries and of the activities financed under this framework for activities, including an indication of the amount of the support.

2. Where projects financed under Article 3(3) do not provide for dissemination of the results and where it would contribute to one of the objectives in Article 2, such measures may be taken by the Commission.
3. At the beginning of each year, the Commission shall provide the Committee established in Article 12(1) with information on the activities undertaken under Article 3(1) in the previous year.

Article 12

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.
2. Where reference is made to this paragraph, the advisory procedure laid down in Article 3 of the Council Decision 1999/468/EC shall apply, in compliance with Article 7 thereof.

Article 13

Sanctions

1. The Commission may reduce, suspend or recover financial support granted for an activity if it detects irregularities or learns that the activity has, without its approval, been significantly modified so that it is incompatible with the objectives of the agreed implementing arrangements.
2. If the deadlines are not met or if the state of progress of an activity warrants only partial use of the appropriations granted, the Commission shall ask the beneficiary concerned to provide an explanation within a given period of time. If the beneficiary's reply is not satisfactory, the Commission may cancel the balance of the financial support and require that any sums already paid be refunded immediately.
3. All undue payments shall be refunded to the Commission. Any sums not refunded in good time may be increased by default interest.

Article 14

Reporting and evaluation

1. The Commission will report to the European Parliament and to the Council by 30 June 2004 at the latest on the implementation of this framework for activities, including the results of the control, the reports and the monitoring of the activities.
2. The Commission shall submit to the European Parliament and the Council an evaluation report on this framework for activities to be available in time for a possible renewal of the framework or, by 31 December 2005 at the latest. This report will include an evaluation of cost-effectiveness and an assessment, based on performance indicators, of whether the objectives have been achieved.

Article 15

Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States, in accordance with the Treaty establishing the European Community.

Done at Brussels,

For the Council
The President

FINANCIAL STATEMENT

1. TITLE OF OPERATION

Proposal for a Council regulation establishing a general framework for Community activities to facilitate the implementation of a European judicial area in civil matters.

2. BUDGET HEADING(S) INVOLVED

B5-820

3. LEGAL BASIS

Article 61(c) TEC

4. DESCRIPTION OF OPERATION

4.1 General objective

With the entry into force of the Treaty of Amsterdam, the European Union set itself the objective to create an area of freedom, security and justice. In 1998, the Council and the Commission adopted an Action Plan on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice. The Action Plan, which was submitted in December 1998 to the European Council in Vienna, lists a number of priorities to be achieved within five years of the entry into force of the Treaty of Amsterdam. In Tampere, 15 and 16 October 1999, the European Council reaffirmed the importance of this objective and agreed on a number of policy orientations and priorities to speedily make this area a reality. The European Council also invited the Commission to make a proposal for “an appropriate scoreboard” in order to “keep under constant review progress made towards implementing the necessary measures and meeting the deadlines” set by the Treaty, the Vienna Action Plan and the Tampere conclusions.

In response to this invitation, the Commission presented a Communication entitled “Scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union”, of which the last biannual update was adopted 30 November 2000. The Scoreboard lists the objectives, responsible institutions(s), actions, timetable for adoption (until 2004) and the current state of play for each action. In civil matters, a total of 18 main actions are listed in the latest version of the Scoreboard.

The objective of this proposal is to provide for a general framework of targeted activities related to a number of focussed objectives to support the development of a European judicial area in civil matters. This will contribute to the completion and implementation of the Scoreboard and thereby to meeting the ambitious objectives set by the Treaty, the Vienna Action Plan and the Tampere conclusions.

4.2 Period covered and arrangements for renewal

The duration of the framework for activities is envisaged for five years, 2002 – 2006. Following evaluation of the framework and of its support in advancing the completion of the Scoreboard the Commission will assess the need and modalities for renewing the framework.

5. CLASSIFICATION OF EXPENDITURE OR REVENUE

5.1 Non-compulsory expenditure

5.2 Differentiated appropriations

6. TYPE OF EXPENDITURE OR REVENUE

- Financing of autonomous actions taken by the Commission at its own initiative and within this framework for activities; studies, research, seminars, conferences, expert meetings, publications, manuals, databases and/or websites, and measures to disseminate results from co-financed projects supported under this framework for activities.
- Subsidies for co-financing with other sources in the public and/or private sector, as a general rule up to 50% of the costs of the projects concerned.
- Subsidies for running costs of non-governmental organisations, as a general rule up to 50%.

7. FINANCIAL IMPACT

7.1 Method of calculating total cost of operation (relation between individual and total costs)

The budget for the Grotius-civil programme (2001) and for the civil law aspects of the Grotius programme (1996-2000) was approximately EUR 650 000 per year. The Grotius-civil programme will not be renewed.

The Schuman programme (1998-2001) received funding of approximately EUR 1 000 000 for 2001. This programme will not be renewed.

The indicative financial reference amount has been estimated in full consideration of the ceiling set by the total financial perspective for the title “Area of freedom, security and justice” for 2002-2006. The wider scope and larger budget of the framework for activities compared to the previous programmes follows from the transfer of judicial cooperation in civil matters from the third pillar to the first pillar of the EU and the resulting new ambitious policy objectives in this area. As an example in terms of legislative activity alone, four new regulations have been adopted during the year 2000, two proposals for regulations are currently under discussion in the Council, and a substantial number of proposals for new legislative acts can be envisaged during the coming years.

7.2 Itemised breakdown of cost

The breakdown of the budget in relation to each of the specific objectives of the framework for activities will be determined by the priorities specified in the annual work programme. Those priorities will be set in close connection to the schedule of the Scoreboard in its latest version to ensure adequate and timely support for policy development. Moreover, the need for actions under the third specific objective will inevitably be linked to the progress made in adopting new instruments. The distribution of the budget in terms of activities to be financed under the framework, in relation to each specific objective, will be determined by the annual selection process. The quality of the proposals in terms of added value for advancing the specific objectives prioritised a given year will be the most important factor. As the purpose of the framework is to cover all future activities and initiatives in the area of judicial cooperation in civil matters, a certain flexibility is necessary to ensure that this purpose can be fulfilled.

It is therefore difficult to give a breakdown of costs in relation to the specific objectives and to the activities covered by the framework. Nevertheless, an indicative breakdown of costs in relation to each objective can be given based on what can be foreseen for 2002, with examples of activities given under each objective.

Commitment appropriations EUR million (at current prices)

Breakdown	2002	2003	2004	2005	2006	Total
1. To promote judicial cooperation. Examples of activities: Co-financed projects; studies; research; seminars and conferences; dissemination of results from co-financed projects; support to non-governmental organisations.	1 000	1 000	1 000	1 000	1 000	5 000
2. To improve mutual knowledge of legal and judicial systems between the Member States. Examples of activities: Co-financed projects; support to non-governmental organisations.	400	400	400	400	400	2 000
3. To ensure the sound implementation and application of Community instruments in the area of judicial cooperation in civil matters. Examples of activities: Update of manuals; surveillance instruments for adopted acts; set-up of databases.	1 300	1 000	900	1 000	800	5 000
4. To improve information to the public on access to justice, judicial cooperation and the legal systems of the Member States. Examples of activities: User- guides for the public; information campaigns.	300	600	700	600	800	3 000
Total	3 000	3 000	3 000	3 000	3 000	15 000

7.3 Operational expenditure for studies, experts, etc. included in Part B of the budget

None

7.4 Schedule of commitment and payment appropriations

EUR million

	2002	2003	2004	2005	2006	Total
Commitment appropriations	3.0	3.0	3.0	3.0	3.0	15.0
Payment appropriations						
2002	1.0					1.5
2003	2.0	1.5				3.0
2004		1.5	1.5			3.0
2005			1.5	1.5		3.0
2006				1.5	1.5	3.0
2007					1.5	1.5
Total	3.0	3.0	3.0	3.0	3.0	15.0

8. FRAUD PREVENTION MEASURES

General provisions for anti-fraud measures shall apply. The possibility to carry out checks *in situ* is provided for.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

9.1 Specific and quantified objectives; target population

1. To promote judicial cooperation, aiming in particular at:

- (a) ensuring legal certainty and improving access to justice;
- (b) promoting mutual recognition of judicial decisions and judgments;
- (c) promoting the necessary approximation of legislation; or
- (d) eliminating obstacles created by disparities in civil law and civil procedures.

The first specific objective is aimed at policy development and provides thereby the cornerstone of the framework, with its direct link to the priorities set by the Tampere conclusions and to the actions in the Scoreboard.

Activities carried out or supported under this objective could be studies, research, conferences and seminars, and measures to disseminate information from those activities. All activities carried out under this objective will focus on problem-solving oriented actions aiming at direct impact in the development of new instruments and other measures. Support for the activities of non-governmental non-profit organisations is also foreseen, in order to set in place and/or maintain organisations that continuously, and independently, can carry out activities that support Community policies in this area.

2. To improve mutual knowledge of legal and judicial systems between the Member States.

Improved mutual knowledge will facilitate the identification of problem areas and possible solutions, in order to make progress in the areas listed under the first specific objective. The second specific objective will contribute also to the correct implementation of Community instruments; judicial cooperation in practice demands mutual knowledge among legal practitioners in the Member States of the legal and judicial systems.

The same type of activities as in relation to the first objective can be foreseen. In addition, projects to promote training or facilitate exchange and work-experience projects could be supported also.

3. To ensure the sound implementation and application of Community instruments in the area of judicial cooperation in civil matters.

The third specific objective reflects the need to ensure a proper implementation and application of the Community instruments that have been or will be adopted in this area. It may be noted that the regulations adopted so far contain obligations for the Commission to this effect also.

Activities could be the development and/or update of manuals, review and up-date of implementing instruments such as multilingual forms, set-up and management of databases on, for example, case law, and the development of user-guides for legal practitioners as well for the general public.

4. To improve information to the public on access to justice, judicial cooperation and the legal systems of the Member States.

The fourth specific objective reflects one of the priorities of the Tampere conclusions. Measures to improve access to justice and judicial cooperation will only be effective if citizens and business are aware of their rights and the modalities to exercise those rights.

Activities with this objective could be, for example, user guides, information campaigns or set-up and management of information systems targeted at groups specifically concerned with cross-border litigation. Problem-oriented surveys to assess possible lacuna in the information available could be undertaken also.

Target population

The target population for the first, the second and the third objectives is institutions and public or private organisations in the Member States including professional organisations, research institutes, universities, legal and judicial training/further training institutes for legal practitioners, European non-profit non-governmental organisations, and other experts or professionals involved in the judiciary or in the development of law.

The fourth objective targets the public at large; however, actions could be targeted towards more limited groups, such as young persons, consumers, business, or other groups especially concerned with cross-border litigation.

9.2 Grounds for the operation

9.2.1 Need for Community action

A Community intervention in terms of financial support is needed in view of the inherent cross-border dimension of the policy objectives and in view of the measures needed to ensure the sound implementation and application of Community instruments.

Activities of the type foreseen under the framework for activities need a European dimension and a certain scale in order to give adequate support to the development of policy; such economies of scale are best achieved through a general framework at Community level. Activities also need to be co-ordinated at European level to avoid duplication of efforts and to ensure that their focus and timing are in line with the political priorities.

The previous Grotius programme has created a momentum for cross-border cooperation between legal practitioners of the Member States, paving the ground for building informal contacts, mutual trust and networks. This momentum, which should be maintained and further supported, can give rise to further spin-off effects in terms of reaching the objectives of the framework.

9.2.2 Coordination and complementarity, policy impact

The necessary coordination with the Member States will be ensured via the Advisory Committee, both as regards the annual work programme and the selection of proposals.

The selection process will place great emphasis on ensuring complementarity with previous activities carried out under the Grotius and the Grotius-civil programmes. To this end, a list of previous projects financed will be published on the Internet, to assist applicants in drawing up their proposals.

Commission actions will be undertaken to complement, as necessary, co-financed activities, ensuring that support for policy development is adequate and properly timed in relation to the Scoreboard.

The only related instrument in this area is the proposed European Judicial Network (EJN) in civil and commercial matters¹. The EJN is however intended for a limited number of tasks, namely, the setting up and management of a network of central contact points in the Member States for an infinite duration and the creation of an information system for the public. As the Commission will manage both the Network and this framework for activities, the necessary coordination will be ensured.

The selection criteria for a problem-solving approach will ensure that co-financed activities are forward-looking, not merely describing “the state-of-affairs”, and providing operationally useful results in terms of policy impact. Priority will be given to large projects, for the purpose of ensuring cost-effectiveness, policy impact and usefulness of results.

¹ Proposal for a Council Decision establishing a European Judicial Network in civil and commercial matters, COM(2000) 592 final, 22.9.2000.

9.2.3 *Ex-post evaluation of the Grotius programme*

An external evaluation of the Grotius programme, covering the years 1996-1998, was completed in March 2000. The main findings and recommendations were the following:

- The ambitions of the Joint Action launching the programme were fulfilled, with all projects being relevant in terms of prioritised topics. Demand considerably exceeded supply in terms of financing; no alternative mechanism exists and many projects would not have been realised without the support of the programme.
- Some projects have been mainly of a descriptive nature, not leading to operationally useful results. For the future, the selection criteria needs to be more closely linked to the political priorities set by the Tampere conclusions.
- Dissemination of the results from completed projects has been unsatisfactory. This has reduced the policy impact of otherwise very successful projects. More efforts should be made in this area. The Commission should also provide the beneficiaries with a “model” final report.
- The overall guidelines of the programme should be kept flexible and general, to preserve and increase the diversity and the wealth of the projects supported. The Annual Programme should be used to establish a balance between different objectives and between different types of activities.

The recommendations of the evaluation have been taken into account in the new framework for activities. The objectives have been closely linked to the priorities set by the Tampere conclusions, and the Annual Programme will be based on the Scoreboard in its latest version. The Annual Programme will also be used to ensure an appropriate balance between different types of activities. Measures to disseminate results will constitute an important selection criteria for co-financed projects. Such measures can also be supported as independent co-financed projects or as Commission actions. Guidelines for the final report to be used by the beneficiaries will be developed.

9.2.4 *Risks*

A factor of uncertainty is the size of the proposals; a high number of small projects may put strains on the Commission’s management of the framework and will have a smaller impact than desired in terms of policy.

9.3 Monitoring and evaluation of the operation

Indicators will be produced for on-going activities as well as for completed activities, including:

- demand (number of applications, requested funding);
- number and size of activities;
- European dimension (geographical distribution);

- share of activities in relation to the objectives, to the types of activities eligible under the framework, and to the priorities of the annual work programme;
- share of the results from completed activities successfully disseminated; and
- leverage effect of the programme.

The indicators will be used to monitor that all thematic priorities and all types of activities are appropriately covered.

All beneficiaries will be required to provide detailed reports of the activities undertaken, including what measures they intend to take for the dissemination of the results (as appropriate depending on type of activity). The Commission will provide guidelines on the format of those reports, the type of information they should contain, and on measures for their dissemination.

Organisations receiving running costs grants will be required to provide regular information on their activities to assess if they meet the objectives of the framework and of the support given.

The Commission will report to the Council and the European Parliament before the end of June 2004 on the implementation of the framework. The report will cover the indicators mentioned above for 2002 and 2003.

An evaluation report will be submitted to the Council and the European Parliament before a possible renewal of the framework or, at the latest, before the end of December 2005. The purpose of this evaluation, which may be carried out by an external party, will be to assess the effectiveness (i.e. if the expected effects have been obtained and that the objectives have been achieved) and the efficiency (cost-effectiveness) of the framework actions. The evaluation will particularly focus on assessing the impact and the relevance of the activities carried out in supporting the development of a European judicial area in civil matters. The most important factors will be the results achieved and the quality of the policy actions themselves. For this, a number of quantifiable impact indicators can be foreseen:

- the number of concrete problems identified, and solutions proposed, in relation to the actions in the Scoreboard;
- the timing of the activities in relation to the schedule set in the Scoreboard;
- the share of Community instruments subject to effective monitoring;
- the number of non-profit, non-governmental organisations operating effectively in the field of judicial cooperation, and the share thereof which has enjoyed Community support.

Surveys could also be undertaken to analyse, for example, the degree of mutual knowledge of legal and judicial systems among legal practitioners in the Member States and the degree of knowledge of individuals and business on how to exercise their rights to justice in the Union.

10. ADMINISTRATIVE EXPENDITURE (SECTION III, PART A OF THE BUDGET)

The needs for human and administrative resources shall be covered within the allocation granted to the managing DG.

10.1 Effect on the number of posts

Type of post		Staff to be assigned to managing the operation		Source		Duration
		Permanent posts	Temporary posts	Existing resources in the DG or department concerned	Additional resources	
Officials or temporary staff	A	1		1		6 years
	B	1		1		6 years
	C	1		1		6 years
Other resources						
Total		3		3		6 years

10.2 Increase in other administrative expenditure as a result of the operation

EUR

Budget heading	Amounts	Method of calculation
A-7031	120 000	15 experts x 2 Committee meetings x 800 x 5 years
Total	120 000	