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(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 743/2002
of 25 April 2002**

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and Article 67(1) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas:

- (1) The European Union 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.
- (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 (hereinafter the 'Vienna action plan') ⁽⁴⁾.
- (3) The European Council meeting in Tampere on 15 and 16 October 1999 adopted the conclusions entitled '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 matters ⁽⁵⁾.

- (5) Joint Action 96/636/JHA ⁽⁶⁾ established, for the period 1996 to 2000, a programme of incentives and exchanges for legal practitioners (Grotius).
- (6) By Regulation (EC) No 290/2001 ⁽⁷⁾, 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 focused in the future.
- (7) Decision No 1496/98/EC of the European Parliament and of the Council ⁽⁸⁾ established an action programme to improve awareness of Community law within the legal professions (Robert Schuman project) for a period of three years.
- (8) A flexible and effective general Community framework for activities in the area of civil law is necessary if the ambitious objectives set by the Treaty, the Vienna action plan and the Tampere conclusions are to be realised.
- (9) The general Community framework for activities 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.
- (10) A number of actions will be required for the further development of judicial cooperation in civil matters and should therefore be undertaken in the framework of a Community programme for activities. The planning and implementation of those actions will benefit from being grouped together in a general Community framework for activities.
- (11) The Commission's actions could include specific actions, such as studies, research, seminars, conferences, experts' meetings, publications, manuals, databases and/or websites, as well as measures to disseminate the results of projects co-financed under the general Community framework for activities.

⁽¹⁾ OJ C 213E, 31.7.2001, p. 271.

⁽²⁾ Opinion delivered on 12 March 2002 (not yet published in the Official Journal).

⁽³⁾ OJ C 36, 8.2.2002, p. 77.

⁽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.

⁽⁷⁾ OJ L 43, 14.2.2001, p. 1.

⁽⁸⁾ OJ L 196, 14.7.1998, p. 24.

- (12) A general Community 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.
- (13) Measures to ensure good use is made of Community instruments in the area of judicial cooperation in civil matters are necessary; they will be more effective if they are coordinated within a general Community framework for activities.
- (14) Since 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, 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 Regulation does not go beyond what is necessary in order to achieve those objectives.
- (15) The participation in this general Community 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*.
- (16) Certain principles must be laid down concerning the sanctions to be imposed where irregularities are noted or where obligations under grant agreements between the Commission and beneficiaries are not respected.
- (17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (18) The annual work programme shall be adopted by the management committee procedure in order to ensure a measure of institutional balance, taking account in particular of the fact that the specific actions provided for in Article 3(1) are to be taken by the Commission.
- (19) The United Kingdom and Ireland, in accordance with Article 3 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, have given notice of their wish to participate in the adoption and implementation of this Regulation.
- (20) 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, which is not binding on Denmark nor applicable to it,

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 Community framework for activities to facilitate the implementation of judicial cooperation in civil matters (hereinafter referred to as the 'general framework').
2. This Regulation shall not apply to Denmark.

Article 2

Objectives

The general framework for activities shall have the following objectives:

1. to promote judicial cooperation in civil matters, 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 Member States' legal and judicial systems in civil matters;
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 in civil matters.

Article 3

Types of activities

Activities given financial support or carried out under this general framework for activities shall meet at least one of the objectives in Article 2 and shall consist of:

1. specific actions taken by the Commission; or

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

2. actions providing financial support for specific projects of Community interest under the conditions set out in Article 5; or
3. actions providing financial support for the activities of non-governmental organisations under the conditions set out in Article 6.

Article 4

Participation of third countries

This general 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 the additional protocols thereto 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

Specific projects

1. The specific projects referred to in Article 3(2) shall consist of one or more of the following:

- (a) training;
- (b) exchanges and work experience placements;
- (c) studies and research;
- (d) meetings and seminars;
- (e) dissemination of information.

2. 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.

'Legal practitioners' means, *inter alia*, judges, prosecutors, advocates, solicitors, academic and scientific personnel, ministry officials, court officers, bailiffs, court interpreters and other professionals associated with the judiciary in the area of civil law.

3. To be eligible for co-financing, the projects must involve at least three countries participating in this general framework for activities.

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

Article 6

Activities of non-governmental organisations

Financial support for the actions referred to in Article 3(3) may be granted to support activities included in the annual activity programmes of non-governmental organisations which meet the following criteria:

1. they must be non-profit-making organisations;
2. they must be constituted in accordance with the law of one of the Member States;
3. they must pursue activities with a European dimension and involve, as a general rule, at least half of the Member States;
4. the aims of their activities must include one or more of the objectives laid down in Article 2.

CHAPTER II

FINANCING, IMPLEMENTATION AND PROCEDURES

Article 7

Financing

1. The co-financing of activities under this general framework shall be exclusive of any other financing by another programme financed by the general budget of the European Union.

2. The actions referred to in Article 3(1), on the one hand, and Article 3(2) and (3), on the other hand, shall receive an equitable share of the annual amount.

3. The proportion of financial support from the general budget of the European Union may not, in principle, exceed 60 % of the costs for actions referred to in Article 3(2) or (3). However, under exceptional circumstances, financial support may amount to 80 %.

Article 8

Implementation

1. The Commission shall publish each year, if possible before 30 June, an annual work programme:

- (a) setting out the priorities in terms of objectives and types of activities for the following year;
- (b) giving a description of the actions referred to in Article 3(1), which the Commission intends to take; and
- (c) including a description of the selection and award criteria and the procedures for submission and approval of proposals for actions referred to in Article 3(2) and (3).

2. The Commission shall adopt the annual work programme in accordance with the procedure referred to in Article 13(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 planned to ensure dissemination of 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 examine each of the draft actions submitted to it, as referred to in Article 3(2) and (3). Decisions relating to these actions shall be adopted 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 grant agreements 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. Monitoring and supervision shall be done on the basis of reports using procedures agreed between the Commission and the beneficiary. These 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 general framework, including an indication of the amount of the support.

2. Where projects financed under Article 3(2) do not provide for dissemination of results and where this would contribute to one of the objectives in Article 2, measures may be taken by the Commission.

3. At the beginning of each year, the Commission shall provide the Article 12 Committee 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 (the 'Article 12 Committee').
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
3. The Committee shall adopt its rules of procedure.

Article 13

Management Committee

1. The Commission shall be assisted by a Committee (the 'Article 13 Committee').
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for 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 14

Sanctions

1. Sanctions shall be regulated in grant agreements in accordance with this Regulation.
2. The Commission may terminate a grant agreement concluded under the general framework if it detects irregularities, or if obligations under the grant agreement are not met.

If irregularities are detected or if obligations under a grant agreement are not met, the Commission may suspend payment of the balance of the financial support. The Commission shall ask the beneficiary to explain or rectify the situation within a reasonable period set by the Commission.

If the reply is not satisfactory or if the situation is not rectified, the Commission may terminate the grant agreement and ask for the sums already disbursed to be refunded, with payment of default interest.

3. If some of the obligations under the agreement are not met, the Commission may reduce the balance of financial support and ask for part of any sum already disbursed to be refunded, with payment of default interest.

*Article 15***Reporting and evaluation**

1. The Commission shall report to the European Parliament and to the Council by 30 June 2004 at the latest on the implementation of this general framework, 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 general framework to be available in time for a possible renewal of the

general 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 16***Entry into force**

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

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

Done at Luxembourg, 25 April 2002.

For the Council

The President

M. RAJOY BREY
