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## **REPORT**

on the proposal for a Council decision establishing for the period 2007-2013 the specific programme "Criminal justice" as part of the General programme "Fundamental Rights and Justice"  
(COM(2005)0122 – C6-0237/2005 – 2005/0039(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Inger Segelström

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council decision establishing for the period 2007-2013 the specific programme "Criminal justice" as part of the General programme "Fundamental Rights and Justice"**

**(COM(2005)0122 – C6-0237/2005 – 2005/0039(CNS))**

**(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal (COM(2005)0122)<sup>1</sup>,
  - having regard to Articles 31 and 34(2)(c) of the EU Treaty,
  - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0237/2005),
  - having regard to Rules 93 and 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgets (A6-0453/2006),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> Not yet published in OJ.

Amendments by Parliament<sup>1</sup> to the

**Proposal for a**

**COUNCIL DECISION**

**establishing for the period 2007-2013 the specific programme on Criminal justice  
as part of the  
General programme on Fundamental Rights and Justice**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 31 and Article 34(2)(c) thereof,

Having regard to the proposal of the Commission<sup>2</sup>,

Having regard to the opinion of the European Parliament<sup>3</sup>,

Whereas:

- (1) Article 29 of the Treaty of the European Union states that the Union's objective is to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the field of judicial cooperation in criminal matters.
- (2) According to Article 31 of the Treaty of the European Union, common action in criminal matters shall include, in particular, cooperation between the competent authorities of the Member States.

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<sup>1</sup> This text has been provided by Council services and is subject to legal linguistic verification.

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C , , p. .

- (3) Building on the conclusions of the Tampere European Council, The Hague Programme, adopted by the European Council in November 2004, reaffirms the priority of strengthening Freedom, Security and Justice in the European Union, in particular by enhancing judicial cooperation in criminal matters, based on the mutual recognition principle.
- (4) The framework programme on police and judicial cooperation in criminal matters (AGIS) established by Council Decision 2002/630/JHA of 22 July 2002<sup>1</sup> contributed considerably to strengthening cooperation between police and other law enforcement agencies and the judiciary in the Member States and to improving mutual understanding and mutual trust between their police, judicial, legal and administrative systems.
- (5) 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.
- (6) The programme should improve mutual confidence within the judiciary. Mutual confidence, according to the Hague Programme, should be strengthened by developing networks of judicial organisation and institutions, by improving training of judicial professions, by developing the evaluation of the implementation of EU policies in the field of justice, while fully respecting the independence of the judiciary by increasing research in the field of judicial cooperation, and by facilitating operational projects among Member States aiming at modernising justice.

It should also facilitate the implementation of the mutual recognition principle by improving mutual knowledge on previous convictions passed in the European Union, in particular through the creation of a computerised system of exchange of information on criminal records.

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<sup>1</sup> OJ L 203, 1.8.2002, p. 1.

- (7) The European Judicial Training Network founded by institutions specifically responsible for the training of the professional judiciary of all Member States promotes a training programme for judges and public prosecutors with a genuine European dimension. This contributes to strengthening the mutual confidence and improves mutual understanding between judicial authorities and different legal systems.
- (8) 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.
- (9) (...)
- (10) Since the objectives of the Criminal 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 on the European Community, made applicable to the Union by Article 2 of the Treaty on European Union. 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.
- (11) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>1</sup>, 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 1605/2002<sup>1</sup>, which safeguard the Community's financial interests, applies 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.

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<sup>1</sup> OJ L 248, 16.9.2002, p. 1.



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<sup>1</sup> OJ L 357, 31.12.2002, p. 1.

(11 bis) 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 interests<sup>1</sup>, (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission<sup>2</sup> 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)<sup>3</sup>.

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

***(12 a) Bearing in mind the importance of visibility of the Community funding, the Commission should provide guidance to facilitate that any authority, nongovernmental organisation, international organisation or other entity receiving a grant under this programme properly acknowledges the support received.***

(13) The measures required to implement this Decision should be adopted according to the procedures laid down in it, with the assistance of an advisory and management committees.

(14) It is appropriate to replace the Council decision establishing framework programme on police and judicial cooperation in criminal matters (AGIS) by this programme from 1 January 2007 and by the new specific programme on the Prevention of and fight against crime from the general programme on Security and Safeguarding Liberties.

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### **Creation of the programme**

1. This Decision establishes the specific programme on criminal justice, hereinafter referred to as "the programme" as part of the general programme on Fundamental Rights and

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<sup>1</sup> OJ L 312, 23.12.1995, p. 1.

<sup>2</sup> OJ L 292, 15.11.1996, p. 2.

<sup>3</sup> OJ L 136, 31/05/1999 P. 0001 - 0007.

Justice, in order to contribute to the strengthening of the area of Freedom, Security and Justice.

2. The programme shall cover the period from 1 January 2007 to 31 December 2013.

## 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 criminal matters based on mutual recognition and mutual confidence.
  - (b) To promote the compatibility in rules applicable in the Member States as may be necessary to improve judicial cooperation. To promote a reduction in existing legal obstacles to the good functioning of judicial cooperation with a view to strengthening the coordination of investigations and to increase compatibility of the existing judicial systems in the Member States to the European Union with a view to providing adequate follow-up to investigations of law enforcement authorities of the Member States.(c) (...)
  - (d) To improve the contacts and exchange of information and best practice between legal, judicial and administrative authorities and the legal professions: lawyers and other professionals involved in the work of the judiciary, and to foster the training of the members of the judiciary, with a view to enhancing mutual trust.
  - (e) *To further improve mutual trust with the view to ensuring protection of rights of victims and of defendants.*
2. Without prejudice to the objectives and powers of the European Community, the general objectives of the programme contribute to the development of community policies, and more specifically to the creation of a judicial area.

### Article 3

#### Specific objectives

The programme shall have the following specific objectives:

- (a) To foster judicial cooperation in criminal matters aiming at
- promoting mutual recognition of judicial decisions and judgments;
  - eliminating obstacles created by disparities between the judicial systems of Member States and promoting the necessary approximation of substantive criminal law concerning serious crime, in particular (...) with cross border dimension<sup>1</sup>;
  - ***further enhancing the establishment of minimum standards concerning aspects of procedural criminal law with the view to promoting the practical aspects of judicial cooperation,***
  - guaranteeing a proper administration of justice by avoiding conflicts of jurisdiction;
  - improving the exchange of information, through the use of computerised systems, in particular information extracted from national criminal records.
  - promoting rights of defendants as well as social and legal assistance to victims.
  - encouraging Member States to step up cooperation with Eurojust in combating of cross-border organised and other serious crime.
  - Promoting measures aiming at effective re-socialisation of offenders, in particular of juvenile offenders.

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<sup>1</sup> Presidency proposal following the discussions at JHA Counsellors Group Reservations by COM, IT and BE favouring a broader approach. IE wanted to limit this objective to "serious crime with cross border dimension.

- (b) To improve mutual knowledge of Member States' legal and judicial systems in criminal matters and to promote and strengthen networking, mutual cooperation, exchange and dissemination of information, experience and best practices.
- (c) To ensure the sound implementation, the correct and concrete application and the evaluation of Union instruments in the areas of judicial cooperation in criminal matters.
- (d) To improve information on legal systems in the Member States and access to justice.
- (e) To promote training in Union and Community law for the judiciary, lawyers and other professionals involved in the work of the judiciary.
- (f) To evaluate the general conditions necessary to develop mutual confidence by improving mutual understanding between judicial authorities and different legal systems, in particular regarding the implementation of EU policies in the field of justice.
- (g) To develop and implement a computerised system of exchange of information on criminal records and to support studies to develop other types of exchange of information.

#### Article 4

#### **Actions**

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

- (a) specific actions taken by the Commission, such as studies and research, creation and implementation of specific projects like the creation of a computerised system of exchange of information on criminal records, opinion polls and surveys, formulation of indicators and common methodologies, collection, development and dissemination of data and statistics, seminars, conferences and experts meetings, organisation of public campaigns and events, development and maintenance of websites, preparation and dissemination of information materials, support for and development of networks of national experts, analytical, monitoring and evaluation activities; or
- (b) specific transnational projects of Union interest presented by at least two Member States or by at least one Member States and one other state which may either be an acceding or a candidate country under the conditions set out in the annual work programmes; or
- (c) support for 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;
- (d) an operating grant to co-finance expenditure associated with the permanent work programme of the European Judicial Training Network which pursues an aim of general European interest in the field of training of the judiciary.
- (e) National projects within Member States, which
  - prepare transnational projects and/or Union actions ("starter measures"),
  - complement transnational projects and/or Union ("complementary measures")
  - contribute to developing innovative methods and/or technologies with a potential for transferability to actions at Union level, or develop such methods or technologies with a view to transferring them to other Member States and/or other state which may either be an acceding or a candidate country.

## Article 5

### Target Groups

The programme is destined for inter alia, legal practitioners, representatives of victims' assistance services, *and other professionals involved in the work of the judiciary*, the national authorities and the citizens of the Union in general.

## Article 6

### Access to the programme

1. 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/further training institutes for legal practitioners, non-governmental organisations of the Member States. Bodies and organisations which are profit oriented will have access to the programme only in conjunction with non profit oriented or state organisations<sup>1,2</sup>.

"Legal practitioners" means, inter alia, judges, prosecutors, advocates, solicitors, ministry officials, court officers, bailiffs, court interpreters and other professionals involved in the work of the judiciary in the area of criminal law.

2. Transnational projects may not be presented by third countries or by international organisations but they may participate as partners.

## Article 7

### Types of intervention

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

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<sup>1</sup> COM proposed that reference to "state organisations" should be replaced by reference to "public bodies". MS opposed it.

<sup>2</sup> HU proposed to add the following words at the end of the first subparagraph of this paragraph: *...also provided that the programme corresponds to the specific aims set in the sixth indent of Article 3, point (a), or points (d), f), (g) of Article 3*. MS opposed this proposal.



2. Community grants shall normally be awarded further to calls for proposals, save in duly substantiated exceptional cases of urgency or where the characteristics of the beneficiary leave no other choice for a given action, and shall be provided through operating grants and grants for **actions**.

**The** maximum rate of co-financing of the costs of the projects will be specified in the annual work *programmes*.

3. Furthermore, provision is made for expenditure 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 8*

#### **Implementing measures**

1. The Commission shall implement the Community assistance in accordance with the Financial Regulation applicable to the general budget of the European Communities.

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, by the end of September specifying its specific objectives, thematic priorities, a description of accompanying measures envisaged in Article 7(3) and if necessary a list of other actions.

The annual work programme for 2007 shall be adopted three months after the entry into force (...) of this instrument.

3. The annual work programme shall be adopted in accordance with the procedure referred to in *Article 10 bis*.

4. The evaluation and award procedures relating to grants for 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(c) and (d), shall be assessed in the light of:

- consistency with the programme objectives;
- quality of the planned activities;
- likely multiplier effect on the public of these activities;
- geographic impact of the activities carried out;
- citizen involvement in the organisation of the bodies concerned;
- cost/benefit ratio of the activity proposed.

***5a Decisions related to actions submitted under Article 4(1)(a) shall be adopted by the Commission in accordance with the management procedure referred to in Article 10bis. Decisions related to actions submitted under 4(1)(b)(c)(d)(e) shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 10. Decisions on applications for grants involving (...) profit-oriented bodies or organisations shall be adopted by the Commission in accordance with the management procedure referred to in Article 10bis***

6. Pursuant to Article 113(2) of the Financial Regulation, the principle of gradual reduction shall not apply to the operating grant given to the European Judicial Training Network since it pursues an objective of general European interest.

#### *Article 9*

#### **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, hereinafter referred to as the "Committee".
2. The committee shall adopt its Rules of Procedure.
3. The Commission may invite representatives from the applicant countries to information meetings after the Committee's meetings.

#### *Article 10*

#### **Advisory procedure**

1. Where reference is made to this Article, the representative of the Commission shall submit to the committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chair may lay down according to the urgency of the matter, if necessary by taking a vote.
2. The opinion shall be recorded in the minutes; each Member State may request that its position be recorded in the minutes.
3. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which the opinion has been taken into account.

## *Article 10 bis*

### *Management procedure*

- 1. Where reference is made to this Article, the representative of the Commission shall submit to the committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chair may lay down according to the urgency of the matter. In the case of decisions which the Council is required to adopt on a proposal from the Commission, the opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty establishing the European Community. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chair shall not vote.**
- 2. The Commission shall adopt measures which shall apply immediately. However, if the measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided on for a period of three months from the date of such communication.**
- 3. The Council, acting by qualified majority, may take a different decision within the period provided for by paragraph 2.**

## *Article 11*

### **Complementarity**

1. Synergies and complementarity with other Community instruments will be sought, particularly the specific programme on civil justice under the general programme on Fundamental Rights and Justice, and the general programmes on Security and Safeguarding Liberties and Solidarity and Management of Migration Flows. The statistical element of information on criminal justice will be developed in collaboration with Member States, using as necessary the Community Statistical Programme.
2. The programme may share resources with other Community instruments, in particular the specific programme on civil justice under the general programme on Fundamental rights and Justice in order to implement actions meeting the objectives of both programmes.

3. Operations financed under this Decision shall not receive assistance for the same purpose from other Community financial instruments. It shall be ensured that the beneficiaries of this Decision 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**

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 perspectives.

#### *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 and that a final report shall be submitted within three months of the completion of the action. The Commission shall determine the form and structure of the reports.

2. (...)

3. The Commission shall ensure that the contracts and agreements resulting from the implementation of the programme will provide in particular for supervision and financial control by the Commission (or any representative authorized by it), if necessary by means of on-the-spot checks, including sample checks, 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 shall ensure that the beneficiary will be 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 repayment of sums already paid demanded.

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 annual presentation on the implementation of the programme***

(a) an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of this programme no later than 31 March 2011;

(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 15a***

#### ***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*

**Transitional measures**

This Decision shall, from 1 January 2007, replace the corresponding provisions of the Council Decision of 22 July establishing a framework programme on police and judicial cooperation in criminal matters (AGIS).



Actions started before 31 December 2006 pursuant to that Decision shall continue to be governed, until their completion, by that Decision. The committee provided for in Article 7 thereof shall be replaced by the one provided for in Article 10 of the present Decision.

*Article 17*

**Entry into force**

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*. It shall apply from 1 January 2007, with the exception of Articles 8(2)(3) and 10(bis) that shall apply at the date when the present Decision shall take effect.

Done at Brussels,

*The President*

For the Council

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27.2.2006

## OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council decision establishing for the period 2007-2013 the specific programme "Criminal Justice" as part of the General programme "Fundamental Rights and Justice"

(COM(2005)0122 – C6-0237/2005 – 2005/0039(CNS))

Draftsman: Neena Gill

### SHORT JUSTIFICATION

This proposal is one of the four draft decisions which comprise the framework programme "Fundamental Rights and Justice"<sup>1</sup> presented by the Commission on April 2005 and proposed for a period from January 2007 to December 2013 with a global allocation of EUR 543 million in commitment appropriations. Four specific programmes are set up as part of the framework programme: The fight against violence and drugs prevention programme, the fundamental rights and citizenship programme, the criminal justice programme and the civil justice programme.

The present proposal for a criminal justice programme is mainly focused on the promotion of judicial cooperation with the aim of contributing to the creation of a genuine European area of justice in criminal matters based on mutual recognition and mutual confidence. Other priorities of the programme are:

- to promote the adjustment of the existing judicial system in Member States to the European Union being a territory without border controls, with a single currency, and with free movement of persons, services, goods and capital;
- to foster access to justice;
- to improve the contacts and exchange of information between the legal professions, and to foster the training of the members of the judiciary.

The financial allocation for the Fund for operational expenditure of the programme "Criminal Justice" for the period 2007-2013 is EUR 196,2 million which breaks down as follows:

	2007	2008	2009	2010	2011	2012	2013	2014...	TOTAL
<b>Commitments</b>	29,2	29,8	30,4	26	26,4	26,9	27,5		<b>196,2</b>
<b>Payments</b>	14,6	26,64	29,98	28,08	27,08	26,57	27,1	16,15	<b>196,2</b>

Within the overall reference amount for the framework programme EUR 11,1 million are foreseen for administrative expenditure.

## **RAPPORTEUR'S PROPOSALS**

The Commission proposal can be welcomed, since it means a more and better cooperation based on the principal of mutual recognition and confidence-building and enhances the creation of measures in the criminal law field to ensure that there are no safe havens for crime and criminals. The draftsman notes that the drafting of the proposal, nonetheless, is not of the highest quality, especially in as far as a clear explanation of the rationalisation was concerned, where a breakdown of the budget lines to be merged, the estimated saving and where this money will be used would have been useful.

The proposal nonetheless prompts a number of comments:

1. The appropriations indicated in the financial statement of the proposal for a Council decision are purely for guidance until an agreement is reached on the financial perspective for the period 2007 and the following years. Regarding this particular point two amendments are tabled to the draft legislative resolution.
2. Given that the present decision is subject to a consultation procedure, it will not contain an amount deemed necessary according to the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure<sup>1</sup>. Thus an amendment to Recital 9 is proposed.
3. In order to assure coherence and simplification, a new paragraph specifying the implementing measures for the programme to be discussed within the advisory committee is proposed. This article includes the annual work programme, the guidelines and the proposals for project selection among other measures to be adopted within the advisory committee in order to assure transparency. An amendment is thus proposed to change Article 9.
4. In order to avoid the risk of overlapping of the actions of the present proposal with the actions of the specific programme "Prevention of and Fight against Crime", which focuses on law enforcement and crime prevention and the corresponding specific programmes of the general programmes on Fundamental Rights and Justice, and "Solidarity and Management of Migration Flows", an amendment to Article 11 is proposed.

5. It is important to ensure democratic scrutiny by means of suitable arrangements for fund monitoring and evaluation. Three amendments have been tabled in this respect to Articles 13 and 15.

## AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

### Draft legislative resolution

#### Amendment 1 Paragraph 1 a (new)

- 1a. *Specifies that should a reference to the appropriations be included in the proposal for a decision it will be purely for guidance until agreement is reached on the financial perspective for the period 2007 and the following years;***

#### *Justification*

*Reference to the conciliation procedure that can be initiated on the basis of Rule 56 of EP's Rules of Procedure refers to legislative texts and not to financial reference amounts.*

#### Amendment 2 Paragraph 2 a (new)

- 2a. *Calls on the Commission to confirm, once the next financial perspective has been adopted, the amounts indicated in the proposal for a decision or, should the case arise, to submit the adjusted financial statement to the Parliament and the Council, thereby ensuring their compatibility with the ceilings;***

#### *Justification*

*Amendments seeking to emphasize that pending a decision on the next multiannual Financial Framework the amounts in the financial statements are purely indicative.*

### Proposal for a decision

Amendment 3  
Recital 9

(9) This Decision establishes a financial framework for the entire duration of the programme, ***which is to be the principal point of 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 procedure.

(9) This Decision establishes a financial framework for the entire duration of the programme, ***which illustrates the will of the legislative authority and will not affect the powers of the budgetary authority as defined by the Treaty*** within the meaning of point 34 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 procedure.

*Justification*

*The present decision is not subject to the co-decision procedure, therefore, according to the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on the budgetary discipline and improvement of the budgetary procedure, will not contain an amount deemed necessary.*

Amendment 4  
Article 7, paragraph 2 a (new)

***2a. Access to funding shall be facilitated by the application of the principle of proportionality as regards the documents to be supplied and by the creation of a database for the submission of applications.***

*Justification*

*The methods and the procedures need to be simplified in order to speeding up the transparency of the selection procedure and facilitate access to the programme.*

Amendment 5  
Article 8, paragraph 3

3. *The annual work programme will be adopted in accordance with the procedure set out in Article 10.*

3. *The measures necessary for the implementation of the programme relating to the following matters shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 10:*

*(a) the annual work programme;*

*(b) the annual budget and distribution of funds between the various actions of the programme;*

*(c) the general guidelines for implementing the programme and the selection criteria procedures;*

*(d) the arrangements for monitoring and evaluating the actions and for the dissemination and transfer of results;*

*(e) the proposals for project selection.*

*Justification*

*The annual work plan, the annual budget and distribution of funds among actions, the general guidelines and the proposals for project selection may be submitted to the Committee for transparency reasons.*

Amendment 6  
Article 10

1. *Where reference is made to this Article, the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the Chair may lay down according to the urgency of the matter, if necessary by taking a vote.*

*Where reference is made to this Article, Articles 3 and 7 of Decision 1999/468/EC shall apply.*

2. *The opinion shall be recorded in the minutes; each Member State may request that its position be recorded in the minutes.*

3. *The Commission shall take the utmost*

***account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which the opinion has been taken into account.***

*Justification*

*A reference to the current Decision on comitology specifying the Articles where the advisory procedure is laid on makes the legal act more accurate and transparent .*

Amendment 7

Article 11, paragraph 1 a (new)

***1a. The Commission shall ensure that the actions covered by this Decision are complementary to those covered by the programmes mentioned in paragraph 1 and that they do not overlap.***

*Justification*

*The legislative act should be more specific and clear in order to avoid the risk of overlapping and double financing of the actions of the present proposal with the actions of: the specific programme "Prevention of and Fight against Crime", which focuses on law enforcement and crime prevention, in the sense of cooperation between police and other non-judicial law enforcement agencies; the other specific programmes under the general programmes on "Fundamental Rights and Justice"; "Eurojust" and "Solidarity and Management of Migration flows", in particular in the area related to the asylum and third country national integration legal system.*

Amendment 8

Article 13, paragraph 1, subparagraph 1 a (new)

***The Commission shall ensure that the actions covered by this Decision are subject to prior evaluation, monitoring and ex-post evaluation. It shall ensure that the programme is accessible and is implemented in a transparent manner.***

*Justification*

*The programme needs to be monitored and evaluated at the appropriate times, so as to ensure democratic scrutiny.*

Amendment 9

Article 13, paragraph 1, subparagraph 1 b (new)

***The Commission shall give the European Parliament and the Council regular and timely notice of the implementation of the programme, in particular the use of the available resources.***

*Justification*

*The two arms of the budgetary authority should receive regular and timely information in order to ensure that the programme is monitored and assessed in an effective manner*

Amendment 10

Article 15, paragraph 3

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 ***no later than 31 March 2011***;
  - (b) a Communication on the continuation of this programme ***no later than 31 December 2012***;
  - (c) an ex-post evaluation report no later than 31 March 2014.

3. The Commission shall submit to the European Parliament and the Council:
- (a) ***a detailed*** interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of this programme ***three years after the adoption of this Decision***;
  - (b) a Communication on the continuation of this programme, ***having regard to its objectives, three years after the adoption of this Decision. Moreover the Commission shall present annually a short report monitoring the situation of the implementation of the programme***;
  - (c) an ex-post evaluation report no later than 31 March 2014 ***covering the implementation and results of the programme, on completion of its implementation.***

*Justification*

The fund needs to be monitored and evaluated at the appropriate times, so as to ensure



democratic scrutiny **PROCEDURE**

<b>Title</b>	Proposal for a Council decision establishing for the period 2007-2013 the specific programme "Criminal Justice" as part of the General programme "Fundamental Rights and Justice"
<b>References</b>	COM(2005)0122 – C6-0237/2005 – 2005/0039(CNS)
<b>Committee responsible</b>	LIBE 6.9.2005
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	BUDG
<b>Enhanced cooperation</b> Date announced in plenary	
<b>Draftswoman</b> Date appointed	Neena Gill 9.6.2005
<b>Previous draftswoman</b>	
<b>Discussed in committee</b>	25.1.2006      21.2.2006
<b>Date adopted</b>	21.2.2006
<b>Result of final vote</b>	+:            23 -: 0:
<b>Members present for the final vote</b>	Reimer Böge, Herbert Bösch, Simon Busuttil, Bárbara Dührkop Dührkop, James Elles, Salvador Garriga Polledo, Ingeborg Gräßle, Louis Grech, Nathalie Griesbeck, Catherine Guy-Quint, Jutta D. Haug, Anne E. Jensen, Wiesław Stefan Kuc, Alain Lamassoure, Janusz Lewandowski, Vladimír Maňka, Mario Mauro, Jan Mulder, Gérard Onesta, Esko Seppänen, László Surján, Kyösti Virrankoski, Ralf Walter
<b>Substitute(s) present for the final vote</b>	
<b>Substitutes under Rule 178(2) present for the final vote</b>	
<b>Observations (information available in only one language)</b>	...

## PROCEDURE

<b>Title</b>	Proposal for a Council decision establishing for the period 2007-2013 the specific programme "Criminal Justice" as part as the General programme "Fundamental Rights and Justice"			
<b>References</b>	COM(2005)0122 - C6-0237/2005 - 2005/0039(CNS)			
<b>Date of consulting Parliament</b>	19.7.2005			
<b>Committee responsible</b> Date announced in plenary	LIBE 6.9.2005			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	BUDG 6.9.2005			
<b>Not delivering opinion(s)</b> Date of decision				
<b>Enhanced cooperation</b> Date announced in plenary				
<b>Rapporteur(s)</b> Date appointed	Inger Segelström 6.6.2005			
<b>Previous rapporteur(s)</b>				
<b>Simplified procedure – date of decision</b> Date of decision				
<b>Legal basis disputed</b> Date of JURI opinion				
<b>Financial endowment amended</b> Date of BUDG opinion				
<b>Parliament to consult European Economic and Social Committee – date decided in plenary</b>				
<b>Parliament to consult Committee of the Regions – date decided in plenary</b>				
<b>Discussed in committee</b>	4.10.2005 18.4.2006	1.12.2005 1.6.2006	6.3.2006 23.10.2006	3.4.2006 22.11.2006
<b>Date adopted</b>	22.11.2006			
<b>Result of final vote</b>	+ 36 – 0 0 1			
<b>Members present for the final vote</b>	Roberta Angelilli, Edit Bauer, Johannes Blokland, Mihael Brejc, Giusto Catania, Carlos Coelho, Fausto Correia, Agustín Díaz de Mera García Consuegra, Elly de Groen-Kouwenhoven, Kinga Gál, Lilli Gruber, Livia Járóka, Ewa Klamt, Magda Kósáné Kovács, Barbara Kudrycka, Stavros Lambrinidis, Claude Moraes, Inger Segelström, Ioannis Varvitsiotis, Donato Tommaso Veraldi, Stefano Zappalà, Tatjana Ždanoka			
<b>Substitute(s) present for the final vote</b>	Ignasi Guardans Cambó, Bárbara Dührkop Dührkop, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Vincent Peillon, Marie-Line Reynaud			
<b>Substitute(s) under Rule 178(2) present</b>	Pilar Ayuso, Panayiotis Demetriou, Iratxe García Pérez, Lutz Goepel,			

<b>for the final vote</b>	Esther Herranz García, Mary Honeyball, Ana Mato Adrover, Manolis Mavrommatis, María Isabel Salinas García, Alejo Vidal-Quadras
<b>Date tabled</b>	7.12.2006
<b>Comments (available in one language only)</b>	