

I

(Information)

COUNCIL

COMMON POSITION (EC) No 37/1999

adopted by the Council on 13 September 1999

with a view to adopting Decision No .../1999/EC of the European Parliament and of the Council of ... adopting a programme of Community action (the Daphne programme) (2000 to 2003) on preventive measures to fight violence against children, young people and women

(1999/C 317/01)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

psychological and social development, and for the equal opportunities of those concerned, that violence has for individuals, families and communities and the high social and economic costs to society as a whole;

Having regard to the Treaty establishing the European Community, and in particular Article 152 thereof,

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

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Having regard to the opinion of the Committee of the Regions⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽⁴⁾,

(1) Whereas physical, sexual and psychological violence against children, young people and women constitutes a serious threat to the physical and mental health of the victims of such violence; the effects of such violence are so widespread throughout the Community as to constitute a major health scourge;

(2) Whereas it is important to recognise the serious immediate and long-term implications for health,

⁽¹⁾ OJ C 259, 18.8.1998, p. 2, OJ C 89, 30.3.1999, p. 42, and OJ C 162, 9.6.1999, p. 11.

⁽²⁾ OJ C 169, 16.6.1999, p. 35.

⁽³⁾ OJ C 198, 14.7.1999, p. 61.

⁽⁴⁾ Opinion of the European Parliament of 16 April 1999 (OJ C 219, 30.7.1999, p. 497), Council common position of 13 September 1999 and Decision of the European Parliament of ... (not yet published in the Official Journal).

(3) Whereas these principles are recognised in the United Nations Convention of 1979 on the Elimination of all Forms of Discrimination against Women, the United Nations Convention of 1989 on the Rights of the Child, the Vienna Declaration of 1993 on the elimination of violence against women, the Declaration and Platform of Action adopted at the IVth Conference on women held in Beijing in 1995, the Declaration and the Plan of Action against the Sex Trade and the Exploitation of Minors adopted at the Stockholm Conference in 1996, and the Lisbon Declaration of 1998 on Youth Policies and Programmes of the World Conference of Ministers of Youth;

(4) Whereas the European Union has taken action in the field of justice and home affairs in particular by the Joint Action of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children⁽⁵⁾; the criminal law aspects of violence are a matter for the Member States;

(5) Whereas the European Parliament, in its resolutions of 18 January 1996 on trafficking in human beings⁽⁶⁾, of 19 September 1996 on minors who are victims of violence⁽⁷⁾, of 12 December 1996 on measures to protect minors in the European Union⁽⁸⁾ and of 16 September 1997 on the need to establish a European Union-wide campaign for zero tolerance of violence

⁽⁵⁾ OJ L 63, 4.3.1997, p. 2.

⁽⁶⁾ OJ C 32, 5.2.1996, p. 88.

⁽⁷⁾ OJ C 320, 28.10.1996, p. 190.

⁽⁸⁾ OJ C 20, 20.1.1997, p. 170.

against women⁽¹⁾ and of 16 December 1997 on trafficking in women for the purpose of sexual exploitation⁽²⁾ has called on the Commission to draw up and implement action programmes to combat such violence;

- (6) Whereas the Commission, in its communication of 24 November 1993 on the framework for action in the field of public health, identified, *inter alia*, the prevention of injuries as an important area for action in the public health field; in this framework, on 8 February 1999 Decision No 372/1999/EC of the European Parliament and of the Council was adopted on a programme of Community action on injury prevention⁽³⁾;
- (7) Whereas by providing support for acquiring better knowledge and understanding of, and wider dissemination of information about violence against children, young people and women and by developing actions complementary to existing Community programmes and actions, while avoiding unnecessary duplication, this programme will contribute greatly to curbing exploitation and ensuring a high level of human health protection, taking into account its physical, mental and social aspects, and a high quality of life;
- (8) Whereas direct action concerning violence against children, young people and women is in essence part of Member States' activity at national, regional or local level;
- (9) Whereas the Community can provide added value to the actions of Member States concerning the prevention of violence, including violence in the form of sexual exploitation and abuse perpetrated against children, young people and women through the dissemination and the exchange of information and experience, promoting an innovative approach, the joint establishment of priorities, the development of networking as appropriate, the selection of Community-wide projects and the motivation and mobilisation of all parties concerned;
- (10) Whereas this programme can bring added value by identifying and stimulating good practice, by encouraging innovation and by exchanging relevant experience of actions undertaken in the Member States, including an exchange of information relating to the various laws and the results achieved;
- (11) Whereas therefore, in accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of the proposed measure can be better achieved by the Community; this Decision confines itself to the minimum required in order to

achieve those objectives and does not go beyond what is necessary for that purpose;

- (12) Whereas active partnership between the Commission, the Member States and non-governmental organisations (NGOs) and in particular organisations concerned with the welfare and quality of life of children, young people and women needs to be promoted in this area and synergy between all the relevant policies and measures encouraged by promoting cooperation between NGOs, other organisations and national, regional and local authorities;
- (13) Whereas in order to achieve the objectives of the programme and use the resources available in the most efficient way, the areas in which work is to be done must be carefully chosen by selecting projects which offer a greater Community added value and show the way towards trying out and disseminating innovative ideas to prevent violence, in the context of a multidisciplinary approach;
- (14) Whereas cooperation with the international organisations competent in the fields covered by the programme and with third countries should be fostered, as well as with all those likely to be involved in preventing violence;
- (15) Whereas provision should be made for opening up this programme to participation by the applicant countries in the pre-accession phase, in accordance with the conditions established in the relevant agreements, particularly the association agreements and the additional protocols to those agreements;
- (16) Whereas in order to increase the value and impact of the programme, a continuous assessment of the actions undertaken should be carried out, with particular regard to their effectiveness and the achievement of the objectives set and with a view, where appropriate, to making the necessary adjustments;
- (17) Whereas this programme should be of a four-year duration in order to allow sufficient time for actions to be implemented to achieve the objectives set;
- (18) Whereas for the purpose of the application of this Decision, the Commission should be assisted by an appropriate committee;
- (19) Whereas an agreement on a *modus vivendi* between the European Parliament, the Council and the Commission concerning the implementing measures of acts adopted in accordance with the procedure laid down in Article 251 of the EC Treaty⁽⁴⁾ was concluded on 20 December 1994;

⁽¹⁾ OJ C 304, 6.10.1997, p. 55.

⁽²⁾ OJ C 14, 19.1.1998, p. 39.

⁽³⁾ OJ L 46, 20.2.1999, p. 1.

⁽⁴⁾ OJ C 102, 4.4.1996, p. 1.

(20) Whereas this Decision lays down for the entire duration of the programme a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure⁽¹⁾,

2. The Commission shall, after consultations with the Member States, cooperate with institutions and organisations active in the field of prevention of and protection against violence against children, young people and women, and of the support of victims. It shall encourage, in particular, transnational cooperation between non-governmental organisations (NGOs) and national, regional and local authorities.

HAVE DECIDED AS FOLLOWS:

3. The Commission shall take account of activities carried out in this field at national, regional and local level. It shall also ensure a balanced approach in respect of the target groups.

Article 1

4. The actions undertaken shall involve a significant number of Member States.

Establishment of the programme

1. A programme of Community action to fight violence towards children, young people and women, is hereby adopted for the period 1 January 2000 to 31 December 2003.

Article 3

Budget

2. This programme aims to contribute towards ensuring a high level of protection of physical and mental health by the protection of children, young people and women against violence (including violence in the form of sexual exploitation and abuse), by the prevention of violence and by the provision of support for the victims of violence, in order, in particular, to prevent future exposure to violence. By so doing, the programme will contribute to social well-being.

1. The financial framework for the implementation of the four-year programme 2000 to 2003 is hereby set at EUR 20 million.

3. The actions to be implemented under the programme, as set out in the Annex, are intended to promote:

2. The annual appropriations shall be established by the Budgetary Authority within the limits of the financial perspectives.

(a) transnational actions to set up multidisciplinary networks and to ensure exchange of information, best practice and cooperation at Community level;

3. The Community contribution shall vary according to the nature of the action. It may not exceed 80% of the total cost of the action.

(b) transnational actions aimed at raising public awareness;

Article 4

Consistency and complementarity

(c) complementary actions.

The Commission shall ensure that there is consistency and complementarity between the Community actions to be implemented under the programme and those implemented under other relevant Community programmes and measures, including future developments in the field of public health.

Article 2

Article 5

Committee

Implementation

1. The Commission shall ensure implementation, in close cooperation with the Member States, of the actions referred to in Article 1(3) in accordance with Article 5.

1. In the implementation of this programme, the Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

⁽¹⁾ OJ C 172, 18.6.1999, p. 1.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken concerning:

- the committee's rules of procedure,
- the implementing provisions,
- the annual plan of work for the implementation of the measures in the programme, including the budgetary implications and selection criteria,
- the general balance between the various sections of the programme,
- the procedures for coordination with programmes and initiatives which are of direct relevance to achievement of the aim of this programme,
- the arrangements for cooperating with the third countries and international organisations referred to in Article 7,
- the procedures for monitoring and evaluating the programme.

The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt measures which apply immediately.
- (b) However, if these 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 shall defer application of the measures which it has decided for a period of two months from the date of such communication,
 - the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the preceding indent.

4. In addition, the Commission shall consult the Committee on other appropriate matters relating to the implementation of this programme.

In this case, 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 Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

5. The representative of the Commission shall keep the Committee regularly informed of:

- financial assistance granted under this programme (amount, duration, breakdown and beneficiaries),
- Commission proposals or Community initiatives and the implementation of programmes in other fields which are of direct relevance to achievement of the objective of this programme, so as to ensure consistency and complementarity as referred to in Article 4.

Article 6

Participation of the EFTA/EEA countries, the associated central and east European countries, Cyprus, Malta and Turkey

This programme shall be open to the participation of:

- the EFTA/EEA countries, in accordance with the conditions established in the EEA Agreement,
- the associated central and east European countries, in accordance with the conditions established in the Europe Agreements, in their Additional Protocols and in the decisions of the respective Association Councils,
- Cyprus, funded by additional appropriations in accordance with procedures to be agreed with that country,
- Malta and Turkey, funded by additional appropriations in accordance with the provisions of the Treaty.

Article 7

International cooperation

Subject to Article 300 of the Treaty, in the course of implementing the programme, cooperation with third countries and with international organisations competent in the fields covered by the programme shall be fostered as well as with all those likely to be involved in preventing and protecting against all forms of violence.

*Article 8***Monitoring and evaluation**

1. In the implementation of this Decision, the Commission shall take the necessary measures to ensure the monitoring and continuous evaluation of the programme taking account of the general and specific objectives referred to in Article 1 and in the Annex.
2. During the second year of the programme, the Commission shall present to the European Parliament and to the Council an evaluation report.
3. The Commission shall submit to the European Parliament and the Council a final report on completion of the programme.
4. The Commission shall incorporate into the reports referred to in paragraphs 2 and 3 information on Community

financing in the various fields of action and on complementarity with the other actions referred to in Article 4, as well as the results of the evaluations. It shall also send the reports to the Economic and Social Committee and the Committee of the Regions.

*Article 9***Entry into force**

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

Done at ...

For the European Parliament
The President

For the Council
The President

ANNEX

SPECIFIC OBJECTIVES AND ACTIONS**I. TRANSNATIONAL ACTIONS TO SET UP MULTIDISCIPLINARY NETWORKS AND TO ENSURE EXCHANGE OF INFORMATION, BEST PRACTICE AND COOPERATION AT COMMUNITY LEVEL**

Objective: to support and encourage both non-governmental organisations (NGOs) and other organisations including public authorities active in the fight against violence to work together.

1. Support for the establishment and strengthening of multidisciplinary networks and the encouragement and support of cooperation between NGOs and the various organisations and public bodies at national, regional and local level, in order to improve on both sides the level of knowledge and understanding of each other's role and to facilitate the exchange of relevant information.
2. Stimulation and exchange of best practice, including pilot projects, at Community level on the prevention of violence and on the support and protection of children, young people and women.

The networks shall in particular carry out activities to address the problems of violence that will:

1. produce a common framework for analysis of violence, including the definition of different types of violence, the causes of violence and all its consequences;
2. measure the real impact of the different types of violence within Europe on victims and society, in order to establish an appropriate response;
3. assess the types and effectiveness of measures and practices to prevent and detect violence including violence in the form of sexual exploitation and abuse and to provide support for victims of violence, in order, in particular, to prevent future exposure to violence.

II. TRANSNATIONAL ACTIONS AIMED AT RAISING PUBLIC AWARENESS

Objective: to support the raising of public awareness of violence and the prevention of violence against children, young people and women, including the victims of trafficking for the purpose of sexual exploitation, commercial sexual exploitation and other sexual abuse.

1. Encouragement of information campaigns in cooperation with the Member States and pilot projects with European added value and awareness-raising activities among the general public and, in particular, among children and young persons, educators and other categories involved about potential risks of violence and of ways of avoiding them, including knowledge of legislative measures, health education and training in the context of the fight against violence.
2. Development of a Community-wide information source to assist and inform NGOs and public bodies of publicly available information compiled by governmental, NGO and academic sources relevant to the field of violence, its prevention and the support of victims, and the means to prevent violence, as well as the provision of information about all measures and programmes on this subject under the auspices of the Community. This should enable information to be integrated into all relevant information systems.
3. Studies in the field of violence and sexual abuse and the means of their prevention with the aim, *inter alia*, of identifying the most effective procedures and policies for preventing violence, for supporting victims of violence, in order, in particular, to prevent future exposure to violence, and for examining the social and economic costs, in order to establish appropriate responses to this phenomenon.
4. Improvement of recognition, reporting and management of the consequences of violence.

III. COMPLEMENTARY ACTIONS

In carrying out the programme, the Commission, in compliance with Articles 2 and 5 of the Decision, can have recourse to technical assistance organisations the financing of which shall be provided for within the overall financial framework for the programme. It can, under the same conditions, have recourse to experts. Furthermore, the Commission will be able to organise seminars, colloquia or other meetings of experts, likely to facilitate the implementation of the programme and enhance information, publication and dissemination actions.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 9 July 1998, the Commission submitted to the Council a proposal for a decision, based on Article 308 of the EC Treaty (ex Article 235) establishing the programme of Community action (the Daphne programme) on measures to fight violence against children, young people and women.
2. On 17 February 1999, the Commission submitted to the European Parliament and to the Council an amended proposal based on Article 152 of the EC Treaty (ex Article 129).
3. The Economic and Social Committee and the Committee of the Regions delivered opinions on 28 April 1999 and 11 March 1999 respectively.
4. The European Parliament delivered its opinion on 16 April 1999.
5. In the light of the European Parliament's opinion, the Commission submitted an amended proposal on 11 May 1999.
6. On 13 September 1999 the Council adopted its common position in accordance with Article 251 of the EC Treaty.

II. AIM OF THE PROPOSAL

The proposal takes the form of a multiannual programme which aims at contributing towards a high level of protection of physical and mental health by the protection of children, young people and women against violence (including in the form of sexual exploitation and abuse) by the prevention of violence and by the provision of support for its victims. In this context, and in order to provide added value at Community level to activity at Member State level, transnational actions involving the use of networks, the exchange of information, best practice and cooperation and the raising of public awareness are foreseen.

1. General comments

In its common position the Council has approved the essence of the Commission proposal while making some amendments which it thought desirable.

2. Specific comments

2.1. *Legal basis*

The legal basis put forward by the Commission in its amended proposal of 17 February 1999, namely Article 152 of the EC Treaty (ex Article 129), is considered by the Council in its common position as being the most appropriate in view of the aim and contents of the Daphne proposal: the promotion of coordination and exchange of information as well as education and research relating to the causes and the prevention of violence which is or may be the source of danger to the physical and mental health of the victims.

2.2. *Amendments made by the Council to the Commission proposal*

2.2.1. *Duration of the programme*

As far as duration is concerned, the Council has opted for a four-year programme (2000 to 2003), in view of the experimental nature of the programme. The Commission's evaluation report will therefore be available during the second year, as provided for in Article 8(2), rather than during the third year.

2.2.2. *Funding*

As a consequence of the four-year programme, the financial framework has been fixed at EUR 20 million, which is directly proportionate to the Commission's proposal of EUR 25 million for a five-year programme.

2.2.3. *Committee procedures (Article 5)*

The Council has maintained a committee procedure whereby the powers of the committee would be exercised, depending on the subject matter, under either the management or the advisory committee procedure, as set out in the Council Decision of 28 June 1999 laying down the procedure for the exercise of implementing powers conferred on the Commission.

2.2.4. *Role of non-governmental organisations and public bodies in the programme (Annex, part I)*

While mindful of the vital role of NGOs in the transnational actions set out in part I of the Annex, the Council has also acknowledged that other organisations, including public bodies, will be involved in cooperation.

2.2.5. *Other questions*

— Reference to action at EU level in the field of justice and home affairs (recital 4)

This recital has been introduced with the aim of making clear reference to action carried out in the context of justice and home affairs at EU level as well as in the context of criminal law at Member State level, and which is outside the scope of the programme.

— International cooperation

For the sake of clarity there are now separate articles dealing with the participation of the EFTA/EEA, the associated central and east European Countries, Cyprus, Malta and Turkey (Article 6) and international cooperation in general (Article 7).

— Rate of Community contribution (Article 3(3))

The Council considered that it was important to specify that Community contribution should vary according to the nature of the action and that it may not exceed 80% of the total cost of the action.

— Commission's cooperation with institutions and organisations active in the field (Article 2(2))

The Council was of the view that such cooperation necessarily follows consultations with Member States, and that this should be stated.

— Member State involvement in actions (Article 2(4))

A new paragraph has been added to specify that 'a significant number of Member States' shall be involved in actions.

— Exchange of best practice

With a view to rendering the annex more coherent, the stimulation and exchange of best practice has been transferred from part II (raising public awareness) to part I which now brings together networks, exchange of information, best practice and cooperation at Community level.

— Complementary actions (Annex, part III)

The new wording introduced for part III of the Annex dealing with complementary actions is drawn from the Leonardo II programme (Annex I, Section II, measure 7(3)).

2.3. *European Parliament amendments*

2.3.1. *Parliament amendments adopted by the Commission*

The Commission adopted in full, in part or in essence 26 of the 36 Parliament amendments.

2.3.2. *Parliament amendments adopted by the Council*

The Council adopted in full, in part or in essence 19 of the amendments proposed by the Parliament and adopted by the Commission, notably amendments 1, 3, 4, 5, 8, 9, 10, 12, 13, 16, 17, 18, 19, 28, 29, 30, 31, 33 and 36.

2.3.3. *Parliament amendments not adopted by the Council*

Apart from the amendments not adopted by the Commission, on which it was not possible for the Council to reach the requisite unanimity, the Council did not accept the following amendments for the reasons stated:

— Amendment 2

Extension of the definition of the effects of acts of violence (recital 1)

The Council felt that this amendment did not add anything to the fundamental concern with the physical and mental health of the victims of violence, clearly stated in recital 1.

— Amendment 6

Reference to the World Health Organisation's definition of health (proposed new recital)

It was not considered necessary to make reference to this definition since this merely restates an existing situation.

— Amendment 14

Cooperation with international organisations (recital 14)

The inclusion in this recital of a reference to organisations concerned with education and development as well as those protecting against all forms of violence was considered as being limitative. The Council favours cooperation with the widest possible range of organisations active in the field.

— Amendment 21

Consistency and complementarity (Article 4)

As the Council favours consistency and complementarity of actions under the programme with all other relevant Community programmes and measures, the Council considered it inappropriate to specify individual programmes. However, the Council has provided for the need to cover future developments in the field in its common position.

— Amendment 26

International cooperation (Article 7)

The Council could not accept the amendment to this Article for the same reasons as those stated under Amendment 14 concerning recital 14.

— Amendment 34

Research programmes in the field of violence and sexual abuse (Annex, part II)

The Council considered that the use of the phrase 'protecting against violence' was unnecessary in this amendment as it was already included in the notion of 'preventing violence'.

— Amendment 35

Specification of areas for the exchange of best practice (Annex, part I)

The Council has decided to include reference to exchange of best practice in part I of the Annex (See indent 'Exchange of best practice' under point 2.2.5). It was not considered appropriate to specify areas of best practice in the restructured part I.

III. CONCLUSIONS

The Council considers that its common position constitutes a balanced text. It reflects the need to develop Community level action on preventive measures to fight violence against children, young people and women, building on and developing the experience of the existing pilot actions in this field.
