

Council Joint Action 1998/244/JHA (19 March 1998)

Caption: On 19 March 1998, on the basis of Article K.3 of the Treaty on European Union, the Council adopts the Odysseus Joint Action establishing a programme of training, exchanges and cooperation in the field of asylum, immigration and the crossing of the external borders of the 15 Member States.

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Joint Action of 19 March 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, introducing a programme of training, exchanges and cooperation in the field of asylum, immigration and crossing of external borders (Odysseus-programme)

(98/244/JHA)

THE COUNCIL OF EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles K.3(2)(b) and K.8(2) thereof,

Having regard to the proposal from the Commission,

Whereas the Member States consider as matters of common interest:

- asylum policy,
- the rules governing the crossing by persons of external borders of the Member States and the exercise of controls thereon, including matters concerning the security of identity documents, and
- immigration policy and policy regarding nationals of third countries;

Whereas the establishment of a framework for training, information, study and exchange activities will serve to improve the effectiveness of cooperation between the administrations of the Member States in the above areas;

Whereas incorporating the Sherlock programme ⁽¹⁾ into the Odysseus programme will make it possible to coordinate cooperation in the areas concerned more closely and to achieve economies of scale in the running of the two programmes without impairing the Sherlock programme;

Whereas this programme contributes to a better understanding of the instruments of the European Union in the fields of asylum, immigration and the crossing of external borders on the part of the officials responsible for implementing the detailed rules in this connection;

Whereas extension of the cooperation between the Member States and the third States which are applying for accession as a measure to prepare for their accession will help the applicant countries to attain the Union's standards in the fields covered by the programme;

Whereas, thanks to the economies of scale and cumulative effects implicit in the intended measures, these objectives can be achieved more effectively at Union level than at the level of the individual Member States;

Whereas this Joint Action is without prejudice to the powers of the Community and will therefore not detract from the conduct of the PHARE programme nor from the Community measures taken in implementation of vocational training policy, in particular the Leonardo da Vinci programme; whereas action under this programme is to be complementary to, and coordinated with the other training measures financed in accordance with Community law;

Whereas future developments in Community law may require this programme to be adapted;

Whereas the Presidency has consulted the European Parliament in accordance with Article K.6 of the Treaty on European Union,

HAS ADOPTED THIS JOINT ACTION:

Chapter 1 General

Article 1 Principles and objectives

1. A programme (the Odysseus programme) of training, exchanges and cooperation, within the meaning of the definitions in Article 3, which shall qualify for Community financial support, is hereby established for the period from 1998 to 2002. This programme shall concern the fields of asylum, immigration and the crossing of external borders.

2. For the purposes of setting priorities in the annual programming of measures, account shall be taken of:

- Article K.3(1) of the Treaty,
- the existence of Community or Union legislation already in force,
- the existence of proposals for legislation already under discussion, to anticipate their entry into force by means of cooperation between the administrations,
- priorities set by the Council for cooperation in the fields of justice and home affairs,
- any other cooperation required for the purposes of Article K.3(1) of the Treaty.

3. Without prejudice to the powers of the Community, the general objective of the Odysseus programme shall be to extend and strengthen existing cooperation in the matter of asylum, immigration, the crossing of external borders and the security of identity documents, and cooperation in these same areas with States applying for accession, by means of multiannual programming.

Article 2

The financial reference amount for the implementation of the programme for the period mentioned in Article 1(1) shall be ECU 12 million. The annual appropriations shall be authorised by the budget authority within the limits of the financial perspective.

Article 3 Definitions

1. For the purposes of the Odysseus programme the following definitions shall apply to the measures referred to in Article 1(2):

- training measures: organisation of practical training courses focusing on theoretical and practical knowledge,
- exchange measures: period spent by officials, magistrates or other servants empowered by the Member States in a Member State other than their own for the purpose of comparing their practice with that of their counterparts there, in compliance with the data-protection requirements laid down in the State,
- studies and research: work of an educational nature involving the design, development and dissemination of teaching materials, or other documents such as databases and directories.

2. For the purposes of the Odysseus programme, 'identity documents` shall be taken to mean the documents issued by the Member States and third countries, principally to enable the holders thereof to prove their identity and to cross an external border, if need be.

Article 4 Training

In the field of training, the Odysseus programme shall focus on:

- training for instructors,

- specialist training, in particular advanced courses for decision-makers, officials responsible for preparing administrative decisions, judges and courses designed for those in charge of training,
- the exchange of information and expertise between national authorities.

Article 5 Exchanges

Exchanges under the Odysseus programme shall take the form in particular of placements of limited duration within the national administrative departments responsible for the matters to which the programme relates.

Article 6 Studies and research

1. The Odysseus-programme shall comprise:

- the design, production and dissemination of teaching materials to enhance the effectiveness of training schemes,
- ways of improving the circulation of information in the areas to which the programme relates,
- analyses and reports on subject areas connected with this programme and compatible with its objectives.

Chapter II Structure

Article 7 Asylum

1. In the field of asylum, measures shall focus primarily on:

- coordinated application of the Dublin Convention of 15 June 1990 determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, after its entry into force,
- close cooperation between competent national administrations and bodies, empowered by the Member States.

2. Projects may be taken into consideration under the heading of measures focusing on coordinated application of the Dublin Convention, if they have the following objectives:

- the coordinated application of the procedures, time limits, evidence, and other practical problems of applying the Convention,
- the application of other legal instruments relating to asylum.

3. Projects may be taken into consideration under the heading of measures focusing on close cooperation between national administrations and bodies empowered by the Member States, responsible for matters of asylum if they are concerned in particular with the following areas:

- procedures for examining asylum requests at first instance (standard or accelerated) and appeal procedures,
- systems of documentation on countries of origin,
- conditions for reception of asylum-seekers, including their rights and obligations,
- alternatives to refugee status, including temporary protection,

- cooperation between the various bodies involved (asylum request scrutiny departments, welfare departments, border control services, etc.) and the role of the UNHCR, other international organisations and NGOs,
- treatment of asylum-seekers whose requests have been definitively rejected.

Article 8 Immigration

Projects may be taken into consideration under the heading of measures in the field of immigration of nationals of third countries, if they are concerned with the following areas:

- admission of third country nationals, and in particular conditions for entry, conditions for travel within the Union, residence rules, family unification, access to employment and to activity as self-employed persons, whether or not salaried,
- combating illegal immigration, and in particular combating illegal entry, residence and employment, and the organisation of the expulsion and repatriation of illegal immigrants, as well as combating trafficking in human beings and those responsible for organising it.

Article 9 Crossing of external borders

Projects may be taken into consideration under the heading of measures to monitor the crossing of external borders if they are concerned with organising the practicalities of controls, including matters concerning the security of identity documents. Special attention will be paid to addressing problems on a thematic basis (in particular by type of border) or on a geographical basis.

Article 10 Cooperation with applicant countries

Specific subprogrammes in the areas listed in Articles 7 to 9 shall be set up in each annual programme to prepare the applicant countries for accession in those areas. Special attention shall be paid to transposal into national law and application by civil servants working in these fields.

Within the framework of cooperation with the applicant States, measures shall be targeted on:

- improving knowledge of the Union acquis in order to help the applicant States to take the measures needed to enable their services to work in line with Union standards and rules,
- exchange of information on the legal and administrative institutional systems of the Member States and the applicant States.

Chapter III Financial provisions

Article 11 Financing criteria

To qualify for Community finance, projects must be of demonstrable interest to the Union and involve at least two Member States.

Projects may involve States applying for accession where the aim is to prepare for their accession and may involve other third countries where this would be useful for the purpose of the projects.

Article 12 Financial control

The financing decisions and the contracts arising therefrom shall provide in particular for monitoring and financial control by the Commission and audits by the Court of Auditors, the results of which shall be

forwarded to the budget authority.

Article 13 Level of Community finance

1. All types of expenditure which are directly chargeable to the implementation of the measure and have been incurred over a specific, contractually defined period shall be eligible, up to the ceiling of appropriations authorised under the annual budgetary procedure.
2. The proportion of financial support from the Community budget shall be 60 % of the total cost of the programme save in exceptional cases where, subject to the procedures laid down in Chapter IV, it shall not exceed 80 %.
3. Translation and interpreting costs, computing costs and expenditure on durables or consumables shall not be considered unless they are essential for the realisation of the project and shall be financed only up to a limit of 50 % of the grant, or 80 % in cases where the nature of the project makes them indispensable.
4. Expenditure relating to premises, collective facilities and the salaries of officials of the State and public bodies shall be eligible only if it corresponds to postings and tasks not connected with national use or function but specifically connected with the implementation of this Joint Action.

Article 14 Rules of procedure

1. Measures incorporated in the programme and financed by the general budget of the European Communities shall be managed by the Commission in accordance with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽²⁾.
2. When presenting financing proposals, the Commission shall take account of the principles of sound financial management and in particular of economy and cost-effectiveness as required by Article 2 of the Financial Regulation.

Chapter IV Management and monitoring

Article 15 Devising the programme

1. The Commission shall be responsible for managing and monitoring the programme and shall take such measures as are necessary to that end.
2. The Commission shall draw up a draft annual programme comprising a breakdown of the appropriations available and based on thematic priorities corresponding to the structure, content and objectives of the programme. The annual programme shall cover the three areas referred to in Articles 7, 8 and 9, but may give preference to one of these if required to meet the needs of the national administrations.

To that end, the Commission shall scrutinise the projects submitted to it in the light of the criteria specified in Article 1(2), taking due account of the innovative character of the proposed measure and of the overall consistency of the programme.

Article 16 Annual implementation of the programme

1. The Commission shall be assisted by a committee consisting of a representative of each Member State and chaired by a representative of the Commission.
2. The Commission shall submit to the Committee the draft annual programme, together with a plan for the allocation of the available appropriations to the various areas of the programme and proposals for implementing rules and evaluations. The Committee shall deliver its opinion unanimously within two months. This period may be reduced by the Chairman for reasons of urgency. The Chairman shall not vote.

If a favourable opinion is not given within the time limit, the Commission shall either withdraw its proposal

or present a proposal to the Council, which shall decide unanimously within two months.

3. Once the programme has been agreed, it will be forwarded to the European Parliament; the Commission will keep the Committee informed of the views of the European Parliament.

Article 17 Management of the programme

1. As from the second financial year, projects for which finance is requested shall be submitted to the Commission for scrutiny before 31 March of the budgetary year to which they are to be charged.

2. Where the financing requested is less than ECU 50 000, the Commission representative shall submit a draft to the Committee referred to in Article 16(1). The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on this draft within a time limit which the Chairman may lay down according to the urgency of the matter. The Chairman shall not vote.

The opinion shall be recorded in the Committee's minutes; each Member State shall have the right to ask that its position be recorded in the minutes.

The Commission shall take full account of the opinion delivered by the Committee. It shall inform the Committee of how it has done so.

3. Where the financing requested exceeds ECU 50 000, the Commission shall submit to the Committee referred to in Article 16(1) a list of the projects submitted to it under the annual programme. The Commission shall indicate the projects it selects and shall give reasons for its selection. The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on the various projects within a period of two months. The Chairman shall not vote. If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw the project(s) concerned or submit it (them), with any opinion from the Committee, to the Council which, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall take a decision within two months.

4. Notwithstanding paragraphs 2 and 3, a Member State may, at any time before the Committee has given its opinion, request that, for important and stated reasons of national policy, a project concerning the crossing of external borders be submitted by the Council.

If such a request has been made, the Commission shall forthwith submit a proposal to the Council, which shall decide unanimously within two months.

Article 18 Evaluation

1. The Commission shall be responsible for organising an evaluation of the programme by impartial experts unconnected with the programme, appointed in agreement with the Management Committee referred to in Article 16.

2. Each year, the Commission shall address a report to the European Parliament and the Council recapitulating the measures taken during the previous year and the evaluation carried out.

Article 19

Joint Action 96/637/JHA is hereby repealed.

Projects already under way or those on which a favourable opinion has been given under the procedure laid down in Article 13(3) of Council Joint Action 96/637/JHA of 28 October 1996 shall be carried out as part of the implementation of the Odysseus programme.

Article 20

This Joint Action shall enter into force on the day of its adoption.
It shall be published in the Official Journal.

Done at Brussels, 19 March 1998.

For the Council
The President
J. STRAW

- (1) Joint Action 96/637/JHA of 28 October 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, introducing a programme of training, exchanges and cooperation in the field of identity documents ('Sherlock') (OJ L 287, 8.11.1996, p. 7).
- (2) OJ L 356, 31.12.1997, p. 1. Regulation as last amended by Regulation (EC, Euratom, ECSC) No 2335/95 (OJ L 240, 7.10.1995, p. 12).