JOINT ACTION

of 29 November 1996

adopted by the Council on the basis of Article K.3 of the Treaty on European Union, establishing an incentive and exchange programme for persons responsible for combating trade in human beings and the sexual exploitation of children

(96/700/JHA)

THE COUNCIL OF THE 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 initiative by the Kingdom of Belgium,

Whereas it is considered a matter of common interest to increase cooperation in the fields of justice and home affairs on the combating of trade in human beings and the sexual exploitation of children;

Whereas trade in human beings and the sexual exploitation of children are serious breaches of fundamental individual rights and, in particular, human dignity;

Whereas recent developments reveal that trade in human beings and the sexual exploitation of children may constitute a major form of organized crime the proportions of which within the European Union are becoming increasingly worrying;

Aware of the need for a coordinated multidisciplinary approach to the problem;

Whereas to that end the establishment of a framework for training, information, study and exchange actions for persons responsible for combating trade in human beings and the sexual exploitation of children in all its forms will step up and facilitate the fight against trade in human beings and the sexual exploitation of children as well as improve mutual understanding of Member States' legal systems, identify common ground between them, and thereby reduce whatever obstacles exist to increased cooperation between Member States in this area;

Whereas these objectives may be more efficiently pursued at European Union level than by the Member States acting individually in view of the specific experience available in some Member States and of the likely savings and cumulative effects of the planned actions;

Whereas this joint action does not affect existing procedural rules on international cooperation,

HAS ADOPTED THIS JOINT ACTION:

Article 1

1. For the period 1996 to 2000, a programme shall be established to develop coordinated initiatives on the combating of trade in human beings and the sexual exploitation of children, on disappearances of minors and on the use of telecommunications facilities for the purposes of trade in human beings and the sexual exploitation of children.

2. For the purposes of this joint action, 'persons responsible for combating trade in human beings and the sexual exploitation of children' shall mean the following categories of persons inasmuch as they have responsibilities in the area concerned: judges, public prosecutors, police departments, civil servants, public services concerned with immigration and border controls and with social and tax legislation, the prevention or combating of such phenomena and assisting the victims or dealing with the perpetrators.

3. The programme shall provide for measures in the following fields:

— training,

— exchange programmes and training courses,

— organization of multidisciplinary meetings and seminars,

— studies and research,

— dissemination of information.

Article 2

The financial reference amount for implementation of the programme for the period 1996 to 2000 shall be ECU 6,5 million.

The annual appropriations shall be authorized by the budget authority within the limits of the financial perspective.

Article 3

For training, projects having the following aims may be considered:

— knowledge of other Member States' legal systems, in particular of legislation on trade in human beings and the sexual exploitation of children and of the functioning of judicial proceedings and procedures relating to immigration and border controls and social and tax legislation,

— preparation of specific teaching modules for actions involving training, exchanges and training courses, conferences or seminars organized under this programme,

— incentives to acquire operational knowledge of the languages of the countries of origin of victims of trade in human beings and the sexual exploitation of children.

Article 4

For exchange programmes and training courses, projects having the following aims may be considered:

— organization of limited-duration courses in public bodies which have been given particular responsibilities in the area concerned,

— organization of visits to public bodies or persons responsible in several other Member States for specific aspects of the problem.

Article 5

For the organization of meetings, projects having the following aims may be considered:

— organization of bilateral or European conferences on specific aspects of the problem,

— the holding of multidisciplinary conferences.

Article 6

For studies and research, projects having the following aims may be considered:

— scientific, technical or comparative research on specific aspects of the problem or coordination of research on the matter,

— preliminary analysis of topics chosen for organizing projects under the programme, in particular:

  — a study of the advisability and feasibility of centralizing, on a structural basis, information concerning not only missing persons and victims of the trade in human beings and the sexual exploitation of children but also the perpetrators of these crimes, including DNA data and the criminal analysis of such data, taking ethical aspects into account,

  — a study of measures to be adopted to prevent the use of telecommunications facilities, including the Internet system, for the purposes of trade in human beings and the sexual exploitation of children,

— exploitation of reports on courses or meetings organized under the programme.

Article 7

For dissemination of information, projects having the following aims may be considered:

— circulation in writing or by data transmission, of the originals or translations of information notes on law amendments or planned reform,

— dissemination of information on the measures referred to in Articles 3, 4 and 5, on the outcome of the meetings referred to in Article 5 or on the findings of research carried out under Article 6, and their application,

— creation of databases and/or documentation networks storing lists of articles, publications, studies and legislation concerning trade in human beings and the sexual exploitation of children, and in particular the creation of an updated database on the state of relevant legislation and case-law in the Member States.

— production of manuals, for use primarily by police departments, concerning techniques for combating trade in human beings and the sexual exploitation of children.

Article 8

1. Projects receiving Community financing must be of European interest and involve more than one Member State.

2. Those responsible for the projects may be public or private institutions including, in particular, legal training institutes and institutes for the training of the judiciary as well as bodies whose function is to prevent or combat trade in human beings and the sexual exploitation of children.

3. The projects to be financed shall be subject to a procedure taking into account in particular:

— consistency of topics covered with work undertaken or provided for in Council action programmes coming under judicial cooperation,

— input towards the framing or implementation of instruments provided for in Title VI of the Treaty,

— mutual complementarity between the various projects,

— the range of professions targeted,

— the nature of the institution responsible,

— the operational and practical nature of the measures, in particular regarding the procedures for cooperation in centralizing information on the criminal activities covered by this joint action,

— the degree of preparation of the participants,

— the scope for drawing on results achieved in order to make possible new developments in preventing and combating trade in human beings and the sexual exploitation of children.

4. These projects may involve those responsible in applicant countries with a view to helping them prepare for accession, or in other third countries where it serves the aims of the projects, in particular where they are countries of origin of victims of trade in human beings and the sexual exploitation of children.

5. These projects may also involve the staff of public or private bodies whose function is to prevent or combat trade in human beings and the sexual exploitation of children, to assist the victims or deal with the perpetrators, and academic and scientific staff, where it serves the aims of the projects.

Article 9

Financing decisions and the contracts deriving from them shall provide in particular for follow-up and financial monitoring by the Commission and audit by the Court of Auditors.

Article 10

1. All types of expenditure directly attributable to implementation of a measure and incurred during a contractually set period shall be eligible.

2. The rate of financial support from the Community budget may not exceed 80 % of the cost of the measure.

3. Translation and interpreting expenses, data-processing costs and expenditure on durables or consumables shall be taken into consideration only when they constitute a necessary support for carrying out the measure and may be financed only up to a maximum of 50 % of the subsidy, or 80 % where the very nature of the measure makes it indispensable.

4. Expenditure relating to public premises and equipment and to remuneration of officials of State or public bodies may be taken into consideration only in so far as it concerns uses and tasks not linked with a national purpose or function but specifically connected with implementation of this joint action.

Article 11

1. The Commission shall be responsible for implementing the measures provided for in this joint action and shall adopt the detailed procedures for applying it, including the eligibility criteria for costs.

2. The Commission shall, with the assistance of experts from the professional circles concerned, establish a draft annual programme for implementing this joint action as regards specific priorities and the allocation of the appropriations available amongst fields of action.

3. The Commission shall each year evaluate the measures for implementing the programme during the previous year.

Article 12

1. The Commission shall be assisted by a committee consisting of one representative from each Member State and chaired by a representative of the Commission.

2. The Commission shall submit to the committee the draft annual programme, including a proposal for the distribution of the available appropriations among the fields of action and proposals for implementing rules and for project assessment. The opinion shall be delivered by the committee, acting unanimously, within a period of 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 delivered within the time limit, the Commission shall either withdraw its proposal or submit a proposal to the Council, which shall take a decision unanimously within two months.

Article 13

1. From the second financial year onwards, projects for which financing is requested shall be submitted to the Commission for scrutiny by 31 March of the financial year to which they are to be charged.

2. The Commission shall examine the projects submitted to it with the assistance of the experts referred to in Article 11 (2).

3. Where the financing requested is less than ECU 50 000, the representative of the Commission shall submit a draft to the committee referred to in Article 12. 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 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.

4. Where the financial requested exceeds ECU 50 000, the Commission shall submit to the committee referred to in Article 12 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.

Article 14

1. The measures covered by the programme and financed from the general budget of the 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 [1].

2. In the presentation of the proposals for financing referred to in Article 13 and of the evaluations mentioned in Article 11, the Commission shall take into account the principles of sound financial management and in particular of economy and cost-effectiveness referred to in Article 2 of the Financial Regulation.

Article 15

The Commission shall report annually to the European Parliament and the Council on the implementation of the programme. The first report shall be forwarded at the end of the 1996 financial year.

Article 16

This joint action shall enter into force on the day of its adoption.

It shall apply for a period of five years, at the end of which it may be extended.

Article 17

This joint action shall be published in the Official Journal.

Done at Brussels, 29 November 1996.

For the Council

The President

N. OWEN

[1] OJ No L 356, 31. 12. 1977, p. 1. Financial Regulation as last amended by Regulation (EC, Euratom, ECSC) No 2335/95 (OJ No L 240, 7. 10. 1995, p. 12).