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**EVALUATION REPORT FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

Interim evaluation report on the Criminal Justice Programme

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1. INTRODUCTION

1.1. OBJECTIVE OF THE REPORT

On 12 February 2007¹ the Council adopted Decision 2007/126/JHA establishing for the period 2007 to 2013, as part of the General Programme on Fundamental Rights and Justice, the Specific Programme ‘Criminal Justice’.

Under Article 16(3)(b) of that Decision, the Commission must submit to the European Parliament and to the Council, not later than 31 March 2011, an interim evaluation report on the results obtained and the qualitative and quantitative aspects of the implementation of the programme. As stated in Article 16(3)(c) of the Decision, this report will serve as a basis for a communication on the continuation of the programme to be drawn up not later than 30 August 2012.

The interim evaluation report provides an overview of the results obtained so far and presents the qualitative and quantitative aspects of implementation of the programme. The evaluation was carried out by the Commission, which analysed the strengths and weaknesses of the programme by trying to answer the following questions:

- (1) What improvements can be made to implementation of the programme for the period remaining?
- (2) What improvements can be made to the design of the programme with a view to drawing up the succeeding programme(s)?

In particular, the evaluation examined

- (a) the relevance of the programme, assessing how far the programme objectives succeed in meeting needs and resolving problems;
- (b) the effectiveness of the programme, determining how far the programme objectives have been achieved;
- (c) its efficiency, verifying whether the effects were obtained at a reasonable cost.

1.2. OVERVIEW

The aim of the Criminal Justice Programme is to contribute to consolidating the area of freedom, security and justice in the European Union by reinforcing judicial cooperation in criminal matters in accordance with the principle of mutual recognition.

The programme’s four general objectives are the following:

- (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;

¹ OJ L 58, 24.2.2007, p. 13.

- (b) to promote the compatibility in rules applicable in the Member States as may be necessary to improve judicial cooperation, promote a reduction in existing legal obstacles to the proper functioning of judicial cooperation in order to strengthen the coordination of investigations, and increase the compatibility of the existing judicial systems in the Member States with the European Union with a view to providing adequate follow-up to investigations carried out by law enforcement authorities of the Member States;
- (c) to improve contacts, exchange of information and best practices between 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 so as to enhance mutual trust;
- (d) to improve further mutual trust with a view to ensuring protection of rights of victims and of the accused.

To achieve these objectives, the programme implements four different types of activity:

- specific actions taken on the initiative of the Commission, which are the subject of procurement and cover studies and research and the creation and implementation of specific computer projects to facilitate the exchange and dissemination of information;
- grants (grants for actions) for specific transnational projects of interest to the whole of the European Union submitted by partners involving at least two Member States or at least one Member State and one acceding or candidate country and/or national projects within the Member States under certain conditions;
- support (operating grants) for the activities of non-governmental organisations or other entities pursuing an aim of general European interest in the area of criminal justice;
- an operating grant to co-finance expenditure associated with the permanent work programme of the European Judicial Training Network which trains the judiciary.

The planned total operational expenditure budget for the 2007-2013 ‘Criminal Justice’ programme is **€196.85** million. This is the sum of the annual budgets voted from 2007 to 2011 and the amounts entered in the financial programming for 2012 and 2013.

Most of the financial support is allocated to grants for actions and grants in general. The percentage allocated to grants varies between 75% and 95% over the 5 years. Thus, the requirement in the basic act that a minimum of 65% must be allocated to grants was satisfied.

1.3. BACKGROUND

The Criminal Justice Programme (JPEN) is the continuation of the framework programme on police and judicial cooperation in criminal matters (AGIS²) for 2003-2007 adopted on 22 July 2002 by the European Council.

In 2005 the Commission proposed the creation of a new framework programme³, 'Fundamental rights and justice', with four specific objectives, one of which was to promote judicial cooperation to help create a genuine area of justice in criminal matters. This was the logical follow-up to the Hague Programme (November 2004), which, among other matters, emphasised that the creation of a Europe for citizens also implied the establishment of a European area of justice based on the principle of mutual recognition; borders between countries no longer constituted an obstacle to court proceedings and the enforcement of decisions. The Criminal Justice Programme was also designed to enable the implementation of a computerised system of exchange of information on criminal records. The planned criminal justice budget represented the most significant part of the framework programme (36%).

1.4. CURRENT SITUATION

The framework agreement adopted in 2007 was drawn up in accordance with the treaties in force at that time, but its structure was designed in such a way as to allow a smooth transition to the new institutional architecture when the Treaty of Lisbon entered into force on 1 December 2009. Thus, the legal basis of the Specific Programme 'Criminal Justice' includes Article 12 on complementarity. Article 12(1) states that synergies and complementarity are to be sought with other Union instruments, in particular those which come under the Specific Programme on Civil Justice and the General Programmes on Security and Safeguarding Liberties and Solidarity and Management of Migration Flows.

- From 2007 to 2010, 14 calls for proposals were launched for the programme, 11 of which were concluded by an award decision followed by the signing of agreements. These calls were launched in 2007, 2008 and 2009⁴. For 2010, the procedure for calls for proposals is still under way and will therefore not be the subject of this report.

2. PROGRAMME IMPLEMENTATION

2.1. COMMISSION INITIATIVES (PROCUREMENT)

The annual work programme describes the actions on the initiative of the Commission to be financed out of the annual budget. It covers a range of subjects, such as studies, research, the creation of a common computerised system of exchange of information on criminal records, conferences and expert meetings, analytical and evaluation activities.

² Council Decision 2002/630/JHA (OJ L 203, 1.8.2002, p.5).

³ COM(2005) 122, Communication from the Commission to the Council and the European Parliament, 6.4.2005.

⁴ The grant agreements are signed in the year following the publication of the calls for proposals. The dates indicated in the report are the dates of conclusion of the operating grants and grants for actions.

From 2007 to 2010 the Commission financed the following actions:

- Development of the European e-Justice Portal, information campaigns on the Portal and feasibility studies relating to European e-Justice.
- Organisation (in the context of the Justice Forum) of the Crystal Scales of Justice Prize. The prize is awarded jointly by the European Commission and the Council of Europe in an effort to identify and promote innovative and effective practices either in court organisation or in the conduct of judicial proceedings in the courts.
- Organisation and regular meetings of the Justice Forum⁵, created in 2008 to provide a mechanism for consulting the parties concerned on EU justice policies and practice, to promote best practice and enhance mutual trust and understanding between the European Union's legal practitioners.
- Studies and IT development with a view to the European interconnection of criminal records and the exchange of information between judicial authorities on previous convictions, including support for software development in the Member States and the improvement of interconnection software (common reference), and in-house support for the Commission. This also covers all the preparations for introducing ECRIS in 2012.

Contracts were also concluded for other studies and seminars on topical issues in criminal law between 2007 and 2010.

A total of 64 contracts were signed amounting to €8.3 million, out of a planned budget of €13.8 million, meaning that 60% of the allocated amounts were used.

2.2. GRANTS (CALL FOR PROPOSALS)

2.2.1. GRANTS FOR ACTIONS – GENERAL CALL

Between 2008 and 2010 grant agreements were signed for an average of 31 projects per year, or 94 projects over the three-year period.

The overall rate of budget utilisation was 81.42% for the three-year period, which is quite satisfactory for a relatively new programme in a field viewed with a certain amount of wariness by the Member States. The average amount awarded annually varied between €170 000 and €260 000. A third of the projects received funding of less than €100 000.

The actions ran for an average of 18 to 24 months. 85% of the projects from 2008 have now been completed. The remainder will end in 2011. For 2009, the equivalent figure is 55%.

⁵ Communication from the Commission (COM(2008) 38 final, adopted on 4.2.2008) on the creation of a Forum for discussing EU justice policies and practice.

- **BY PRIORITY**

The table below gives the breakdown by priority. It shows a marked concentration of funding in the priority relating to cooperation and exchange of good practice, which accounted for 63% of funding. However, this does not fully reflect the situation, because the amounts awarded to the European Judicial Training Network (discussed below), which receives funding of €800 000 per year, should be added to the figure for judicial training, bringing its share of funding to 23% of the programme total.

Priorities – Year of commitment	2008		2009		2010		Total	%	
	No	Amount	No	Amount	No	Amount			
Judicial training	7	1 488 060	3	307 554	7	821 574	17	2 617 188	13.59
Exchange of good practice/ cooperation in criminal matters	25	4 722 286	19	4 225 843	20	3 259 102	64	12 207 231	63.38
Victim support	5	1 093 185	2	599 962	3	794 363	10	2 487 510	12.91
Exchange of information			1	1 376 364	2	573 395	3	1 949 760	10.12
Total	37	7 303 531	25	6 509 724	32	5 448 434	94	19 261 689	
Budget		8 000 000		6 800 000		8 900 000		23 700 000	

- **BY TYPE OF BENEFICIARY**

The main beneficiaries of project funding are the Member States' Ministries of Justice and university research departments (83% of the total).

However, NGOs account for an average of 30% of all funding awarded under calls for proposals for grants for actions and operating grants.

- **GEOGRAPHICAL BREAKDOWN**

- (1) During the period studied, 160 proposals were submitted and 94 approved, which is quite a low percentage (60%).
- (2) Six Member States did not submit any proposals at all: Cyprus, Denmark, Ireland, Lithuania, Slovakia and Sweden. A more detailed evaluation should be able to pinpoint the reasons for their lack of interest.
- (3) Despite several attempts, four Member States have never obtained funding (Finland, Greece, Luxembourg and Poland).

Six Member States are particularly active, having submitted 64% of all proposals and accounting for 68% of the projects funded. These are, in

descending order: Spain, United Kingdom, Italy, Germany, Belgium and the Netherlands.

The number of proposals submitted and proposals receiving funding remained more or less stable over the three-year period.

2.2.2. GRANTS FOR ACTIONS – SPECIFIC CALL

In the period 2008-2010 the programme supported the implementation of specific projects linked to the interconnection of national criminal records in the European Union. The project grants linked to the specific e-Justice call for proposals launched in 2010 will not be evaluated here, because they did not start until 2011.

Improving the mechanisms for transmitting judicial information concerning convictions in the EU means ensuring that this information is exchanged between Member States as quickly as possible, in particular by creating a computerised information system. Between 2008 and 2010 a total of €32 million was budgeted for co-financing in this field, with the aim of improving national criminal records systems to enable the electronic exchange of these records between Member States.

Only national authorities designated under Article 1 of Council Decision 2005/876/JHA of 21 November 2005 on the exchange of information extracted from the criminal record⁶ may submit proposals for the priority ‘Interconnection of national criminal records’.

In the period 2007-2009, 22% of the budget earmarked for criminal records systems could not be spent. Thus over three years a total of €7 million that could have gone towards criminal justice remained unused. Three Member States (Belgium, Bulgaria and Denmark) did not submit any proposals in this field, while 52% of the funding went to just five countries: Austria, Lithuania, Romania, the United Kingdom and Hungary.

In 2010 this priority was incorporated into the general call for proposals and it is therefore no longer the subject of a specific call.

2.2.3. OPERATING GRANTS

Unlike grants for actions, which are intended to co-finance projects to promote the achievement of an objective which is part of an EU policy, operating grants are intended to co-finance the operation of bodies or networks serving a goal of general European interest or an objective that is part of an EU policy, the underlying idea being for the Commission to finance the creation of European networks working to promote EU policies.

An operating grant is awarded to support the existence and operation of a body for a period equivalent to its financial year, in return for the inclusion by that body of certain activities in its annual work programme.

- Experience between 2007 and 2010 shows that this type of funding is not generating the expected interest among the target audience. Despite three calls for European

⁶ OJ L 322, 9 December 2005, p. 33.

proposals, it has only been possible to fund 18 organisations and to commit 51% of the planned budget.

- It is often the same organisations that apply for and obtain funding each year, and the number of new beneficiaries coming forward is quite small. In this sense, the goal of supporting the creation of organisations has not yet been attained.
- The low rates of participation and success are linked to the difficulty which the participating organisations have in demonstrating a genuine European dimension.

2.2.4. GRANTS FOR ACTIONS – FRAMEWORK PARTNERSHIP AGREEMENT

In order to implement some of the priority areas of the Criminal Justice Programme the Commission departments decided in 2007 to conclude framework partnership agreements with key actors in the judicial training sector who were interested in regular cooperation with the Commission in the specified fields in order to establish a long-term cooperation framework. Such partnerships imply that the Commission and its partners have a mutual interest and shared objectives. They will involve actions that are defined and approved on a regular and stable basis and a network comprising a number of beneficiaries.

After a call for proposals, framework partnership agreements were signed with the Academy of European Law (ERA), the European Judicial Training Network (EJTN) and the European Institute of Public Administration (EIPA). These agreements will expire in July 2011.

The intention was to award up to €8.9 million in the form of framework partnership agreements between 2007 and 2009, but in fact total commitments have been less than €2 million.

- The partnership procedure does not offer any added value compared to general calls for proposals. Nor has it helped to establish a network of key partners with whom the Commission could maintain a regular, stable relationship for delivering judicial training effectively. Judicial training is currently the subject of a specific evaluation intended to identify more appropriate instruments and funding arrangements.

2.2.5. GRANTS TO BODIES IN A MONOPOLY SITUATION

In the light of the experience of the exchange programme for the judiciary in 2004, 2005 (pilot project) and 2006 (preparatory action) and the cooperation with the European Judicial Training Network (EJTN), which had until then been responsible for organising exchanges and meetings between judicial training establishments, the Council decided to include the EJTN in the basic legal act of the Criminal Justice Programme. Article 4(d) of that act allows for the provision of an operating grant to co-finance expenditure associated with the permanent work programme of the European Judicial Training Network.

EJTN is an international non-profit making organisation (AISBL) under Belgian law, set up in 2000, which comprises the majority of European judicial training institutions for judges and public prosecutors. The EJTN currently has as members the authorities responsible for judicial training in all 27 Member States.

The grant is awarded in response to an application from EJTN and after ensuring that the organisation is not covered by one of the exclusion criteria and that its proposal is consistent with the judicial training objective pursued by the Criminal Justice Programme. The award is formalised by a grant agreement.

The programmes involve exchanges of judicial authorities aimed at enhancing their knowledge of each other's judicial procedures and their sense of belonging to a common judicial area.

Between 2007 and 2010 EJTN received €7 152 071.31 out of a planned annual budget of up to €9.5 million, i.e. 75% of the funds allocated. Since 2007, 667 judges and public prosecutors have benefited from short- and long-term exchange programmes.

3. RESULTS OF THE EVALUATION

3.1. RELEVANCE

To what extent do the programme objectives correspond to the needs that have to be met and the problems that have to be solved?

The interim evaluation shows that the programme has contributed to the creation and development of the European area of freedom, security and justice by promoting practical cooperation in the field of criminal justice based on mutual recognition.

The activities funded promote the systematic exchange of information by electronic means, improve cross-border judicial training for criminal law professionals, encourage Member States to share best practice and promote victim support.

The number of applications for grants for actions is steadily increasing, indicating growing interest in the programme, which has certainly not reached its ideal size. Indeed, some countries are poorly represented or not represented at all and offer important scope for development. Further efforts need to be made to promote the programme and create tools to help improve the quality of proposals. An information day attended by almost 100 participants was organised in April 2010.

After three years of operation it is clear that the operating grants and partnership agreements are not having the success that was hoped for, raising questions about their relevance to and suitability for the programme's objectives.

In the case of the operating grants this is because they finance the organisation's running costs, unlike grants for actions which co-finance a one-off action with a specific time frame and budget independent of the requesting organisation's other activities. From the financial point of view, it is therefore essential for the purposes of monitoring and auditing these two types of operation subsidised in different ways (work programme and action) that the organisation has the administrative and accounting tools that are needed to manage this situation reliably and verifiably. The costs incurred by the beneficiary in implementing its different activities will have to be entered against either the operating budget or the budget of the particular action, depending on the purpose they serve.

Synergies should be sought with other programmes promoting similar activities (Civil Justice, Prevention of and Fight against Crime, Daphne).

3.2. EFFECTIVENESS

To what extent have the programme objectives been met?

During the period under consideration the proportion of projects financed compared to the available budget was unsatisfactory. However, this trend was reversed in 2010 because of a doubling of the number of applications for action grants compared to 2009. Several factors explain the programme's lack of effectiveness: a lack of familiarity with the programme; a level of contribution deemed to be too low and requiring too high a percentage of co-financing; over-complex implementation, leading to legal uncertainty and administrative delays.

The recent upturn in the number of applications for funding is undoubtedly the result of publicity campaigns by the Commission in 2009 and 2010 to raise awareness of the programme in the Member States.

It can also be attributed to the better funding terms (the advance payment has been increased from 70% to 80% and the percentage of co-financing required has been reduced from 30% to 20% or even 10% in the particular case of the e-Justice call for proposals in 2010).

The introduction of a new on-line system of electronic registration and evaluation of proposals (PRIAMOS) has made it much easier to access the programme and has speeded up the evaluation procedure.

3.3. EFFICIENCY - COST EFFECTIVENESS

Were the results obtained at a reasonable cost?

During the period under consideration, 11 calls for proposals were completed and 155 grants awarded, making an average of 14 grants per call for proposals. This efficiency rate is low compared with other programmes of the same size. The Daphne programme, for example, funded 43 projects in 2009 having published only a single call for proposals covering two financial years.

The time lag between the decision to award the grant being taken by the authorising officer and the entry into force of the grant agreements is long (on average 5-6 months), compared with other programmes.

The average individual grant during the period under consideration was €380 000 for grants for actions and €128 000 for operating grants. In future, this relatively small average amount is likely to increase because of the growing proportion of grants for costly IT projects to improve the exchange of information between Member States.

3.4. SUSTAINABILITY AND IMPACT

What are the long-term effects of the programme and are they sustainable?

The Criminal Justice Programme is recent and it is difficult to measure its long-term impact. However, it has made it possible to implement and strengthen the activities of some important organisations in the field of European criminal justice and particularly

the European Judicial Training Network. It has also enabled the Member States to finance part of the costs of interconnecting their registers and criminal records systems, thereby fostering cooperation in the longer term. Putting the e-Justice Portal online and continuously updating it helps to promote the emergence of a European judicial area and enrich its content.

The objectives, organisations and types of action funded by the Criminal Justice Programme are very similar to those of the Civil Justice Programme⁷. This can lead to duplication, unnecessary competition between the two programmes and potentially unequal treatment. The abolition of the Third Pillar will undoubtedly help to make the programme more comprehensible. It is no longer necessary to separate the civil and criminal justice programmes according to their different legal bases.

There is a need for greater cooperation on judicial matters between the different parties involved in the programme. Proposals promoting a partnership between two or more Member States serve this purpose. The Commission should take active steps to encourage such partnerships by improving the design of the internet site, updating it more quickly and issuing regular bulletins on the latest developments in the programme.

3.5. COHERENCE

To what extent do the funded projects help the Commission to achieve the objectives of its justice policy?

The Commission ensures that the proposals selected are consistent with the priorities set out in its Annual Work Programme. However, the link between each proposal and/or contract and the priority for which it receives financial support has not yet been systematically established. Steps should be taken to improve monitoring of the match between proposals and priorities so that the priorities of future Annual Work Programmes can be better defined and the financial support allocated to them assessed more effectively. From this point of view better use could be made of the PRIAMOS online application and evaluation system as a statistical tool, because it allows the level of response per priority to be evaluated.

3.6. EUROPEAN ADDED VALUE

To what extent do the programme and projects funded provide added value over and above what would have been achieved through national measures in this field in the Member States?

The need for European action in the area of criminal justice was not obvious when the basic instrument was drafted, but is now becoming more apparent. The number of organisations taking part in the programme is increasing and the involvement of NGOs remains constant. In the specific area of criminal justice the concept of European added value remains vague and it is difficult to determine what the right level of EU intervention is. The various stakeholders need to discuss these two concepts more thoroughly.

⁷ Decision 1149/2007/EC of 25 September 2007, OJ L 257, 3.10.2007, p. 16.

European added value is one of the award criteria for proposals, but it is not interpreted consistently in the different programmes operated by DG Justice. The Daphne⁸, Fundamental Rights⁹ and Civil Justice Programmes, for example, all require proof of an active presence in a significant number of countries in order to qualify for an operating grant. This is not the case for the Criminal Justice Programme.

The weight accorded to European added value in the evaluation of the award criteria is low (15% of the award criteria as a whole) and could be increased.

One of the eligibility criteria explicitly requires that proposals be submitted by at least two Member States or by at least one Member State and one other country, which may be either an acceding country or a candidate country, the idea being to promote partnerships, cross-border cooperation and the exchange of good practice. Nearly 80% of the grants awarded go to transnational projects. The programme also accepts 'national' projects under certain conditions, but it is understood that all projects must have a European dimension.

4. CONCLUSIONS

The Criminal Justice Programme has made it possible to support 155 projects and 64 contracts since its creation in 2007. The evaluation of the programme concludes that there is a need to continue this funding, insofar as the actions supported tackle specific and genuine problems and make a positive contribution to and complement the national measures implemented in this field.

However, it has also identified several weaknesses that need to be addressed if European actions are to be even more effective.

Separate implementation of the civil justice, criminal justice and other programmes means that they do not maximise real synergies and may even create unnecessary overlaps.

In pursuit of the objective of promoting judicial cooperation, the programme should group together measures supporting cooperation in civil and criminal matters, to ensure better coordination between these two areas of law, particularly following the entry into force of the Lisbon Treaty in December 2009, which abolished the pillar structure. Other links could be considered with other DG Justice programmes, particularly Daphne and Fundamental Rights.

It is not clear from the evidence that the programme is the most appropriate instrument for supporting projects involving the purchase of equipment for interconnecting criminal records systems. Given that such projects are expensive and are national in nature, they could be funded more effectively through the Structural Funds.

The following list of recommendations can be drawn up on the basis of the comments in this report:

⁸ Decision 779/2007 of 20 June 2007.

⁹ Decision 2007/252/JHA of 19 April 2007, OJ L 110, 27.4.2007, p. 33.

4.1. PRIORITY SETTING

Monitoring of annual priorities should be improved by increased use of the PRIAMOS online application registration and evaluation system which enables proposals to be classified by priority and specific needs on the ground to be identified as a result. This statistical information can be used to help set annual priorities.

4.2. EUROPEAN ADDED VALUE

The study showed that there are a growing number of projects with European added value in the field of criminal justice. However, this criterion is still one of the hardest for participating organisations to satisfy. It is not interpreted in the same way throughout DG Justice, and it has a low weighting compared with other award criteria (15%).

The Commission plans to encourage a debate to define this criterion more clearly and to determine how much of a role it should play in relation to national funding instruments. The European added value criterion could be given greater weight in the selection procedure.

4.3. SIMPLIFICATION OF PROCEDURES

In order to make the programme more effective without any extra human resources, the Commission plans to continue to harmonise and simplify the guidelines (a practical guide for applicants will be updated annually), the grant application forms and the evaluation criteria.

The provisional timetables of calls for proposals should be published sufficiently well in advance, and the Commission should ensure that all the deadlines are met.

Grant applicants should also be informed clearly and in good time about the current procedures and given sufficient time to prepare their proposals.

In order to increase the number of projects funded per call for proposals, the Commission should plan to publish only one call for proposals for grants for actions every two years.

It should consider no longer using operating grants because they have not proved effective.

In the interests of economies of scale, the Commission should try to channel its financial support towards larger projects.

In the interests of harmonisation with other DG Justice programmes and efficient management, certain tasks should be outsourced (e.g. evaluation of the award criteria).

4.4. PUBLICITY AND VISIBILITY

The programme's internet site should be improved to give it greater visibility, for example by sending messages to alert the programme's natural partners (former beneficiaries, members of the programme committee, active networks, etc.). This would be a way of disseminating more widely the results of calls for proposals, announcements of new calls and the list of organisations eligible to take part in the project.

Special efforts (e.g. information sessions, FAQs) should be targeted at Member States that are under-represented in the programme (CY, DK, IR, LT, SK, SE, EE, FI, GR, LU and PL), to raise awareness about the programme and help improve the quality of the proposals.

In order to promote the emergence and resilience of a civil society in the field of criminal law, this awareness-raising campaign should focus on NGOs, which are not sufficiently involved in the programme.

Closer links with other DG Justice programmes should be sought in order to ensure a bigger critical mass and hence greater visibility.

Other types of cooperation through partnership or joint management should be envisaged with organisations with an established reputation in the field, such as the Council of Europe and OECD.