

Working Group V

Working document 1

Working Group on Complementary Competencies

Subject: First outline of Treaty provisions concerning areas covered by complementary competence

The aim of this note is to give a basic picture of the content and scope of Treaty provisions concerning areas covered by complementary competence and the concrete action of the Union in those areas through its legislation ¹². The selection of the relevant areas and the related Treaty provisions is based on the criteria set out in CONV 47/02 and CONV 75/02.

All the legal bases analysed result from provisions included in the EC Treaty following the reforms approved in Maastricht or Amsterdam. The lists of legislative acts cover the period following the entry into force of the Maastricht Treaty.

¹ Legislation refers to binding legislative texts in the literal sense ("secondary legislation") based directly on the Treaties ("primary legislation"). Implementation rules (based on secondary legislation) have been excluded as have the external relations aspects. Reference has been made, in some cases, to non binding acts in order to demonstrate the importance of this type of instruments in some areas.

² The sources to establish the lists of legislation are Eur-Lex and Celex

EMPLOYMENT

As a result of the entry into force of the Amsterdam Treaty, the promotion of employment was included among the Community objectives, becoming a matter of common concern. The objective is to achieve "a high level of employment" without weakening competitiveness. To achieve that objective, a new competence, complementary to that of the Member States, is aimed at drawing up a "coordinated strategy" for employment. Common guidelines form the cornerstone of this strategy. Title VIII on employment (Articles 125 to 130) sets out these objectives and the means of achieving them.

The objective (to which both the Member States and the Community subscribe) is to draw up "a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change".

That objective is fundamentally implemented by the Member States through their employment policies. The Community **contributes** to the achievement of a high level of employment by **encouraging cooperation between the Members States and supporting and, if necessary, supplementing their action. In doing so, it fully respects the Member States' competence in this area.**

Article 128 describes the complex mechanism for coordination between the Member States: each year the European Council examines the employment situation in the Community and adopts conclusions on the subject. Each year, on the basis of those conclusions, the Council draws up guidelines which the Member States take into account in their employment policies. The Council carries out an annual examination of the implementation of the employment policies on the basis of the Member States' annual reports. The Council may make recommendations to Member States.

Apart from the coordination exercise described above, the Community (article 129) may only adopt (by co-decision) "**incentive measures designed to encourage cooperation between Member States and to support their action** in the field of employment through initiatives aimed at **developing exchanges of information and best practices**, providing **comparative analysis** and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects."

Moreover, those measures "**shall not include harmonisation of the laws and regulations** of the Member States."

Legislation

No single piece of legislation has been adopted on the basis of article 129. The article 127 has been applied on the form of annual decisions¹ and recommendations:

- 2002/177/EC: Council Decision of 18 February 2002 on **guidelines** for Member States' employment policies **for the year 2002** (*OJ L 060 01.03.2002 p. 60*)
- 2001/63/EC: Council Decision of 19 January 2001 on **guidelines** for Member States' employment policies **for the year 2001** (*OJ L 022 24.01.2001 p. 18*)
- 2000/228/EC: Council Decision of 13 March 2000 on **guidelines** for Member States' employment policies **for the year 2000** (*OJ L 072 21.03.2000 p.15*)
- Council **Recommendation** of 18 February 2002 **on the implementation of Member States' employment policies** (*OJ L 060 01.03.2002 p. 70*)
- Council **Recommendation** of 19 January 2001 **on the implementation of Member States' employment policies** (*OJ L 022 24.01.2001 p. 27*)
- 2000/164/EC: Council **Recommendation** of 14 February 2000 **on the implementation of Member States' employment policies** (*OJ L 052 25.02.2000 p. 32*)
- Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council of 17 December 1999 on the employment and social dimension of the information society

The Council Decision (2000/98/EC) of 24 January 2000 establishing the Employment Committee is

¹ In the areas covered by complementary competence the word decision is often not used in the terms of article 249. (see document CONV 162/02)

based on art. 130 of the EC Treaty

CUSTOMS COOPERATION

The '90s saw a sea change in the international customs and trade scene. The new GATT Agreements entered into force, the Central and Eastern European countries entered into international trade and trafficking increased in all areas. This gave rise to a need for cooperation and mutual assistance between Community and third-country customs administrations.

The Treaty of Amsterdam incorporated a specific legal basis in this context: Article 135, which solely authorises the Community to "take measures in order to **strengthen customs cooperation between the Member States and between the latter and the Commission**". Furthermore, those measures "shall not concern the application of national criminal law or the national administration of justice".

Decision taking procedure is co-decision.

No acts have been adopted on the basis of article 135.

EDUCATION

Education was included in the Community sphere under the Maastricht Treaty, in the form of Article 149. That EC Treaty Article provides the legal basis for Community action, essentially conceived from a restrictive and limitative perspective. In fact, as stated in the first paragraph thereof, "the Community shall contribute to the development of quality education by **encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States** for the content of teaching and the organisation of education systems and their cultural and linguistic diversity."

When reading this provision, the limit set for Community action can be seen from the outset. The intention is not to promote a common education policy but to contribute to the quality of education through cooperation between States. Paragraph 4 of the same Article **moreover excludes "any harmonisation of the laws and regulations of the Member States"** and specifies that, to achieve its objectives, the Community may only **adopt incentive measures (by co-decision) and**

recommendations (by qualified majority in the Council).

The Community's scope is specified in Article 149(2):

- "– developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;
- encouraging mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study;
- promoting cooperation between educational establishments;
- developing exchanges of information and experience on issues common to the education systems of the Member States;
- encouraging the development of youth exchanges and of exchanges of socio-educational instructors;
- encouraging the development of distance education."

VOCATIONAL TRAINING

According to Article 150(1) of the EC Treaty, "the Community shall implement a vocational training policy which shall **support and supplement the action of the Member States**, while **fully respecting the responsibility of the Member States** for the content and organisation of vocational training."

Under paragraph 2, Community action aims to.

- facilitate adaptation to industrial changes, in particular through vocational training and retraining;
- improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;
- facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people;
- stimulate cooperation on training between educational or training establishments and firms;
- develop exchanges of information and experience on issues common to the training systems of the Member States.

The Community limits its action to adopting (by co-decision) measures to **contribute** to the achievement of the above objectives, **excluding any harmonisation of the laws and regulations of the Member States.**

The action of the EU in education and vocational training

The Community has launched several programmes to encourage mobility among young people, workers, students, teachers and scientists, including SOCRATES, TEMPUS and LINGUA - the latter programme has now been incorporated into the SOCRATES and Leonardo da Vinci programmes. Among the many vocational training action programmes introduced at Community level, the Leonardo da Vinci programme aims to forge closer links between vocational training providers.

The first five-year phase of the Socrates programme, which covers the entire field of education, ended in December 1999. With an initial budget of Euro 850 million, Socrates has funded mobility for nearly 275 000 European citizens and provided support for some 1 500 universities, 8 500 schools and 500 transnational projects. The second phase of the Socrates programme (2000-2006) has been given a budget of 1 850 million. The fifteen Member States of the European Union, the EFTA/EEA countries, the associated countries of Central and Eastern Europe, Cyprus, Turkey and Malta are all participating in this phase. The programme stresses lifelong learning, to improve integration into the world of work, facilitate broad transnational access to educational resources in Europe, promote a quantitative and qualitative increase in the knowledge of EU languages, encourage cooperation and mobility in the field of education and innovation.

The Leonardo da Vinci programme, established by Council decision in December 1994, set out to improve the quality of vocational training in Europe. Between 1995 and 1999 it supported over 3.000 projects involving nearly 60.000 partners, with a total investment of 730 million, and encouraged the mobility of 130 000 people, the majority young people, with a view to enhancing their employability. On 1 January 2000 the programme entered its second phase, which will run until 31 December 2006. Total funding for this programme, over the entire period, is set at 1 150 million.

Other actions, always concerning education and vocational training, have been adopted within the

context of the effective establishment of the common market¹.

Legislation

The binding acts adopted, after the entry into force of the Maastricht Treaty, on the basis of articles 149 and 150 are the following:

- Decision No 1934/2000/EC of the European Parliament and of the Council of 17 July 2000 on the European Year of Languages 2001
- Decision No 1031/2000/EC of the European Parliament and of the Council of 13 April 2000 establishing the 'Youth' Community action programme
- Decision No 253/2000/EC of the European Parliament and of the Council of 24 January 2000 establishing the second phase of the Community action programme in the field of education 'Socrates'
- Council Decision of 17 December 1999 renewing the Management Board of the European Centre for the Development of Vocational Training
- 1999/382/EC: Council Decision of 26 April 1999 establishing the second phase of the Community vocational training action programme 'Leonardo da Vinci'
- Council Decision of 21 December 1998 on the promotion of European pathways in work-linked training, including apprenticeship

During the same period, the Council adopted a considerable number of non-binding acts:

Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 14 February 2002 on the added value of voluntary activity for young people in the context of the development of Community action on youth

Council Resolution of 14 February 2002 on the promotion of linguistic diversity and language learning in the framework of the implementation of the objectives of the European Year of Languages 2001

Council Resolution of 13 July 2001 on e-Learning

Council Conclusions of 13 July 2001 on the follow-up of the report on concrete future objectives of education and

¹ The establishment of a common market in employment, freedom of movement for workers made it necessary for each Member State to take into account the qualifications acquired by an individual in his or her Member State of origin. The Community created a legal framework within which a qualification awarded by another Member State would immediately be accepted as being worthy of consideration, or indeed accepted as an equivalent. **The procedure established is founded on the recognition of diplomas by means of general directives.** A sectoral approach was also developed, aiming to permit the automatic recognition of diplomas following the coordination of training .

training systems

Council Resolution of 13 July 2001 on the role of education and training in employment related policies

Resolution of the Council and of the representatives of the Governments of the Member States meeting within the Council of 28 June 2001 on promoting young people's initiative, enterprise and creativity: from exclusion to empowerment

Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council, of 14 December 2000 on the social inclusion of young people

Resolution of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 14 December 2000 concerning an action plan for mobility

Council Resolution of 17 December 1999 on 'Into the new millennium': developing new working procedures for European cooperation in the field of education and training

Resolution of the Council and of the Ministers for Youth meeting within the Council of 17 December 1999 on the non-formal education dimension of sporting activities in the European Community youth programmes

Council Resolution of 6 May 1996 relating to educational multimedia software in the fields of education and training

- Resolution of the Council and the representatives of Member States' Governments meeting within the Council of 23 October 1995 on the response of educational systems to the problems of racism and xenophobia

- Council Resolution of 31 March 1995 on cooperation in the field of youth information and studies concerning youth

- Council Resolution of 31 March 1995 on improving and diversifying language learning and teaching within the education systems of the European Union

- Council Resolution of 5 December 1994 on the quality and attractiveness of vocational education and training

- Conclusions of the Council and the Ministers for Youth meeting within the Council of 30 November 1994 on the promotion of voluntary service periods for young people

- Recommendation of the European Parliament and of the Council of 10 July 2001 on mobility within the Community for students, persons undergoing training, volunteers, teachers and trainers

- Council Recommendation of 24 September 1998 on European cooperation in quality assurance in higher education

- Declaration by the Council and the representatives of the Governments of the Member States, meeting within the Council of 16 December 1997 on respecting diversity and combating racism and xenophobia

CULTURE

Although cultural aspects were taken into account by other Union measures, they were not expressly the subject of a separate policy until the entry into force of the Maastricht Treaty on 1 November 1993. The objective of the policy is to contribute to the "flowering of the cultures of the Member States" (Article 3 of the TEC).

Article 151 is the legal basis for initiating various cultural measures.

Article 151 has a twofold objective: to **contribute** "to the flowering of the cultures of the Member

States, while respecting their national and regional diversity" and to bring "the common cultural heritage to the fore." In view of these objectives, the Union's action **must be limited to encouraging cooperation** between Member States and, if necessary, **supporting and supplementing their action** in the following areas:

- improvement of the knowledge and dissemination of the culture and history of the European peoples;
- conservation and safeguarding of cultural heritage of European significance;
- non-commercial cultural exchanges;
- artistic and literary creation, including in the audiovisual sector.

Moreover "the Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe."

According to Article 151(5), the Community may adopt (by co-decision with unanimity in the Council) incentive measures, **excluding any harmonisation** of the laws and regulations of the Member States. Acting also unanimously the Council can adopt recommendations.

Union action

After entry into force of Article 151, Union action was aimed at implementing the first three programmes to promote cultural cooperation in the arts (Kaleidoscope), literature (Ariane) and heritage (Raphael) and to help develop relations between "culture, cultural industries and employment" on the basis of the Commission's work showing the importance of cultural activities in society and the potential for job creation that they represent.

The current focus of Union action on culture under Article 151 is the **Culture 2000** programme, a financial instrument which combines the old "Raphaël", "Kaleidoscope" and "Ariane" programmes, and aims to establish a common cultural area. Culture 2000 supports transnational cooperation projects, involving cooperation between the creative artists, cultural operators and the cultural institutions of the Member States.

The budget for implementation of the Culture 2000 programme over the period 2000 to 2004 is

EUR 167 million. The Commission, assisted by an advisory committee, is charged with implementation of the programme.

The programme was put in place through **Decision 508/2000/EC** of the European Parliament and of the Council of 14 February 2000 establishing the Culture 2000 programme.

Every year since 1989, the European Commission has, at the initiative of the European Parliament, subsidised town-twinning schemes to arrange exchange visits between townspeople and hold seminars and conferences.

Article 151 defines Union action on culture as a complementary competence. However, certain provisions deemed necessary for the achievement of the internal market and the four freedoms can have effects in the cultural sector¹. The limits and restrictions on Community action imposed in the

¹ **Recognition of diplomas** in the various Member States provides the basis for a system of equivalence between diplomas and vocational qualifications. Alongside a general system for the mutual recognition of certificates and diplomas attesting to the completion of longer or shorter education courses, certain craft, trade and service diplomas or activities and vocational qualifications, there is specific provision for the mutual recognition of diplomas and other qualifications in architecture and for facilitating the establishment and provision of services in this field.

Cultural goods may move freely, subject to certain **restrictions** on import, export or transit to protect national treasures with artistic, historic or archaeological value (Article 30 of the Treaty). To facilitate export controls and protect cultural goods, there are special export arrangements for national treasures. Provision has also been made to facilitate the return of cultural goods which have left the territory of a Member State.

European Union action in the fields of value added tax (VAT) and business taxation entails attempting to align the different national systems. An important element of this is convergence of the VAT rates in the Member States. There is a standard VAT rate of over 15% and a reduced rate of below 5%. Cultural goods and services are subject to VAT. As a way of supporting artistic and intellectual creativity, the European Union allows the Member States to apply reduced rates of VAT to certain goods and services such as the supply of books and periodicals, access to cultural events, receiving of radio and TV broadcasts and services provided by artists/performers. Action in respect of sales between dealers of second-hand goods, works of art, antiques and collector's items aims to prevent double taxation. Sales between private individuals are VAT exempt.

The European Union has established a high degree of **protection of copyright** and related rights in respect of duration of protection, rental and lending rights and resale rights for original works. In view of technological developments and, in particular, the emergence of the information society, provision has been made to protect databases, computer programmes, and services based on, or consisting of, conditional access. With regard to duration, copyright protection remains in force until 70 years after the author's death or 70 years after the lawful publication of the work, while related rights are valid for 50 years following performance, publication, communication or broadcasting. There are also regulations covering rental and lending rights for commercial purposes or lending for non-commercial purposes to establishments accessible to the public. Computer programmes are protected by copyright as literary works. Re satellite and cable broadcasting, copyright holders may enter into agreements with the satellite broadcasting organisations. Etc. Through the commitments entered into under the aegis of the World Intellectual Property Organisation (WIPO), copyright and related rights in the information society are protected, particularly those pertaining to the reproduction and distribution of works.

Competition policy sets the rules governing businesses operating on European Union territory. Cultural businesses are therefore also subject to these rules, but, in particular in the matter of State aid, the specific nature of the sector is taken into account. State aid to promote culture and heritage conservation is considered compatible with the internal market provided it does not affect trade between Member States to an extent that is contrary to the common interest

Article 151 naturally do not apply to such provisions because they are based on the articles related to the single market or the four freedoms. Obviously, the choice of the legal basis is however open to discussion in Council and Parliament .

Legislation

Since entry into force of the Maastricht Treaty, the following legal instruments have been adopted on the basis of Article 151:

- Council Decision of 7 May 2002 on the designation of the European Capital of Culture 2005 (*OJ C 124, 25.5.2002, p. 4*)
- Decision No 508/2000/EC of the European Parliament and of the Council of 14 February 2000 establishing the Culture 2000 programme (*OJ L 63, 10.3.2000, p. 1*)
- Council Decision of 17 December 1999 on the appointment by the Council of the members of the selection panel for the "European Capital of Culture" Community action (*OJ C 9, 13.1.2000, p. 1*)
- Decision 1419/1999/EC of the European Parliament and of the Council of 25 May 1999 establishing a Community action for the European Capital of Culture event for the years 2005 to 2019 (*OJ L 166, 1.7.1999, p. 1*)
- Council Decision of 22 September 1997 on cross-border fixed book prices in European linguistic areas (*OJ C 305, 7.10.1997, p. 2*)
- Council Decision of 22 September 1997 regarding the future of European cultural action (*OJ C 305, 7.10.1997, p. 1*)

Over the same period, the Council adopted over twenty non-binding texts:

Council Resolution of 21 January 2002 on culture and the knowledge society (*OJ C 32, 5.2.2002, p. 1*)

Council Resolution of 21 January 2002 on the role of culture in the development of the European Union (*OJ C 32, 5.2.2002, p. 2*)

Council Resolution of 23 July 2001 on exchange of information and experience concerning conditions for professional artists in the context of EU enlargement (*OJ C 213, 31.7.2001, p. 9*)

Council resolution of 12 February 2001 on architectural quality in urban and rural environments (*OJ C 73, 6.3.2001, p. 6*)

Council resolution of 12 February 2001 on the application of national fixed book-price systems (*OJ C 73, 6.3.2001, p. 5*)

Council resolution of 12 February 2001 on national aid to the film and audiovisual industries (*OJ C 73, 6.3.2001, p. 3*)

Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the

(article 87(3)(d) of the Treaty). The European Commission has also adopted texts clarifying the authorisation of State aid to certain cultural operators in problem regions and deprived urban areas, to small and medium-sized enterprises, to research and development and for the restructuring of certain firms in difficulty.

Council, of 14 December 2000 concerning an action plan for mobility (*OJ C 371, 23.12.2000, p. 4*)
 Council Resolution of 26 June 2000 on the conservation and enhancement of European cinema heritage (*OJ C 193, 11.7.2000, p. 1*)
 Council Resolution of 17 December 1999 on the promotion of the free movement of persons working in the cultural sector (*OJ C 8, 12.1.2000, p. 3*)
 Council Resolution of 28 October 1999 integrating history into the Community's cultural action (*OJ C 324, 12.11.1999, p. 1*)
 Council Resolution of 8 February 1999 on fixed book prices in homogeneous cross-border linguistic areas (*OJ C 42, 17.2.1999, p. 3*)
 Council Resolution of 20 January 1997 on the integration of cultural aspects into Community actions (97/C 36/04) (*OJ C 36, 5.2.1997, p. 4*)
 Council Resolution of 25 July 1996 on electronic publishing and libraries (*OJ C 242, 21.8.1996, p. 2*)
 Council Resolution of 25 July 1996 on access to culture for all (*OJ C 242, 21.8.1996, p. 1*)
 Council Resolution of 20 November 1995 on the promotion of statistics on culture and economic growth (*OJ C 327, 7.12.1995, p. 1*)
 Council Resolution of 4 April 1995 concerning cooperation with the associated countries of Central and Eastern Europe in the cultural domain (*OJ C 247, 23.9.1995, p. 2*)
 Council Resolution of 4 April 1995 on culture and the multimedia (*OJ C 247, 23.9.1995, p. 1*)
 Conclusions of the Council of 10 November 1994 on the Commission communication concerning European Community action in support of culture (*OJ C 348, 9.12.1994, p. 1*)
 Council conclusions of 17 June 1994 concerning greater cooperation in the field of archives (*OJ C 235, 23.8.1994, p. 3*)
 Council conclusions of 17 June 1994 concerning children and culture (*OJ C 235, 23.8.1994, p. 2*)
 Council conclusions of 17 June 1994 on drawing up a Community action plan in the field of cultural heritage (*OJ C 235, 23.8.1994, p. 1*)
 Conclusions of the Council of 21 June 1994 on cultural and artistic aspects of education (*OJ C 229, 18.8.1994, p. 1*)
 Council Resolution of 5 November 1993 on the first century of the cinema (*OJ C 85, 22.3.1994, p. 3*)

PUBLIC HEALTH

Following the entry into force of the Treaty of Amsterdam, Article 152 of the EC Treaty concerning public health affirms that "a high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities."

The same Article states that Community action shall be "directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health" which "shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education" shall **be limited to complementing national policies**.

"The Community shall **complement the Member States' action** in reducing drugs-related health damage, including information and prevention."

Paragraph 2 states that "the Community shall **encourage cooperation between the Member States** in the areas referred to in this Article and, if necessary, **lend support to their action**."

It is pointed out that "**Member States shall**, in liaison with the Commission, **coordinate among themselves** their policies and programmes in the areas referred to in paragraph 1. **The Commission may**, in close contact with the Member States, **take any useful initiative to promote such coordination.**"

Thus, "the Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health".

However, **harmonisation of Member States' laws and regulations is only excluded** where the Community action consists of incentive measures designed to protect and improve human health (paragraph 4(c)). It is not excluded, however, in relation to the adoption of "(a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member States from maintaining or introducing more stringent protective measures"; and "(b) by way of derogation from Article 37, measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health."

All measures in those areas are adopted by co-decision. The Council may also adopt recommendations by qualified majority.

A final safeguard for Member States' competence relates to the responsibilities of the Member States with regard to the organisation and delivery of health services and medical care which "Community action in the field of public health shall fully respect" and also "national provisions on the donation or medical use of organs and blood", which are not infringed by the measures referred to in paragraph 4(a), ["measures setting high standards of quality and safety of organs and substances of human origin"].

Legislation

Legislation in this area based on article 152 (former 129) after the entry into force of the Maastricht Treaty, is not very extensive and is concentrated in particular on the implementation of programmes in the field of health (the action plan against cancer, the action plan against AIDS and other communicable diseases, the action programme on health monitoring, etc.). These programmes support exchanges of best practices and cooperation between competent authorities of the Member

States. The **strategy of the Union for the future** is based on the action programme in the field of public health for 2001-2006, still under discussion. The new programme will be a global one and will replace the eight ongoing programmes in the field of health .

- Decision No 293/2000/EC of the European Parliament and of the Council of 24 January 2000 adopting a programme of Community action (the Daphne programme) (2000 to 2003) on preventive measures **to fight violence against children, young persons and women** (*OJ L 034 09.02.2000 p.1*)
- Decision No 1296/1999/EC of the European Parliament and of the Council of 29 April 1999 adopting a programme of Community action on **pollution-related diseases** in the context of the framework for action in the field of public health (1999 to 2001) (*OJ L 155 22.06.1999 p.7*)
- Decision No 1295/1999/EC of the European Parliament and of the Council of 29 April 1999 adopting a programme of Community action on **rare diseases** within the framework for action in the field of public health (1999 to 2003) (*OJ L 155 22.06.1999 p.1*)
- Decision No 372/1999/EC of the European Parliament and of the Council of 8 February 1999 adopting a programme of Community action on **injury prevention** in the framework for action in the field of public health (1999 to 2003) (*OJ L 046 20.02.1999 p.1*)
- Decision No 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the **epidemiological surveillance** and control of communicable diseases in the Community (*OJ L 268 03.10.1998 p.1*)
- Decision No 1400/97/EC of the European Parliament and of the Council of 30 June 1997 adopting a programme of Community action on **health monitoring** within the framework for action in the field of public health (1997 to 2001) (*OJ L 193 22.07.1997 p.1*)
- Decision No 102/97/EC of the European Parliament and of the Council of 16 December 1996 adopting a programme of Community action on the **prevention of drug dependence** within the framework for action in the field of public health (1996-2000) (*OJ L 019 22.01.1997 p.25*)
- 96/269/ECSC: Decision No 647/96/EC of the European Parliament and of the Council of 29 March 1996 adopting a programme of Community action on the **prevention of AIDS** and certain other communicable diseases within the framework for action in the field of public health (1996 to 2000) (*OJ L 095 16.04.1996 p.16*)
- Decision No 646/96/EC of the European Parliament and of the Council of 29 March 1996 adopting an **action plan to combat cancer** within the framework for action in the field of public health (1996 to 2000) (*OJ L 095 16.04.1996 p.9*)
- Decision No 645/96/EC of the European Parliament and of the Council of 29 March 1996

adopting a programme of Community action **on health promotion, information, education and training** within the framework for action in the field of public health (1996 to 2000) (*OJ L 095 16.04.1996 p.1*)

During the same period, the number **of non binding statements of the Council** (recommendations (article 249) but also resolutions, declarations or conclusions) was much higher.

Council Resolution of 28 January 2002 on reinforcing cooperation in the field of civil protection training.

Council Recommendation of 15 November 2001 on the prudent use of antimicrobial agents in human medicine

Council Recommendation of 5 June 2001 on the drinking of alcohol by young people, in particular children and adolescents (*OJ L 161 16.06.2001 p.38*)

Resolution of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 26 February 2001 on strengthening the capabilities of the European Union in the field of civil protection

Council Resolution of 14 December 2000 on health and nutrition

Council Resolution of 14 December 2000 on paediatric medicinal products

Conclusions of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 4 December 2000 on combating doping

Council resolution of 29 June 2000 on action on health determinants

Council conclusions of 18 November 1999 on combating tobacco consumption

Council resolution of 18 November 1999 on ensuring health protection in all Community policies and activities

Council resolution of 18 November 1999 on the promotion of mental health

Resolution of the Council and of the representatives of the Governments of the Member States meeting within the Council of 9 December 1999 on cooperation with candidate central and eastern European countries and Cyprus on civil protection

1999/519/EC: Council Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz) (*OJ L 199 30.07.1999 p.59*)

Council Resolution of 8 June 1999 on the future Community action in the field of public health

Council Conclusions of 8 June 1999 on the integration of health protection requirements in Community policies

Council Resolution of 8 June 1999 on antibiotic resistance 'A strategy against the microbial threat'

1999/519/EC: Council Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)

Council Conclusions of 26 November 1998 on the future framework for Community action in the field of public health

Council Conclusions of 30 April 1998 on transmissible spongiform encephalopathies (TSEs

Council Conclusions of 30 April 1998 on the integration of health protection requirements in Community policies

98/463/EC: Council Recommendation of 29 June 1998 on the suitability of blood and plasma donors and the screening of donated blood in the European Community

Council Resolution of 4 December 1997 concerning the report on the state of women's health in the European Community

Council Conclusions of 24 July 1997 on the health aspects of the drugs problem

Council Resolution of 26 November 1996 on the reduction of smoking in the European Community

Council Resolution of 12 November 1996 on the integration of health protection requirements into Community policies

Council Resolution of 12 November 1996 on a strategy towards blood safety and self-sufficiency in the European Community

Council Resolution of 20 December 1995 on generic medicinal products

Council Resolution of 20 December 1995 on medicinal plant preparations

Council Resolution of 20 December 1995 on mutual recognition of the validity of medical prescriptions in the Member States

Council Resolution of 20 December 1995 on orphan drugs

Council Resolution of 20 December 1995 on the integration of health protection requirements in Community policies

Council Resolution of 2 June 1995 on blood safety and self-sufficiency in the Community

Resolution of the Council and the representatives of the Governments of the Member States, meeting within the Council, of 31 October 1994 on strengthening Community cooperation on civil protection

Council Resolution of 2 June 1994 on cardio-vascular diseases

Council Resolution of 2 June 1994 on the framework for Community action in the field of public health

Council declaration of 13 December 1993 on European Drug Prevention Week

Council conclusions of 13 December 1993 on the setting up of an epidemiological network in the Community

Council conclusions of 13 December 1993 on self- sufficiency in blood in the European Community

Council Resolution of 13 December 1993 concerning the extension to the end of 1994 of the 1991 to 1993 plan of action in the framework of the 'Europe against AIDS' programme

Council Resolution of 13 December 1993 concerning future guidelines for the 'Europe against Cancer' programme following evaluation of it for the period 1987 to 1992

Resolution of the Council and the Ministers for Health, meeting within the Council of 27 May 1993 on future action in the field of public health.

Other legal bases can have effects in the field of public health, i.e.:

Internal market (Article 95 - former 100A)

Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products - Commission statement (*OJ L 194 18.07.2001 p.26*)

Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use (*OJ L 121 01.05.2001 p.34*)

Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products (*OJ L 018 22.01.2000 p.1*)

Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices (*OJ L 331 07.12.1998 p.1*)

Environment (Article 175 - former 130 S)

Directive 2000/69/EC of the European Parliament and of the Council of 16 November 2000 relating to limit values for benzene and carbon monoxide in ambient air (*OJ L 313 13.12.2000 p.12*)

Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to

the use of organic solvents in certain activities and installations (*OJ L 085 29.03.1999 p.1*)

Development (179 - former 130W)

Council Regulation (EC) No 2046/97 of 13 October 1997 on north-south cooperation in the campaign against drugs and drug addiction (*OJ L 287 21.10.1997 p.1*)

Council Regulation (EC) No 550/97 of 24 March 1997 on HIV/AIDS-related operations in developing countries (*OJ L 085 27.03.1997 p.1*)

CONSUMER PROTECTION

The methods of guaranteeing consumer rights reflect differing legal systems, socio-cultural traditions and institutional and political backgrounds. Some States have preferred a regulatory approach and have relied on a full administrative structure to deal with consumer-related problems. Others have adopted a more pragmatic approach, advocating a degree of self-regulation of markets or sectors. Finally, while legislation on food products has been a priority for some governments, others have preferred to concentrate on commercial descriptions or the supply of goods and services. The existence of such diversity of regulations and structures is the reason for the development of a policy at Community level to give consumers sufficient confidence to play an active part in the single market while enjoying a high level of protection.

Article 153 sets the aim of this policy: "to promote the interests of consumers and ensure a high level of consumer protection". In order to achieve this aim, the **Community contributes** to protecting the health, safety and economic interests of consumers as well as to **promoting** their right to information and education and to organise themselves in order to safeguard their interests.

Apart from the measures which the Community adopts in connection with completing the internal market (article 95), it may also, in accordance with Article 153, contribute to the attainment of the abovementioned objectives by means of **measures which support and supplement the policy pursued by the Member States. These measures shall not prevent any Member State from maintaining or introducing more stringent protective measures.**

Decision taking procedure is co-decision.

Legislation

The new legal basis under the Maastricht Treaty - article 129a (now 153) - which introduced consumers protection as a complementary competence allows the Community to legislate within an strict framework, independently of other aims such as completion of the internal market or the environment that also affect this subject as can be seen below.

Article 153 has been the basis for only few items of legislation:

Decision No 283/1999/EC of the European Parliament and of the Council of 25 January 1999 establishing a **general framework for Community activities in favour of consumers** (*OJ L 034 09.02.1999 p.1*)

Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the **indication of the prices of products** offered to consumers (*OJ L 080 18.03.1998 p.27*)

During the same period - after the entry into force of the Maastricht Treaty - certain of the single market initiatives, as one would expect, had effects on the field of consumer protection on the basis of article 95 (former 100A):

Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (*OJ L 108 24.04.2002 p.51*)

Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector (*OJ L 024 30.01.1998 p.1*)

Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products - Commission statement (*OJ L 194 18.07.2001 p.26*)

Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (*OJ L 109 06.05.2000 p.29*)

Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (*OJ L 031 01.02.2002 p.1*)

Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (*OJ L 011 15.01.2002 p.4*)

Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (*OJ L 178 17.07.2000 p.1*)

Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (*OJ L 171 07.07.1999 p.12*)

Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of

consumers' interests (*OJ L 166 11.06.1998 p.51*)

Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts - Statement by the Council and the Parliament re Article 6 (1) - Statement by the Commission re Article 3 (1), first indent (*OJ L 144 04.06.1997 p.19*)

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (*OJ L 095 21.04.1993 p.29*)

Article 175 related to environment is the legal basis for:

Regulation (EC) No 2422/2001 of the European Parliament and of the Council of 6 November 2001 on a Community energy efficiency labelling programme for office equipment (*OJ L 332 15.12.2001 p.1*)

Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme (*OJ L 237 21.09.2000 p.1*)

Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (*OJ L 200 30.07.1999 p.1*)

Article 34 (2) (b) TUE is the legal basis for :

2001/413/JHA: Council Framework Decision of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment (*OJ L 149 02.06.2001 p.1*)

TRANS-EUROPEAN NETWORKS

Title XV (Articles 154 to 156) of the Treaty establishing the European Community deals with trans-European networks. Their development has a dual aim: the smooth operation of the internal market and reinforcement of economic and social cohesion. This Title states that transport, telecommunications and energy infrastructures must be interconnected so that all regions, including island, landlocked and peripheral regions, can benefit from the setting-up of an area without internal frontiers.

Competencies for networks are shared with regard to the interconnection and interoperability of the national networks. Article 155 states that the Community "shall implement **any measures** that may prove necessary to ensure the interoperability of these networks, in particular in the field of **technical standardisation**".

The remainder are supplementary competencies. Article 155 accordingly **restricts** Community action **to the establishment of a series of guidelines** identifying projects of common interest and **to the support of projects**. Apart from this, "the **Member States shall**, in liaison with the

Commission, **coordinate among themselves** the policies pursued at national level" and "**the Commission may**, in close cooperation with the Member States, take any useful initiative to **promote such coordination**". An additional safeguard for national competence is provided by Article 156, which also states that "guidelines and projects of common interest which relate to the territory of a Member State shall require the approval of the Member State concerned".

Decision taking procedure is co-decision.

Legislation

EU legislation related to the aspects of trans-european networks as complementary competence is limited to:

- Decision No 1336/97/EC of the European Parliament and of the Council of 17 June 1997 on a series of **guidelines for trans-European telecommunications networks** (*OJ L 183 11.07.1997 p.12*)
- Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on **Community guidelines for the development of the trans-European transport network** (*OJ L 228 09.09.1996 p.1*)
- Decision No 1254/96/EC of the European Parliament and of the Council of 5 June 1996 laying down a series of **guidelines for trans-European energy network** (*OJ L 161 29.06.1996 p.147*)
- Council Regulation (EC) No 2236/95 of 18 September 1995 laying down general rules for the granting of **Community financial aid** in the field of trans-European networks (*OJ L 228 23.09.1995 p.1*)

Legislation related to interoperability (shared competence) is much more extensive:

2002/314/EC: Commission Decision of 25 April 2002 on the implementation of Decision 507/2001/EC of the European Parliament and of the Council concerning a set of actions relating to the trans-European network for the collection, production and dissemination of statistics on the trading of goods within the Community and between the Community and non-member countries (Edicom) (notified under document number C(2002) 1282)

Decision No 507/2001/EC of the European Parliament and of the Council of 12 March 2001 concerning a set of actions relating to the trans-European network for the collection, production and dissemination of statistics on the trading of goods within the Community and between the Community and non-member countries (Edicom)

2001/490/EC: Commission Decision of 18 June 2001 on the implementation of Decision 507/2001/EC of the European Parliament and of the Council concerning a set of actions relating to the trans-European network for the collection, production and dissemination of statistics on the trading of goods within the Community and between the Community

and non-member countries (Edicom) (notified under document number C(2001) 1529)

Commission Recommendation of 21 March 2001 on the basic parameters of the trans-European high-speed rail system referred to in Article 5(3)(b) of Directive 96/48/EC (Text with EEA relevance) (notified under document number C(2001) 745)

2001/260/EC: Commission Decision of 21 March 2001 on the basic parameters of the command-control and signalling subsystem of the trans-European high-speed rail system referred to as "ERTMS characteristics" in Annex II(3) to Directive 96/48/EC (Text with EEA relevance) (notified under document number C(2001) 746)

Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the trans-European conventional rail system

1999/1720/EC: Decision of the European Parliament and of the Council of 12 July 1999 adopting a series of actions and measures in order to ensure interoperability of and access to trans-European networks for the electronic interchange of data between administrations (IDA)

1999/1719/EC: Decision of the European Parliament and of the Council of 12 July 1999 on a series of guidelines, including the identification of projects of common interest, for trans-European networks for the electronic interchange of data between administrations (IDA)

1999/569/EC: Commission Decision of 28 July 1999 on the basic parameters for the command-and-control and signalling subsystem relating to the trans-European high-speed rail system (notified under document number C(1999) 2475) - (Text with EEA relevance)

1999/28/EC: Commission Recommendation of 14 December 1998 concerning the improvement of authorisation procedures for trans-European energy networks (notified under document number C(1998) 4063) (Text with EEA relevance)

Council Resolution of 17 June 1997 on the development of telematics in road transport, in particular with respect to electronic fee collection

96/715/EC: Council Decision of 9 December 1996 on inter- administration telematic networks for statistics relating to the trading of goods between Member States (Edicom)

Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system

96/391/EC: Council Decision of 28 March 1996 laying down a series of measures aimed at creating a more favourable context for the development of trans-European networks in the energy sector

95/489/EC: Decision No 2717/95/EC of the European Parliament and of the Council of 9 November 1995 on a set of guidelines for the development of the EURO-ISDN (Integrated Services Digital Network) as a trans- European network
Council Resolution of 28 September 1995 on the deployment of telematics in the road transport sector

95/234/EC: Commission Decision of 22 June 1995 concerning the approval of 31 proposed measures which qualify for Community financing pursuant to Council Decision 94/445/EC on inter-administration telematic networks for statistics relating to the trading of goods between Member States (Edicom)

95/126/EC: Commission Decision of 6 April 1995 concerning the evaluation of 71 proposed measures which qualify for Community financing pursuant to Council Decision 94/445/EC on inter-administration telematic networks for statistics relating to the trading of goods between Member States (Edicom)

94/765/EC: Commission Decision of 18 November 1994 approving 26 proposed measures which qualify for Community financing pursuant to Council Decision 94/445/EC on inter-administration telematic networks for statistics relating to the trading of goods between Member States (Edicom)

INDUSTRY

Article 157 of the EC Treaty states that "**the Community and its Member States** shall ensure that the conditions necessary for the competitiveness of the Community's industry exist".

The aims are as follows:

- speeding up the adjustment of industry to structural changes;
- encouraging an environment favourable to initiative and to the development of undertakings throughout the Community, particularly small and medium-sized undertakings;
- encouraging an environment favourable to cooperation between undertakings;
- fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

In order to achieve these objectives, "**the Member States shall consult each other in liaison with the Commission** and, where necessary, **shall coordinate their action. The Commission may take any useful initiative to promote such coordination.**"

In addition, the Community may, under Article 157, adopt (unanimously by the Council with consultation of the European Parliament) **specific measures in support of actions taken in the Member States** to achieve the abovementioned objectives. However, Article 157 does not preclude the Community from contributing to achievement of the objectives within the framework of other provisions of the Treaty.

Legislation

Legislation based on article 157 (former 130) is not very extensive. The action of the Union in this field is concentrated around the new multi-annual programme on Enterprise and Entrepreneurship and in particular for small and medium-sized enterprises (SMEs) for 2001-2005 adopted by the Council Decision of 20 December 2000 (*OJ L 333 29.12.2000 p.84*) . Its operational scope (financial resources and application) is broader than that of previous ones, as it provides for action in over 30 countries, including the European Economic Area and EU membership candidate countries. There are others items of legislation¹:

¹ The list of the community rules based on other articles of EC Treaty would be too long to include here. Effects on industry arise from many legal basis: internal market (articles 94 and 95) environment (article 175), competition (article 83), state aids (articles 88 and 89) training (article 150), research (article 163), structural funds (article 161), etc.

- 2001/48/EC: Council Decision of 22 December 2000 adopting a multiannual Community programme to stimulate the development and use of European digital content on the global networks and to promote linguistic diversity in the information society (*OJ L 014 18.01.2001 p.32*)
- 2000/821/EC: Council Decision of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus - Development, Distribution and Promotion) (2001-2005) (*OJ L 336 30.12.2000 p.82*)
- 96/413/EC: Council Decision of 25 June 1996 on the implementation of a Community action programme to strengthen the competitiveness of European industry (*OJ L 167 06.07.1996 p.55*)
- 2000/821/EC: Council Decision of 20 December 2000 on the implementation of a programme to encourage the development, distribution and promotion of European audiovisual works (MEDIA Plus - Development, Distribution and Promotion) (2001-2005) (*OJ L 336 30.12.2000 p.82*)
- 1999/784/EC: Council Decision of 22 November 1999 concerning Community participation in the European Audiovisual Observatory (*OJ L 307 02.12.1999 p.61*)

RESEARCH

Title XVIII of the Treaty establishing the European Community covers all Community activities in the sphere of research and technological development and lays down the objectives, rules and procedures for implementing RTD activities.

Article 163 states that "the Community shall have the objective of **strengthening** the scientific and technological bases of Community industry and **encouraging** it to become more competitive at international level, while promoting all the research activities deemed necessary...".

Articles 164 to 173 lay down the activities to be carried out to this end and the scope and detailed rules for implementation of the multiannual framework programme.

Article 163 does not exclude the need for other research activities which may be deemed necessary under other Chapters of the Treaty.

Under Article 164, the activities carried out by the Community in this field "**complement the activities carried out in the Member States**". These are:

- (a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;
- (b) promotion of cooperation in the field of Community research, technological development and demonstration with third countries and international organisations;
- (c) dissemination and optimisation of the results of activities in Community research, technological development and demonstration;
- (d) stimulation of the training and mobility of researchers in the Community.

The preferred instrument for action is coordination. Thus Article 165 states that "the Community and the Member States **shall coordinate their** research and technological development **activities** so as to ensure that national policies and Community policy are mutually consistent". Furthermore, "in close cooperation with the Member State, **the Commission may** take any useful initiative to **promote ... coordination**" between the Member States.

The main means of taking action is the multiannual framework programme (adopted by co-decision), which covers all the Community activities. This framework programme lays down the scientific and technological aims to be achieved by the abovementioned activities, sketches their broad outlines and sets the maximum overall amount and the arrangements for the Community's financial participation in the framework programme, as well as the respective proportions assigned to each of the activities being contemplated.

Specific programmes to implement the framework programme and other measures are adopted by the Council by qualified majority voting after consulting the European Parliament.

Legislation

Legislation in this area basically consists of decisions concerning the framework programme and the specific programmes.

The framework programme consists of two parts, one covering nuclear, the other non-nuclear research. The former is run by the European Atomic Energy Community (EAEC or EURATOM) and the latter by the European Community (EC). The EC programme, with a budget of 13.981 million euros, is divided into four thematic programmes, three horizontal programmes and one specific programme for the Joint Research Centre. The EURATOM programme, with a budget of 979 million euros, covers nuclear energy, particularly fusion and fission. To give a sharper focus to the research objectives, the two programmes are complementary. A combined total of 14.960 million is therefore available for this programme, spread over five years from 1 January 1998 to 31 December 2002.

The framework programme is divided into four thematic programmes addressing all the scientific, technological and social challenges facing the EU plus three horizontal programmes covering all aspects of external relations, training and participation by SMEs. The activities of the Joint Research Centre (JRC) are also included.

- Decision No 182/1999/EC of the European Parliament and of the Council of 22 December 1998 concerning the **fifth framework programme of the European Community** for research, technological development and demonstration activities (1998 to 2002) (*OJ L 26 01.02.1999 p.1*).
- Council Decision 1999/64/Euratom of 22 December 1998 concerning the **fifth framework programme of the European Atomic Energy Community** (Euratom) for research and training activities (1998 to 2002) (*OJ L 26 01.02.1999*).
- 1999/174/EC: Council Decision of 25 January 1999 adopting a **specific programme** for research and technological development, including demonstration, **to be carried out by** means of direct actions for the European Community (1998 to 2002) **by the Joint Research Centre** (*OJ L 064 12.03.1999 p.127*)
- 1999/173/EC: Council Decision of 25 January 1999 adopting a **specific programme** for research, technological development and demonstration on **improving the human research potential and the socioeconomic knowledge base** (1998 to 2002) (*OJ L 064 12.03.1999 p.105*)
- 1999/172/EC: Council Decision of 25 January 1999 adopting a **specific programme** for research, technological development and demonstration on promotion of **innovation and encouragement of SME participation** (1998 to 2002) (*OJ L 064 12.03.1999 p.91*)

- 1999/171/EC: Council Decision of 25 January 1999 adopting a **specific programme** on confirming the **international role of Community research** (1998 to 2002) (*OJ L 064 12.03.1999 p.78*)
- 1999/170/EC: Council Decision of 25 January 1999 adopting a **specific programme** for research, technological development and demonstration **on energy, environment and sustainable development** (1998 to 2002) (*OJ L 064 12.03.1999 p.58*)
- 1999/169/EC: Council Decision of 25 January 1999 adopting a **specific programme** for research, technological development and demonstration **on competitive and sustainable growth** (1998 to 2002) (*OJ L 064 12.03.1999 p.40*)
- 1999/168/EC: Council Decision of 25 January 1999 adopting a **specific programme** for research, technological development and demonstration on a **user- friendly information society** (1998 to 2002) (*OJ L 064 12.03.1999 p.20*)
- 1999/167/EC: Council Decision of 25 January 1999 adopting a **specific programme** for research, technological development and demonstration on **quality of life and management of living resources** (1998 to 2002) (*OJ L 064 12.03.1999 p.1*)

DEVELOPMENT COOPERATION

The Community's development cooperation work **is complementary to Member States' policies**, and as far as possible is undertaken in agreement with other donors at world level, which may be States (Japan, the United States etc.) or international organisations (World Bank, the IMF, etc.). Care is also taken to ensure consistency between development cooperation policy and other Community policies which may affect developing countries, two of which are the Common Agricultural Policy and the Common Commercial Policy.

At present the European Union is the principal partner of the developing countries as regards aid, trade and direct investment. Together, the Community and the Member States provide 55% of all official international development aid.

Although the beginnings of Community development policy date back to the signing of the Treaty of Rome, it has only been since the entry into force of the Treaty on European Union in 1993 that Community development cooperation has had a specific legal basis (Articles 177 to 181 of the TEC).

Under Article 177, "Community policy in the sphere of development cooperation, **which shall be complementary to the policies pursued by the Member States**, shall foster:

- the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them;
- the smooth and gradual integration of the developing countries into the world economy;
- the campaign against poverty in the developing countries.

In the description of this policy the Treaty is quite clear about its complementary nature:

"The Community and the Member States **shall coordinate their policies on development cooperation and shall consult each other on their aid programmes**, including in international organisations and during international conferences. They may undertake joint action. The Member States shall contribute if necessary to the implementation of Community aid programmes".

The Commission may take any useful initiative to promote the above mentioned coordination.

Decision taking procedure is co-decision.

Legislation

The EU's development cooperation is implemented via a wide panoply of legal and financial instruments, reflecting the heterogeneous nature of the Union's relations with the countries concerned.

Legislation below is based in article 179 of the EC Treaty:

- Regulation (EC) No 955/2002 of the European Parliament and of the Council of 13 May 2002 extending and amending Council Regulation (EC) No 1659/98 **on decentralised cooperation** (*OJ L 148 06.06.2002 p.1*)
- Decision No 36/2002/EC of the European Parliament and of the Council of 19 December 2001 concerning the Community **contribution to the Global Fund to fight HIV/AIDS, tuberculosis and malaria** (*OJ L 007 11.01.2002 p. 1*)
- Regulation (EC) No 2130/2001 of the European Parliament and of the Council of 29 October 2001 **on operations to aid uprooted people in Asian and Latin American developing**

countries (*OJ L 287 31.10.2001 p. 3*)

- Regulation (EC) No 1724/2001 of the European Parliament and of the Council of 23 July 2001 concerning **action against anti-personnel landmines** in developing countries (*OJ L 234 01.09.2001 p. 1*)
- Regulation (EC) No 1726/2001 of the European Parliament and of the Council of 23 July 2001 amending Article 21 of Council Regulation (EC) No 1292/96 on **food-aid policy and food-aid management and special operations in support of food security** (*OJ L 234 01.09.2001 p. 10*)
- Regulation (EC) No 772/2001 of the European Parliament and of the Council of 4 April 2001 regarding the closure and liquidation of projects adopted by the Commission under Council Regulation (EC) No 213/96 on the implementation of the European Communities investment partners financial instrument for the countries of Latin America, Asia, the Mediterranean region and South Africa (*OJ L 112 21.04.2001 p. 1*)
- Regulation (EC) No 257/2001 of the European Parliament and of the Council of 22 January 2001 regarding the implementation of **measures to promote economic and social development in Turkey** (*OJ L 039 09.02.2001 p. 1*)
- Regulation (EC) No 2494/2000 of the European Parliament and of the Council of 7 November 2000 on measures to promote the **conservation and sustainable management of tropical forests and other forests in developing countries** (*OJ L 288 15.11.2000 p.6*)
- Regulation (EC) No 2493/2000 of the European Parliament and of the Council of 7 November 2000 on measures to promote the **full integration of the environmental dimension in the development process** of developing countries (*OJ L 288 15.11.2000 p. 1*)
- Regulation (EC) No 1880/2000 of the European Parliament and of the Council of 17 July 2000 extending Council Regulation (EC) No 443/97 on operations to **aid uprooted people in Asian and Latin American developing countries** (*OJ L 227 07.09.2000 p. 1*)
- Regulation (EC) No 1726/2000 of the European Parliament and of the Council of 29 June 2000 on **development cooperation with South Africa** (*OJ L 198 04.08.2000 p. 1*)
- Council Regulation (EC) No 975/1999 of 29 April 1999 laying down the requirements for the implementation of development cooperation operations which contribute to the general objective of **developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms** (*OJ L 120 08.05.1999 p.1*)
- Council Regulation (EC) No 2836/98 of 22 December 1998 on integrating of **gender issues** in development cooperation (*OJ L 354 30.12.1998 p.5*)

- Council Regulation (EC) No 2046/97 of 13 October 1997 on north-south cooperation in the **campaign against drugs and drug addiction** (*OJ L 287 21.10.1997 p.1*)
 - Council Regulation (EC) No 1734/94 of 11 July 1994 on financial and technical cooperation with the **Occupied Territories** (*OJ L 182 16.07.1994 p.4*)
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