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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC-Treaty

**ON THE COMMON POSITION OF THE COUNCIL ON THE PROPOSAL FOR
EUROPEAN PARLIAMENT AND COUNCIL DECISION
ADOPTING A PROGRAMME OF COMMUNITY ACTION (THE DAPHN
PROGRAMME)(2000-2003) ON PREVENTIVE MEASURES TO FIGHT
VIOLENCE AGAINST CHILDREN, YOUNG PERSONS AND WOMEN**

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1. BACKGROUND

On 20 May 1998 the Commission adopted a Proposal for a Council Decision on a medium term Community action programme on measures providing a Community-wide support to Member States action relating to violence against children, young persons and women (the DAPHNE Programme) (2000-2004) (COM (1998) 335)¹. The legal basis was Art. 235 of the Treaty establishing the European Community and the funding proposed was € 25 million over the five-year period.

The proposal was formally transmitted to the European Parliament and to the Council on 9 July 1998.

On 17 February 1999 the Commission amended the Proposal to one for a Proposal for a European Parliament and Council Decision adopting a programme of Community action (the DAPHNE Programme) (2000-2004) on measures aimed to prevent violence against children, young persons and women (COM (1999) 82)². The legal base was Art. 129 of the Treaty.

This was transmitted to the European Parliament and to the Council on 17 February 1999.

The Economic and Social Committee gave its Opinion on the 28 April 1999³ and the Committee of the Regions on the 11 March 1999⁴. The European Parliament adopted a favourable Resolution at its First Reading on the 16 April 1999, and proposed 36 amendments to the Commission proposal⁵.

¹ OJ C 259, 18.08.1998, p.2

² OJ C 89, 30.03.1999, p.42

³ OJ (not yet published)

⁴ OJ (not yet published)

⁵ OJ (not yet published)

On 11 May 1999 the Commission adopted an amended proposal (COM (1999) 244)⁶ accepting 26 of the amendments in full, in part or in principle. This amended proposal was transmitted to Council on 11 May 1999.

The Council, acting in accordance with Article 251 of the Treaty, formally adopted a common position on 13 September 1999.

2. PURPOSE OF THE ORIGINAL COMMISSION PROPOSAL FOR A DECISION

The purpose of the Decision is to establish a multi-annual Programme to support non-governmental organisations (NGOs) active in the fight against violence against children, young persons and women and to provide added value at Community level to actions within the Member States. This is achieved through the setting up of networks, the exchange of information, best practice and cooperation and the raising of public awareness.

3. COMMENTS ON THE COMMON POSITION OF THE COUNCIL

3.1. General Observations on the Common Position

The Council has adopted a favourable approach to the proposal of the Commission and the amendments of the European Parliament accepted by the Commission.

The Council's Common Position was adopted by unanimity and the Commission considers that the Common Position is acceptable.

3.2. Analysis of the Common Position of the Council

3.2.1. Amendments submitted by European Parliament in first reading

In its first reading, the Parliament proposed 36 amendments to the Commission Proposal. The Commission accepted 16 of these amendments in full (amendments 2, 3, 4, 5, 6, 8, 12, 14, 18, 19, 21, 26, 28, 31, 33 and 34), 5 in part (amendments 9, 10, 29, 35 and 36) and 5 with minor re-wording (1, 13, 16, 17 and 30) while rejecting 10 (amendments 7, 11, 15, 20, 22, 23, 24, 25, 27 and 32).

3.2.2. Parliament's amendments accepted by the Commission and incorporated in the Common Position

Of the 26 amendments accepted by the Commission, the Council can be said to have incorporated 19, in whole or in part, at least as regards their spirit (amendments 1, 3, 4, 5, 8, 9, 10, 12, 13, 16, 17, 18, 19, 28, 29, 30, 31, 33 and 36).

The table in the Annex shows how these EP amendments have been incorporated into the Council Common Position.

⁶ OJ (not yet published)

3.2.3. *Parliament's amendments accepted by the Commission and not incorporated in the Common Position*

The Council did not accept 7 of the amendments (2, 6, 14, 21, 26, 34 and 35) proposed by the European Parliament and accepted by the Commission. The Commission position on these is given below.

(EP amendment 2). Addition of the words "a breach of their right to life, safety, freedom, dignity and physical and emotional integrity" (Recital 1).

(EP amendment 6) Additional recital making reference to the definition of "health" contained in the constitution of the World Health Organisation (Recital 2a (new)).

The Council argued that amendment 2 was not necessary in the case of a decision based on Article 152 and that the rejection of amendment 6 facilitated the achievement of a unanimous Common Position in view of the reservation of one Member State.

The Commission would have preferred that the Common Position contained these amendments but accepted their rejection in the interest of a speedy adoption of the Common Position. The Commission notes that Article 1(2) of the Common Position provides that the Programme will contribute to social well-being.

(EP amendment 14) Addition of the words "education and development" and "and protecting against" (Recital 11).

(EP amendment 26) Addition of the words "education and development" and "protecting against" (Article 7(1)).

(EP amendment 34) Addition of the words "and protecting against" (Annex Section II, paragraph 5).

(a) as regards "education and development"

The Council preferred the general phrase "competent in fields covered by the programme" to the mention of specific fields such as education and development.

The Commission accepts this, as the range of international organisations with which cooperation may be fostered is in no way limited.

(b) as regards "protecting against"

The Council considered that the concept of "protection" was adequately covered by the concept of "prevention".

The Commission can accept this broad concept.

(EP amendment 21) Deletion of the words "in particular the programmes in the field of public health including that on injury prevention" (Article 4).

The Council rejected the EP amendment but added the words "including future developments in the field of public health".

As these words are merely declaratory and not limitative, the Commission can accept them.

(EP amendment 35) Addition of the words "the following areas:

- prevention (general or targeting specific groups at risk);
- protection and support to victims (psychological and medical assistance, training and reintegration into social and working life);
- treatment and rehabilitation programmes for those who have committed such crimes;
- procedures to ensure the interests of children, young people or women who are the victims of violence" (Annex Section II, paragraph 6).

The Council did not accept the principle of listing specific areas for special emphasis in the stimulation and exchange of best practice at Community level. It preferred a general statement.

The Commission can agree with the Council, as the formulation in the Common Position (now appearing in Annex Section I, paragraph 2) permits actions involving best practice in all areas on the prevention of violence and the support and protection of victims.

3.2.4. New provisions and other modifications introduced by the Council compared to the Commission's amended proposal

The Council has made changes to the Commission proposal, which, together with the amendments proposed, by the European Parliament and accepted by the Commission, make the application of certain Articles more precise. Furthermore, they provide clarifications, which the Commission is prepared to accept, because they do not prejudice the fundamental aims of the amended proposal.

However, the Council introduced some important modifications to the amended proposal.

The main differences with the original proposal consist of:

1. The financial framework in Article 3 has been set at €20 million, namely four years at €5 million per year.

The Commission attaches the highest importance to maintaining the annual amount at €5 million (the figure retained in the 1999 budget for the DAPHNE Initiative), but accepts the period of four years.

In these circumstances, the evaluation report to be presented by the Commission to the European Parliament and the Council under Article 8(2) will be due in the second (rather than in the third) year of the Programme.

2. The Council considered that, in certain Member States, public bodies, as well as NGOs, play a major role in the fight against violence and that such public bodies should be eligible for support under the DAPHNE Programme. The Commission recognises this situation.

In its Proposal (Part I of the Annex) the Commission drew a distinction between projects involving cooperation between NGOs from different Member States and projects involving cooperation between NGOs and public bodies at national, regional and local level.

In the Common Position, Part I of the Annex brings together all projects including cooperation in a multi-disciplinary approach between organisations of whatever nature from different Member States. The Commission accepts this formulation.

3. A new Recital (No 4) has been added referring to EU action in the field of justice and home affairs.
4. A new paragraph (Article 2(4)) provides that the actions undertaken shall involve a significant number of Member States.
5. A new paragraph (Article 3(3)) provides that the Community contribution shall vary according to the nature of the measure and may not exceed 80% of the total cost of the action.
6. The provisions of the original Article 7 (International Cooperation) have been divided between Articles 6 and 7 of the Common Position.
7. The wording of Section III of the Annex (Complementary Actions) has been replaced by the appropriate provisions contained in the LEONARDO Programme.

The Commission accepts the changes set out under points 3 to 7 above.

8. Regarding the words in Article 2(2) "after consultations with the Member States", the Commission entered the following statement in the Council minutes: "The Commission considers that the consultations with the Member States shall take place within the framework of the Committee provided for in Article 5(3) of the Decision."

3.3 Committee procedures

The Council has introduced a Committee procedure of the "mixed" type, involving Procedures IIb and I, to be applied in respect of the measures referred to in Article 5(2). The Commission recalls that this procedure is applied in the Youth Programme and in the majority of public health programmes.

4. CONCLUSIONS

The Commission accepts the Council's Common Position on the proposal for a European Parliament and Council Decision adopting a programme of Community action (the DAPHNE Programme)(2000-2003) on preventive measures to fight violence against children, young persons and women.

It considers that the Council's Common Position retains all the important elements of the Commission proposal and will constitute a valuable weapon in the fight against violence.

Summary of the analysis of the Common Position:

	Amendments proposed by Parliament	Amendments accepted by the Commission and incorporated in the common position	Amendments accepted by the Commission and not incorporated in the common position
In full		1, 3, 4, 5, 8, 12, 16, 19, 28, 31,	2, 6, 14, 21, 26, 34 and 35
In part/in principle		9, 10, 13, 17, 18, 29, 30, 33 and 36	
Total	32	19	7

ANNEX

ANALYSIS OF PARLIAMENT'S AMENDMENTS:

Amd.	Recital/ Article	4.1. Content	4.2. Commission accepted	4.3. Council accepted
1	Title	Addition of the words "to fight".	With minor re- wording	Yes
2	Recital 1	Addition of the words "a breach of their right to life, safety, freedom, dignity and physical and emotional integrity".	Yes	No
3	4.3.1. Rec. 1a (new)	Additional recital making reference to the implications of violence for health, psychological and social development, as well as for equal opportunities, and its high social and economic costs;	Yes	Yes
4	4.3.2. Rec. 1b (new)	Additional recital making reference to international actions in the field of violence.	Yes	Yes
5	Rec. 2	Addition of a reference to the European Parliament Resolution of 18 January 1996.	Yes	Yes
6	4.3.3. Rec. 2a (new)	Additional recital making reference definition of "health" in the constitution of the World Health Organisation.	Yes	No
7	4.3.4. Rec. 3a (new)	Additional recital making reference to the STOP Programme.	No	No

8	4.3.5. Rec.4	Addition of the words "curbing exploitation" and "taking into account its physical, mental and social aspects and a high quality of life".	Yes	Yes
9	Rec. 6	Addition of references to "protection", "abuse and sexual exploitation" and "the exchange of information and experiences, promoting an innovative approach".	In part	In part
10	Rec. 7	Addition of a reference to "an exchange of information relating to the various laws and the results achieved".	In part	In part
11	Rec. 8	Replacement of the words "can be " by "are".	No	No
12	Rec. 9	Addition of a reference to the "welfare and quality of life" of women and children".	Yes	Yes
13	Rec. 10	Addition of the words "and fight" and "within a multi-disciplinary approach".	With minor re-wording	In part
14	Rec.11	Addition of the words "education and development" and "and protecting against".	Yes	No
15	Rec. 12	Addition of the words "whereas it is essential to ensure respect for human rights, in the context of these agreements".	No	No
16	Art. 1(1)	Addition of the words "and fight" and "abuse and sexual exploitation perpetrated".	With minor re-wording	Yes

17	Art. 1(2)	Addition of the words "protection of", "and social well-being and of support", "including knowledge of the legislative instruments applied in the Member States," "anticipate and" and "It further aims to assist and encourage NGOs and voluntary organisations active in this field".	With minor re-wording	In part
18	Art. 2(2)	Addition of the words "and of the rehabilitation of victims" and "It shall promote cooperation between such NGOs and national, regional and local authorities".	Yes	With minor re-wording
19	Art. 2(2a) (new)	Additional paragraph referring to the Commission ensuring a balanced approach in respect of the target groups.	Yes	Yes
20	Art. 2(2a) (new)	Additional paragraph referring to the coordination of cooperation by the Commission with the applicant countries within the framework of Phare and Tacis.	No	No
21	Art. 4	Deletion of the words "in particular the programmes in the field of public health including that on injury prevention."	Yes	No
22	Art. 5	Limitation of the representation of the Member States on the Committee to one each. Limitation of the type of measures to be submitted by the Commission to the Committee.	No	No
23	Art. 5(1a) (new)	Provision of observer status for the European Parliament in the Committee.	No	No
24	Art. 5(1b) (new)	Setting-up of an NGO Forum to assist the Committee.	No	No

25	Art. 6(2)	Provision for the Commission to keep the European Parliament's representative on the Committee regularly informed about the programme.	No	No
26	Art. 7(1)	Addition of the words "education and development" and "protecting against".	Yes	No
27	Art. 7(2)	Addition of the words "particularly for victims of trafficking in women, and".	No	No
28	Annex, Section I, Objective	Change the word "assist" to "support". Clarification of the public bodies involved.	Yes	Yes
29	Annex I, par.1	Addition of the words " <u>and strengthening</u> ", " <u>and the applicant countries</u> ", " <u>ensure coordination and cooperation</u> " and " <u>including issues relating to missing persons and abducted children</u> ".	In part	In part

30	Annex I, par.2	<p>Addition of the words underlined:</p> <p><u>“Encouragement and support of cooperation between NGOs of the Member States and the applicant countries and officials of the various public bodies concerned at national, regional and local level, in order to improve on both sides the level of knowledge and understanding of each other's role and to exchange relevant information and experiences concerning actions undertaken in the Member States in particular on innovative pilot projects.</u></p> <p>The networks shall in particular carry out activities to address the problems of violence that will:</p> <p>(1) characterise different types of violence and assess the causes and <u>the physical, mental and social health consequences of violence;</u></p> <p>(2) assess the types and effectiveness of measures to prevent violence and sexual exploitation (three words deleted) and support <u>the rehabilitation of victims as well as the effectiveness of repressive measures”.</u></p>	With minor re- wording	In part
31	Annex II, objective	Addition of the words “and protection against” and “including trafficking for the purpose of sexual exploitation, commercial sexual exploitation and other sexual abuse”.	Yes	Yes

32	Annex II, par. 3	Addition of the words "this can involve attention to underlying causes and to equality between men and women, respect for women's dignity and the rights of children; raising the awareness of the media about those issues, in order to foster debate among those working in the media about the value of a joint approach".	No	No
33	Annex II, par. 4	Addition of the words "and public bodies", "sexual abuse and exploitation, its prevention and rehabilitation of victims," and "as well as other relevant information systems".	Yes	In part
34	Annex II, par. 5	Addition of the words "and protecting against".	Yes	No
35	Annex II, par. 6	Addition of the words "the following areas: - prevention (general or targeting specific groups at risk); - protection and support to victims (psychological and medical assistance, training and reintegration into social and working life); - treatment and rehabilitation programmes for those who have committed such crimes: - procedures to ensure the interests of children, young people or women who are the victims of violence".	In part	No
36	Annex II, par. 6a (new)	Additional paragraph providing for the encouragement of measures to increase the reporting to the authorities of violence.	In part	In part