

# Official Journal

## of the European Communities

ISSN 0378-6978

L 287

Volume 39

8 November 1996

English edition

## Legislation

### Contents

#### *Acts adopted pursuant to Title V of the Treaty on European Union*

96/635/CFSP:

- ★ **Common position of 28 October 1996 defined by the Council on the basis of Article J.2 of the Treaty on European Union, on Burma/Myanmar** ..... 1

#### *Acts adopted pursuant to Title VI of the Treaty on European Union*

96/636/JHA:

- ★ **Joint action of 28 October 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on a programme of incentives and exchanges for legal practitioners ('Grotius')** ..... 3

96/637/JHA:

- ★ **Joint action of 28 October 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union introducing a programme of training, exchanges and cooperation in the field of identity documents ('Sherlock')** ..... 7

*(Acts adopted pursuant to Title V of the Treaty on European Union)*

## COMMON POSITION

of 28 October 1996

defined by the Council on the basis of Article J.2 of the Treaty on European Union, on  
Burma/Myanmar

(96/635/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article J.2 thereof,

HAS DEFINED THE FOLLOWING COMMON POSITION:

1. The European Union, considering the recent discussions with Burma/Myanmar at meetings in Jakarta and New York, is disappointed at the unwillingness of the State Law and Order Restoration Council (Slorc) to enter into a meaningful dialogue with it. The European Union reaffirms its determination to resume such dialogue at any time.

2. The European Union is concerned at the absence of progress towards democratisation and at the continuing violation of human rights in Burma/Myanmar. It deplores, in particular, the practice of torture, summary and arbitrary executions, forced labour, abuse of women, political arrests, forced displacement of the population and restrictions on the fundamental rights of freedom of speech, movement and assembly. It condemns the detentions in May and September 1996 of members and supporters of the National League for Democracy (NLD). It calls for the immediate and unconditional release of all detained political prisoners. The NLD and other legitimate political parties, including those from ethnic minorities, should be allowed to pursue freely their normal activities. It calls on the Slorc to enter into meaningful dialogue with pro-democracy groups with a view to bringing about national reconciliation.

3. The European Union recalls its great concern at the failure of the Slorc to respect the results of the May 1990 elections and the subsequent maintenance of the military rule. It notes that the military regime has yet to demonstrate convincingly its intention to establish civilian democratic rule, within a credible time-frame. In addition, the European Union notes the failure of the Slorc to demonstrate any willingness to respond to the

concerns of the United Nations General Assembly and the European Union.

4. The European Union recalls that it has already requested the Special Working Group on arbitrary detention and imprisonment to visit Burma/Myanmar, the UN High Commissioner for human rights to take action against Burma/Myanmar, and the Special Rapporteur on Burma/Myanmar to investigate the circumstances leading up to, and surrounding, the death of Mr James Leander Nichols.

5. With a view to promoting progress towards democratisation and securing the immediate and unconditional release of detained political prisoners, the European Union:

(a) reaffirms the following measures already adopted:

- (i) expulsion of all military personnel attached to the diplomatic representations of Burma/Myanmar in Member States of the European Union and withdrawal of all military personnel attached to diplomatic representations of the Member States of the European Union in Burma/Myanmar;
- (ii) an embargo on arms, munitions and military equipment<sup>(1)</sup> and suspension of non humanitarian aid or development programmes. Exceptions may be made for projects and programmes in support of human rights and democracy as well as those concentrating on poverty alleviation and, in particular, the provision of basic needs for the poorest section of the population, in the context of decentralized cooperation through local civilian authorities and Non-Governmental Organisations;

<sup>(1)</sup> The aforementioned embargo covers weapons designed to kill and their ammunition, weapon platforms, non-weapon platforms and ancillary equipment. The embargo also covers spare parts, repairs, maintenance and transfer of military technology. Contracts entered into prior to the date of entry into force of the embargo are not affected by this common position.

(b) introduces the following, additional measures:

- (i) ban on entry visas for senior members of the SLoRC and their families;
- (ii) ban on entry visas for senior members of the military or the security forces who formulate, implement or benefit from policies that impede Burma/Myanmar's transition to democracy, and their families; and
- (iii) suspension of high-level bilateral governmental (Ministers and Officials at the level of political director and above) visits to Burma/Myanmar.

6. The implementation of this common position will be monitored by the Council, to which the Presidency and the Commission will regularly report, and will be reviewed in the light of developments in Burma/Myanmar. Further measures may need to be considered.

In the case of a substantial improvement of the overall situation in Burma/Myanmar, not only the suspension of the aforementioned measures, but also the gradual resumption of cooperation with Burma/Myanmar will be considered, after careful assessment of developments by the Council.

7. This Common Position shall take effect on 29 October 1996 for a renewable six months period.

8. This Common Position shall be published in the Official Journal.

Done at Luxembourg, 28 October 1996.

*For the Council*  
*The President*  
D. SPRING

*(Acts adopted pursuant to Title VI of the Treaty on European Union)*

## JOINT ACTION

of 28 October 1996

adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on  
a programme of incentives and exchanges for legal practitioners ('Grotius')

(96/636/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas the Member States consider the strengthening of judicial cooperation to be a matter of common interest;

Whereas setting up a framework for projects of training, information, studies and exchanges for legal practitioners will contribute to improving the mutual understanding of legal and judicial systems of the Member States, to highlighting their points of convergence and to lowering the barriers to judicial cooperation between Member States;

Whereas these objectives can be more effectively realized at European Union level than at the level of each Member State, because of the expected economies of scale and the cumulative effects of the projects envisaged;

Whereas this joint action is without prejudice to the Community's powers in the field of vocational training and does not therefore adversely affect the Community measures taken to implement its policy in that field, and, in particular, the Leonardo da Vinci Programme;

Whereas this joint action does not affect the existing rules of procedure in the field of judicial cooperation,

HAS ADOPTED THE FOLLOWING JOINT ACTION:

### Article 1

1. A programme for legal practitioners, to be known as 'Grotius', is hereby established for the period 1996—2000, in order to foster mutual knowledge of

legal and judicial systems and to facilitate judicial cooperation between Member States.

2. For the purposes of this joint action, 'legal practitioners' means judges (including examining magistrates), prosecutors, advocates, solicitors, academic and scientific personnel, ministry officials, criminal investigation officers, court officers, bailiffs, court interpreters and other professionals associated with the judiciary.

3. The programme shall comprise the following:

- training,
- exchange and work-experience programmes,
- organization of meetings,
- studies and research,
- distribution of information.

### Article 2

The financial reference amount for the implementation of this programme for the period from 1996 to 2000 shall be ECU 8,8 million.

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

### Article 3

Projects with the following objectives may be considered under 'training':

- fostering of foreign language knowledge, in particular a working knowledge of legal language,
- knowledge of the legal institutions and procedures of the other Member States, and how they function,
- exchange of experience between those responsible for the training of legal practitioners, and between institutions responsible for basic training and those responsible for continuing training,

- preparation of teaching modules for training projects, of exchanges and internships, the conferences, or of seminars organized as part of the implementation of the programme.

#### Article 4

Projects with the following objectives may be considered under 'exchange and placement programmes for training purposes':

- organization of work experience of limited duration in the legal institutions or with legal practitioners in Member States other than that of origin, in the Court of Justice of the European Communities, or in the Court of First Instance as well as in the European Court of Human Rights,
- organization of visits to legal institutions or to legal practitioners in a number of other Member States on specific themes or in the Court of Justice of the European Communities, in the Court of First Instance as well as in the European Court of Human Rights.

#### Article 5

Projects with the following objectives may be considered under 'organization of meetings':

- organization of bilateral or European conferences on legal topics of general interest,
- organization of multidisciplinary conferences on topical or new legal subjects relating to judicial cooperation,
- organization of seminars based around case studies on sentencing, in the course of which judges from different Member States deliver a verdict on the same court case.

#### Article 6

Projects with the following objectives may be considered under 'studies and research':

- preparatory analysis of subjects chosen for projects to be implemented within the framework of the programme,
- analysis of reports on work experience or meetings organized within the framework of the programme,
- coordination of research on topics relating to judicial cooperation.

#### Article 7

Projects with the following objectives may be considered under 'distribution of information':

- hard-copy or on-line distribution of information on legislative amendments or draft reforms, in the original or in translation,
- dissemination of information on projects under Articles 3, 4 and 5, the results of meetings under Article 5 or the findings of research carried out under Article 6 and the application of this research,
- creation of databases and/or documentation networks including lists of articles, publications, studies and legislation in fields relating to judicial cooperation.

#### Article 8

1. Projects financed by the Community must be of demonstrable European interest and involve more than one Member State.

2. Projects may be managed by national and non-governmental organizations, and in particular legal and judicial training establishments and research centres.

3. The selection process projects for which finance is requested shall have regard, *inter alia*, to:

- the extent to which the subjects covered conform with work that is already in progress or planned for the future under the Council's action programmes in fields relating to judicial cooperation,
- the contribution to the elaboration or implementation of instruments provided for under Title VI of the Treaty,
- the extent to which the different projects complement each other,
- the range of professions to which they are addressed,
- the quality of the institution responsible,
- the operational and practical nature of the projects,
- the degree of preparation of the participants,
- the possibility of using the results of the project to make further progress in judicial cooperation

4. These projects may associate practitioners from the States which have applied for membership where this would contribute to their preparation for accession or other non-member countries where this would be useful.

#### Article 9

The financing decisions and the contracts arising from them shall provide for monitoring and financial control by the Commission and audits by the Court of Auditors.

*Article 10*

1. All types of expenditure which are directly chargeable to the implementation of the project and which have been committed within a contractually agreed period shall be eligible.

2. The proportion of financial support from the Community budget shall not exceed 80 % of the cost of the project.

3. Translation and interpreting costs, computing costs, and expenditure on durables or consumables shall not be taken into consideration unless they are essential for the realization of the project, and shall only be financed up to a limit of 50 % of the grant or 80 % in cases where the nature of the project makes them indispensable.

4. Expenditure relating to premises, collective facilities, and the salaries of officials of the State and public bodies shall be eligible only if it corresponds to postings and tasks which have no national purpose or function but are specifically connected with the implementation of the project.

*Article 11*

1. The Commission shall be responsible for carrying out the measures provided for in this joint action and shall adopt detailed rules for its implementation, including the criteria for the eligibility of costs.

2. It shall draw up each year, with the assistance of experts from the relevant professional circles, the draft annual programme implementing this joint action in terms of the thematic priorities and the distribution of available appropriations between fields of activity.

3. It shall undertake each year an assessment of the measures implementing the programme for the previous year.

*Article 12*

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

2. The Commission shall submit to the Committee the draft annual programme, including a proposal for the distribution of available appropriations between the fields of activity and proposals for implementing rules, and for project assessment. The opinion shall be delivered by the

Committee acting unanimously within a period of two months. This period may be reduced by the Chairman for reasons of urgency. The Chairman shall not vote.

If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw its proposal or submit a proposal to the Council which shall take a decision unanimously within two months.

*Article 13*

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

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

3. Where the financing requested is less than ECU 50 000, the representative of the Commission shall submit a draft to the Committee referred to in Article 12 (1). The Committee, acting by the majority provided for in the second subparagraph of Article K.4 (3) of the Treaty, shall deliver its opinion on this draft within a time limit which the Chairman may lay down according to the urgency of the matter. The Chairman shall not vote.

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

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

4. Where the financing requested exceeds ECU 50 000, the Commission shall submit to the Committee referred to in Article 12 (1) a list of the projects submitted to it under the annual programme. The Commission shall indicate the projects it selects and shall give reasons for its selection. The Committee, acting by the majority provided for in the second subparagraph of Article K.4 (3) of the Treaty, shall deliver its opinion on the various projects within a period of two months. The Chairman shall not vote. If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw the project(s) concerned or submit it (them), with any opinion from the Committee, to the Council which, acting by the majority provided for in the second subparagraph of Article K.4 (3) of the Treaty, shall take a decision within two months.

*Article 14*

1. Measures incorporated in the programme and financed by the general budget of the European Communities shall be managed by the Commission in conformity with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities<sup>(1)</sup>.

2. When presenting the financing proposals referred to in Article 13 and the assessments provided for by Article 11, the Commission shall take account of the principles of sound financial management and in particular of economy and cost-effectiveness as required by Article 2 of the Financial Regulation.

*Article 15*

Each year the Commission shall report to the European Parliament and the Council on the implementation of the

programme. The first report shall be presented at the end of the 1996 budgetary year.

*Article 16*

This Joint Action shall enter into force on the day of its adoption.

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

It shall be published in the Official Journal.

Done at Luxembourg, 28 October 1996.

*For the Council*

*The President*

D. SPRING

---

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

**JOINT ACTION**

of 28 October 1996

adopted by the Council on the basis of Article K.3 of the Treaty on European Union  
introducing a programme of training, exchanges and cooperation in the field of identity  
documents ('Sherlock')

(96/637/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas the Member States consider identity checks on  
persons crossing the external borders of the Union and  
the security of identity documents to be a matter of  
common interest;

Whereas the establishment of a framework for training,  
information, study and exchange activities will serve to  
improve officials' familiarity with the techniques applied  
in the production and checking of identity documents in  
other Member States and consequently lend greater  
effectiveness to the efforts made to combat forgery;

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

Whereas this joint action will not prejudice the powers of  
the Community, especially in the field of vocational  
training, and will therefore not detract from the  
Community measures taken in implementation of this  
policy, and in particular the Leonardo da Vinci  
programme,

HAS ADOPTED THE FOLLOWING JOINT ACTION:

**SECTION I****GENERAL***Article 1***Principle and objectives**

1. A programme, to be known as 'the Sherlock  
programme', of training, exchange and cooperation in the  
field of the security of identity documents within the  
meaning of the definitions in Article 3, which shall  
qualify for Community financial support, is hereby  
established for the period from 1996 to 2000.

2. Without prejudice to the powers of the Community,  
the general objective of the programme shall be to extend  
existing cooperation in the matter of identity documents

thanks to its multiannual organization. The definition of  
clear priorities will serve to rationalize this cooperation in  
the long term.

*Article 2***Total appropriations**

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

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

*Article 3***Definitions**

The following definitions shall apply for the purposes of  
the Sherlock programme:

- Identity documents: documents issued by Member  
States and non-member countries enabling their  
holders to prove their identity and cross external  
borders,
- Training: organization of seminars focusing on  
theoretical and practical understanding of the security  
of identity documents,
- Exchange: period spent by an official in a Member  
State other than his own for the purpose of improving  
his knowledge of control techniques through  
first-hand experience,
- Studies: design and dissemination of teaching material  
for combating of forged identity documents.

**SECTION II****STRUCTURE OF THE PROGRAMME***Article 4***Objectives**

The main component of the Sherlock programme shall be  
following annual programmes:

- basic training for instructors,



- further training seminar for recognized specialists on the analysis of documents.

#### *Article 5*

##### **Exchanges**

The Sherlock programme shall also comprise exchanges of officials. Exchanges shall take the form in particular of work placements of limited duration within the national administrative departments responsible for checking identity documents.

#### *Article 6*

##### **Study and research**

1. The Sherlock programme shall comprise the design, production and dissemination of teaching material.
2. Ways of improving the circulation of information concerning the fraudulent use of forged identity documents may also be a matter for study and research.

### **SECTION III**

#### **FINANCIAL PROVISIONS**

#### *Article 7*

##### **Financing criteria**

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

These projects may associate participants from the states which have applied for membership where this would contribute to their preparation for accession or other non-member countries where this would be useful for the purpose of the projects.

#### *Article 8*

##### **Financial control**

The financing decisions and the contracts arising therefrom shall provide for monitoring and financial control by the Commission and audits by the Court of Auditors.

#### *Article 9*

##### **Level of Community finance**

1. All types of expenditure which are directly chargeable to the implementation of this joint action and

have been incurred over a specific, contractually defined period shall be eligible.

2. The proportion of financial support from the Community shall not exceed 60 % of the total cost of the programme save in exceptional cases where, subject to the procedures laid down in Section IV, it shall not exceed 80 %.

3. Translation and interpreting costs, computing costs and expenditure on durables or consumables shall not be considered unless they are essential for the realization of the project and shall be financed only up to a limit of 50 % of the grant, or 80 % in cases where the nature of the project makes them indispensable.

4. Expenditure relating to premises, collective facilities and the salaries of officials of the State and public bodies shall be eligible only if it corresponds to postings and tasks which are not connected with national use or function but are specifically connected with the implementation of this joint action.

#### *Article 10*

##### **Rules of procedure**

1. Measures incorporated in the programme and financed by the general budget of the European Communities shall be managed by the Commission in conformity with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities<sup>(1)</sup>.

2. When presenting the financing proposals, the Commission shall take account of the principles of sound financial management and in particular of economy and cost-effectiveness as required by Article 2 of the Financial Regulation.

### **SECTION IV**

#### **MANAGEMENT AND MONITORING**

#### *Article 11*

##### **Management of programme**

1. The Commission shall be responsible for managing and monitoring the programme and shall take such measures as are necessary to this effect.

<sup>(1)</sup> OJ No L 356, 31. 12. 1977, p. 1. Regulation as last amended by Regulation (EC) No 2335/95 of 18 September 1995 (OJ No L 240, 7. 10. 1995, p. 12).

2. The Commission shall draw up a draft annual programme comprising a breakdown of the appropriations available and based on thematic priorities corresponding to the structure and objectives of the programme.

To this effect, the Commission shall scrutinize the projects submitted to it in the light of the following criteria:

- the innovative character of the proposed measure,
- the urgency of the need for the initiative as a way of improving the security of documents,
- the overall consistency of the programme.

#### *Article 12*

##### **Annual implementation of the programme**

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

2. The Commission shall submit to the committee the draft annual programme, including a proposal for the distribution of available appropriations between fields of activity and proposals for implementing rules, and for project assessment. The opinion shall be delivered by the committee acting unanimously within a period of two months. This period may be reduced by the chairman for reasons of urgency. The chairman shall not vote.

If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw its proposal or submit a proposal to the Council which shall take a decision unanimously within two months.

#### **SECTION V**

##### **FINAL PROVISIONS**

#### *Article 13*

##### **Devising of programme**

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

2. Where the financing requested is less than ECU 50 000, the representative of the Commission shall submit a draft to the committee referred to in Article 12 (1). The committee, acting by the majority provided for in the second subparagraph of

Article K.4 (3) of the Treaty, shall deliver its opinion on this draft within a time limit which the Chairman may lay down according to the urgency of the matter. The Chairman shall not vote.

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

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

3. Where the financing requested exceeds ECU 50 000, the Commission shall submit to the committee referred to in Article 12 (1) a list of the projects submitted to it under the annual programme. The Commission shall indicate the projects it selects and shall give reasons for its selection. The committee, acting by the majority provided for in the second subparagraph of Article K.4 (3) of the Treaty, shall deliver its opinion on the various projects within a period of two months. The Chairman shall not vote. If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw the project(s) concerned or submit it (them), with any opinion from the committee, to the Council which, acting by the majority provided for in the second subparagraph of Article K.4 (3) of the Treaty, shall take a decision within two months.

#### *Article 14*

##### **Evaluation**

Each year the Commission shall undertake an assessment of the measures taken during the previous year and shall address a report to the European Parliament and the Council.

#### *Article 15*

##### **Entry into force**

This Joint Action shall enter into force on the day of its adoption.

It shall be published in the Official Journal.

Done at Luxembourg, 28 October 1996.

*For the Council*  
*The President*  
 D. SPRING