

Call for proposals 2009

TRAINING OF NATIONAL JUDGES IN EC COMPETITION LAW

AND

JUDICIAL COOPERATION BETWEEN NATIONAL JUDGES

1. Introduction

- 1.1 On 25 September 2007 the European Parliament and the Council adopted Decision No 1149/2007/EC establishing for the period 2007-2013 the Specific Program Civil Justice as part of the General Program Fundamental Rights and Justice. One of the actions provided for by the Decision concerns training for national judges in European law. Thus, grants may be awarded to support measures taken by bodies which foster judicial cooperation and other measures aimed at promoting training in European competition law for national judges and cooperation between them.
- 1.2 The measures envisaged for the training of national judges and judicial cooperation will be referred to hereafter as the "projects".
- 1.3 Bodies which introduce proposals are hereafter referred to as the "promoters" and those promoters which have been allocated a grant are hereafter described as the "beneficiaries".

2. Objectives

- 2.1 The objective of this call for proposal is to co-finance projects aimed at promoting judicial cooperation between, and the training of, national judges in the context of the enforcement of the European competition rules, including Articles 81 and 82 of the EC Treaty, and the State Aid rules, and private enforcement of these provisions (particularly the quantification of antitrust damages), with the aim of contributing to the development and implementation of European competition policy and Community cooperation measures in order to ensure the consistency of Community competition policy.

2.2 Scope

Projects with this objective may consist of

- training activities for national judges in the form of conferences, seminars, colloquia, meetings and symposia on European competition law including the State aid rules and private enforcement of the EC competition rules (particularly the quantification of antitrust damages). In addition, activities may consist of short- or long-term training courses in European competition law in the form of

study programs for national judges, and training of national judges on methods of economic analysis in the field of European competition law.

- activities promoting the cooperation and/or networking between national judges, in particular between judicial authorities or other public or private organizations responsible for encouraging or monitoring the correct application of European competition law, private enforcement of the EC competition rules as well as the State aid rules by national judges;
- the setting-up and/or maintenance of databases providing information on European competition law (such as, for example, but not exclusively, judgments applying Art. 81 & 82 EC, private enforcement rules as well as the State aid rules) and the distribution of such information by means specifically adapted to the needs of national judges;

Projects must cover the enforcement of **the European competition rules including Articles 81 and 82 of the EC Treaty and/or the State Aid rules.**

2.3 Priority will be given to projects focusing on the following topics:

- ensuring coherence and consistency in the enforcement of the European competition rules including Articles 81 and 82 of the EC Treaty and/or the State Aid rules (Articles 87 and 88 of the EC Treaty) and/or the private enforcement of the EC competition rules (particularly the quantification of antitrust damages);
- improving and encouraging cooperation between national judges in the field of European competition law;
- the distribution of information on European competition law specifically adapted to the needs of national judges;

3. Target audience

3.1 The target audience comprises national judges, including prosecutors, apprentice national judges and the legal staff of the judges' offices or of national courts of the current EU Member States, but may also include the participation of the acceding countries, the candidate countries and the Western Balkan countries included in the stabilization and association process in accordance with the conditions laid down in the association agreements or additional protocols thereto relating to participation in Community programs concluded with those countries.

3.2 The target audience as defined above in point 3.1 is hereafter mentioned as "national judges" as a whole.

3.3 The projects may comprise activities intended for national judges from only one of the aforementioned countries (see point 3.1). Projects may also involve national judges from several of the aforementioned countries. However, projects should involve at least two countries (see point 5.2.d).

- 3.4 Applications for co-financing of projects for the training of national judges from the new Member States which have joined the European Union on 1 May 2004 and on 1 January 2007 are encouraged.
- 3.5 Judges from countries other than the aforementioned (see point 3.1) as well as other persons than judges may participate in the projects, provided that a significant proportion of the audience consists of national judges as defined above in point 3.1.

4. Budget

- 4.1 The budget for 2009 available for the co-financing of projects is €800.000.
- 4.2 The maximum rate of co-financing by the Commission is **80%** of the total eligible costs of the project.
- 4.3 The maximum grant that can be awarded is €100.000, and the minimum amount of grant is €20.000.
- 4.4 The Commission reserves the right not to distribute all the funds available.

5. Exclusion, Eligibility, Selection and Award Criteria

5.1 Exclusion Criteria

Candidates shall be excluded from participation in a call for proposals if:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) they have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the Communities' financial interests;

- f) they are currently subject to an administrative penalty referred to in Article 96(1) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, as last amended by Council Regulation (EC) N° 1525/2007 of 17 December 2007 (OJ L 343, 27.12.2007), due to having been guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in another grant or procurement procedure or failing to supply this information or due to having been declared to be in serious breach of their obligations under contracts covered by the budget.
- g) they are subject to a conflict of interest;
- h) they are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the grant procedure or fail to supply this information;

5.2 Eligibility Criteria

- a) Projects may be submitted by institutions and public or non-profit making private organisations, including professional organisations, universities, research institutes and legal and judicial training institutes for legal practitioners, international organisations and non-governmental organisations of the Member States¹.
- b) Projects should have duration of maximum 24 months.
- c) The minimum amount of grant is €20 000, project proposals requesting a grant of less than €20 000 will be considered ineligible. The maximum grant that can be awarded is €100 000, project proposals requesting a higher amount will be considered ineligible. The maximum rate of co-financing by the Commission is 80%, proposals requesting more than 80% of eligible costs will be considered ineligible.
- d) Projects should involve two or more Member States - or at least one Member State and one other State which may be either an acceding or a candidate country eligible to participate in the actions of the Programme². The requirement of involvement can be fulfilled through co-organisation of the action or participation, for example as speaker(s), participants etc.
- e) Projects which are eligible for co-financing must correspond to one of the objectives of the programme.
- f) The project must target national judges as defined in point 3.1.

¹ For the purposes of this point, the term "Member States" shall mean Member States with the exception of Denmark since, as mentioned in Recital 19 of the Decision N°1149/2007/EC, Denmark did not take part in the adoption of the aforementioned Decision and is therefore not bound by it or subject to its application.

² Participation of acceding countries and candidate countries is subject to compliance with the conditions specified in Article 5 (1) of the Decision No. 1149/2007/EC.

- g) There must be no overlap or duplication with other activities, in particular with previous projects financed under the programme or with projects which are co-financed by another programme financed by the budget of the European Communities.
- h) Requests must be presented within the time allowed by the call for proposals.

5.3 Selection Criteria

Proposals which meet the eligibility criteria will be evaluated on the basis of the following selection criteria:

- a) The applicant's sufficient operational capacities to carry out the project.

Evidence for operational capacity should be submitted in the form of CVs, list of projects already undertaken in relevant fields by the applicant and by the partners and/or any other appropriate documents.

- b) The applicant's sufficient financial capacities to carry out the project.

Evidence for financial capacity should be submitted in the form of annual accounts (balance sheet and profit and loss account) for the last year.

5.4 Award Criteria

Only proposals meeting the selection criteria described above will be subject to in-depth evaluation. The evaluation will be carried out according to the following criteria. Each of the 4 below-mentioned criteria will be assessed against a schedule of points representing 25 % of the maximum total of points to be awarded:

- a) Ability to achieve the objectives of the programme and complementarity with other Community activities (25 % of the total points);
- b) Methodology for the implementation and feasibility of the Project (25 % of the total points);
- c) Ability to Promote the Project. The immediate results and medium-term impact of the project, in particular with a view to its European dimension. Measures planned for the dissemination of the results as well as the extent of the foreseeable multiplier effect of the whole project (25 % of the total points);
- d) Cost/benefit ratio assessment. Cost/benefit ratio of the activity proposed, in terms of economies of scale and cost-effectiveness (25 % of the total points).

Proposals should be clear, coherent, realistic and feasible in terms of action, timetable, budget and value for money. They should show a clear link between the objectives of the project, the action proposed and the expected results. All action should be properly

described and quantified. All costs and contributions should be clearly identified and described in the financial forms. Costs should be reasonable.

To qualify for award, the proposed action must obtain at least 60 out of a possible maximum of 100 points and obtain at least 50% of the points available, i.e. 12, 5 points, for each criterion.

6. Financial provisions

- 6.1 In implementing the projects, beneficiaries should comply with the Financial Regulation (and in particular Title VI of Part One; see also the corrigendum to the Financial Regulation) and with the detailed rules for the implementation of the Financial Regulation.³
- 6.2 Once the assessment procedure based on the criteria set out in point 5 has been completed, the Commission will finance a limited number of projects. Without prejudice to the application of the Commission's Financial Regulation, the following principal provisions apply to the financing of projects under this call for proposals.
- a) The applicant must submit budget estimates in Euros, in which revenue and expenditure are in balance.
 - b) The Commission departments will determine the amount of financial assistance to be granted to selected projects on the basis of the budget allocated.
 - c) Project financing is based on the principle of shared costs. If the amount granted by the Commission is lower than the financial assistance sought by the applicant, it is up to the latter to find the necessary additional resources or to reduce the total cost of the project so as to ensure its viability without detracting from its objectives or its content.
 - d) Contributions in kind are not eligible costs. In any event, a minimum of **20%** of the co-financing for the project must be in the form of a direct monetary contribution from the applicant or from another fund provider.
 - e) The rules on eligible costs are described in the standard grant agreement, general conditions.
 - f) The amount granted by the Commission will be proportionate to the estimated total cost of the project and will be reduced proportionally where the total real costs are lower than the total estimated costs.

³ Financial Regulation applicable to the general budget of the European Communities (Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002, OJ L 248, 16.9.2002, p. 1). Corrigendum to the Financial Regulation, OJ L 25, 30.1.2003, p. 43.

Detailed rules for the implementation of the Financial Regulation (Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002, OJ L 357, 31.12.2002, p. 1).

These documents are available at <http://europa.eu.int/comm/dgs/competition/proposals2/>.

- g) The grant will be limited to the amount necessary to balance project revenue and expenditure. Grants may not confer a profit on the recipient. Profit is defined as any amount by which total real revenue for the project exceeds the total real costs. Any profit identified will entail an equivalent reduction in the amount of the grant.
- h) Co-financing of a project under this framework cannot be combined with any other co-financing by another programme financed by the budget of the European Communities.
- i) Commission grants are given for non-commercial purposes only and projects must be strictly non-profit making.
- j) Promoters are informed that the amount of aid actually granted may be less than the amount requested. In other cases, it may be decided to grant aid only for part of the proposed activity. The Commission will not provide double-financing for one and the same project.

6.3 Payment Conditions:

As a general rule, the Commission grant is paid in two instalments: a pre-financing payment (up to 70% of the total grant) on signature of the grant agreement, and the balance on receipt and approval by the Commission of the final report and final financial statement of the project. Sums due shall be paid by the Commission within no more than 45 calendar days from the date of signature of the grant agreement and no more than 90 calendar days from the date of receipt of the final report. On expiry of the time-limit, the creditor shall be entitled to late payment interest.

7. Submission of applications

- 7.1 Applications should be submitted on the standard request forms, and accompanied by the annexes required in the call for proposals.
- 7.2 The application must be signed by the person authorized to enter into legally binding commitments on behalf of the applicant.
- 7.3 Forms can be downloaded from the following website:.. Forms may also be obtained by <http://ec.europa.eu/dgs/competition/proposals2/> applying to e-mail address COMP-TRAINING-JUDGES@ec.europa.eu.
- 7.4 Applications must be complete and signed and shall be submitted in duplicity (one signed original and one copy of the signed original) **no later than 27 November, 2009 by post** or **express courier** (as evidenced by the postmark or by the acknowledgement of receipt of the express courier service) to:

Ales Musil
European Commission
Directorate-General for Competition

COMP TRAINING JUDGES

Av. du Bourget n°1
B-1049 Brussels
Belgium

Applications may also be delivered **by hand** to the following address:

Ales Musil
European Commission
Directorate-General for Competition
COMP TRAINING JUDGES
Rue Joseph II. 59
B-1049 Brussels
Belgium

In this case, the applications have to be deposited at the above address on working days by 4 p.m. and **no later than 27 November, 2009**. The dispatcher will receive a signed and dated acknowledgement of receipt.

- 7.5 An application sent by the deadline by email or fax, followed by an original, is not considered to be a valid application.
- 7.6 Applications may be submitted in one of the official languages of the European Union, but preferably in English, using the application form. If applications are submitted in another language than English a summary must be added in English.
- 7.7 Promoters will be informed of the results of the assessment of their projects as soon as possible.
- 7.8 The estimated timetable for the award of the grants is planned for Q1 2010.

8. Implementation period of the project and other aspects

- 8.1 Projects should have a duration of maximum 24 months. However, any project submitted under this call for proposals must be carried out **before the end of the year 2011**.
- 8.2 The draft agreement will become legally binding only after it has been countersigned by the Commission.
- 8.3 Article 112 of the Financial Regulation states: "A grant may be awarded for an action which has already begun only where the applicant can demonstrate the need to start the action before the agreement is signed. In such cases, expenditure eligible for financing may not have been incurred prior to the date of submission of the grant application, save

in duly substantiated exceptional cases as provided for in the basic act [...]. No grant may be awarded retrospectively for actions already completed.”

- 8.4 Once the project has been completed and within a period to be specified in the grant agreement, recipients must send the Commission, at the abovementioned address, a **final report** on the project consisting of a **final technical** and **final financial report**. The final report should discuss any obstacles encountered, the assessment made by participants (e.g. through feedback forms), the results achieved, the dissemination of such results and the conclusions to be drawn.
- 8.5 Beneficiaries may be asked to make the results available to the Commission in a form that is usable and suitable for their dissemination and free of copyright: manuals, publications, software and Internet sites.

9. Publication

All grants awarded in the course of a financial year must be published on the Internet site of the Community institutions during the first half of the year following the closure of the budget year in respect of which they were awarded. The information may also be published using another appropriate medium, including the Official Journal of the EU. With the agreement of the beneficiary (taking account of whether information is of such a nature as to jeopardise its security or prejudice its financial interests), the Commission will publish the following information:

- Name and address of the beneficiary,
- Subject of the grant,
- Amount awarded.

The beneficiary shall indicate in any communication or publication about the action, including at a conference or seminar, that the action has received financing from the Directorate General Competition of the European Commission. In addition, he shall address an evaluation form to all participants of the project, the results of which are to be communicated to the Directorate General Competition of the European Commission.

10. Data protection

All personal data (such as names, addresses, CVs, etc.) will be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.⁴

The applicant's replies to the questions in the application form are necessary in order to assess the grant application and these will be processed solely for that purpose by the department responsible for the Community grant program concerned. For any question

⁴ Official Journal L 8, 12.1.2001

relating to these data, please contact the Commission services. Beneficiaries may lodge a complaint against the processing of their personal data with the European Data Protection Supervisor at any time.

11. Complaints to the EU Ombudsman

At any stage in the administrative processing of grant files, where the individuals or bodies concerned consider that there has been maladministration, they may, regardless of any other means of recourse, lodge a complaint with the EU Ombudsman, in accordance with Article 195(1) of the EC Treaty and the conditions laid down in the Decision of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties, published in Official Journal L 113 of 4 May 1994.

Annexes:

- Application form
- Model grant agreement