



**C-155/07 European Parliament v Council, judgment of 6 November 2008**  
**The Court clarifies the respective scope of the legal bases of Article 179 EC, which concerns development cooperation, and Article 181a EC, which relates to economic, financial and technical cooperation with third countries.**

The Council adopted Decision 2006/1016/EC granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community. That decision – which covers investment projects carried out in both current and potential candidate countries, neighbourhood and partnership countries and certain countries in Asia, Latin America and South Africa – essentially seeks to support EU external action without affecting the EIB's credit standing.

The sole legal basis used by the Council to adopt that decision was Article 181a EC – which concerns economic, financial and technical cooperation with third countries –, despite the fact that during the legislative process the European Parliament had requested that Article 179 EC also be added as a legal basis, taking the view that this initiative fell within the scope of development cooperation policy too.

The Parliament then brought an action for the annulment of that decision before the Court of Justice on the ground that it had been adopted on an incorrect legal basis.

On the basis of a detailed analysis of its recitals and provisions, the Court held that the financial cooperation which Decision 2006/1016/EC implements also pursues the socio-economic objectives of development cooperation policy referred to in Article 177 EC. Accordingly, that decision has two components, one of which concerns development cooperation falling under Article 179 EC, while the other concerns economic, financial and technical cooperation with third countries other than developing countries, falling under Article 181a EC.

Having held that, in this case, the two components are inseparably linked, without one being incidental to the other, taking into account the fact that that decision concerns actions of a similar nature distinguished only in relation to the regions and countries concerned, the Court then considered whether the legislature could have used the two legal bases together. In accordance with settled case-law, recourse to a dual legal basis is possible only where the procedures laid down for each legal basis are compatible with one another. Here, the Court held that the procedure laid down in Article 179 EC (co-decision) and that laid down in Article 181a EC (Council acting by a qualified majority after consulting the European Parliament) are compatible, since the Council acts by a qualified majority in both cases and the greater participation by the Parliament provided for in Article 179 EC does not encroach upon its rights under Article 181a EC.

The Court therefore annulled Decision 2006/1016/EC on the ground that it should have been adopted on the dual legal basis of Articles 179 EC and 181a EC. However, in order to avoid the adverse consequences for the EIB's credit standing and its current and future financing operations, applying Article 231 EC by analogy, the Court decided to maintain the effects of that decision for one year for financing arrangements already entered into by the EIB, pending the entry into force of a new decision adopted on the proper legal bases.