

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 13 June 2002

adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme)

(2002/463/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 66 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Whereas:

- (1) Administrative cooperation between the Member States in the areas covered by Articles 62 and 63 of the Treaty is part of the Community's objective of progressively establishing an area of freedom, security and justice.
- (2) Joint Action 98/244/JHA of 19 March 1998 adopted by the Council on the basis of Article K.3 of the Treaty on the European Union, introducing a programme of training, exchanges and cooperation in the field of asylum, immigration and crossing of external borders (Odyssey programme) ⁽³⁾ has come to an end now that the budget allocation has been exhausted in 2001.
- (3) Responsibility for controls at the EU's external borders will become all the more important now that a significant enlargement of the Union is scheduled to take place during the period in which the administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) will be operational. Accordingly, ARGO should be seen simply as a modest forerunner of more extensive activities in this field.
- (4) In accordance with the conclusions of the European Council in Tampere on 15 and 16 October 1999, the

Commission has defined in its communication to the Council and the European Parliament on the biannual update of the scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union (first half of 2001) an ambitious legislative programme that should lead to a new body of Community rules in the area of justice and home affairs that will have to be implemented by the Member States.

- (5) Uniformity between the practices of the Member States when applying Community law can be obtained by strengthening cooperation and collaboration among their national agencies, and between them and the Commission.
- (6) Individual action by each administration is incapable of achieving such results. A Community framework is therefore necessary for improving mutual understanding between the competent national agencies and the way they implement the relevant Community legislation, and for defining the priority areas of administrative cooperation required.
- (7) A high level of training of equivalent quality throughout the Community is needed to guarantee the success of this action programme, taking advantage of the experience gained with the Odyssey programme.
- (8) The implementation of a Community action programme constitutes one of the most effective ways of achieving these objectives and will provide a basis to the Commission for assessing whether establishing a common training institution would be a suitable way of improving the training in Community law given to the staff of the Member States.

⁽¹⁾ OJ C 25 E, 29.1.2002, p. 526.

⁽²⁾ Opinion delivered on 9 April 2002 (not yet published in the Official Journal).

⁽³⁾ OJ L 99, 31.3.1998, p. 2.

- (9) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (10) Action under this programme is to be complementary to and coordinated with other cooperation and training activities financed by the Community budget.
- (11) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not participating in the adoption of this Decision, and is therefore not bound by it or subject to its application.
- (12) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on the European Union and to the Treaty establishing the European Community, the United Kingdom gave notice, by letter of 29 January 2002, of its wish to take part in the adoption and application of this Decision.
- (13) In accordance with Article 1 of the Protocol on the position of the United Kingdom and Ireland annexed to the European Union and to the Treaty establishing the European Community, Ireland is not participating in the adoption of this Decision. As a result, and without prejudice to Article 4 of the said Protocol, the provisions of this Decision do not apply to Ireland.
- (14) A financial reference amount within the meaning of point 34 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure ⁽²⁾ is included in this Decision for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined in the Treaty,

HAS ADOPTED THIS DECISION:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Subject-matter and duration

This Decision establishes a Community action programme to be called the 'ARGO programme' to support and complement the actions undertaken by the Community and the Member States in the implementation of Community legislation founded on Articles 62, 63 and 66 of the Treaty.

The ARGO programme shall cover the period from 1 January 2002 to 31 December 2006.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ C 172, 18.6.1999, p. 1.

Article 2

Definition

For the purposes of this Decision 'national agencies' means the administrative and judicial authorities of the Member States or other bodies delegated by those authorities to implement Community legislation founded on Articles 62 and 63 of the Treaty and on Article 66 of the Treaty in so far as it concerns cooperation between national agencies in the areas covered by the said Articles 62 and 63.

Article 3

General objectives

The ARGO programme shall contribute to the following objectives:

- (a) to promote cooperation between national agencies in implementing Community rules with special attention to the pooling of resources and coordinated and homogeneous practices;
- (b) to promote uniform application of Community law in order to harmonise decisions taken by the national agencies of Member States, thereby avoiding malfunctioning likely to prejudice the progressive establishment of an area of freedom, security and justice;
- (c) to improve the overall efficiency of national agencies in the carrying out of their tasks when implementing Community rules;
- (d) to ensure that proper account is taken of the Community dimension in the organisation of national agencies contributing to the implementation of Community rules;
- (e) to encourage transparency of actions taken by national agencies by strengthening their relations with the relevant national and international governmental and non-governmental organisations.

CHAPTER II

ACTIVITIES COVERED BY ARGO

Article 4

Activities in the area of external borders

In order to achieve the objectives set out in Article 3, the ARGO programme shall support the activities of the Member States in the area of external borders intended:

- (a) to ensure that Member States carry out border controls in compliance with the common principles and implementing rules laid down by Community legislation;
- (b) to provide an equivalent level of effective protection and surveillance at external borders;
- (c) to reinforce the effectiveness of controls at border crossing points and surveillance between crossing points.

*Article 5***Activities in the area of visas**

In order to achieve the objectives set out in Article 3, the ARGO programme shall support the activities of the Member States in the area of visas intended:

- (a) to ensure that Member States issue visas in compliance with the common principles and implementing rules laid down by Community legislation;
- (b) to promote an equivalent level of control and security when issuing visas;
- (c) to promote harmonisation in the examination of visa applications and in particular supporting documents regarding purpose of journey, means of subsistence and accommodation;
- (d) to promote harmonisation of exceptions applied by Member States to certain categories of applicants for visas to facilitate controls at the external borders and freedom of movement between Member States;
- (e) generally to enhance consular cooperation between Member States.

*Article 6***Activities in the area of asylum**

In order to achieve the objectives set out in Article 3, the ARGO programme shall support the activities of the Member States in the area of asylum intended:

- (a) to promote the establishment and operation of the common European asylum system by supporting measures and standards leading to a common asylum procedure and a uniform status for those granted asylum valid throughout the Community;
- (b) to facilitate the determination of the State responsible for examining an asylum application;
- (c) to support the approximation of rules on the recognition and content of refugee status, complemented with measures on subsidiary forms of protection offering an appropriate status to any person in need of such protection;
- (d) to reinforce the efficiency and fairness of asylum procedure and to increase convergence in decisions dealing with asylum applications;
- (e) to develop resettlement and entry facilities, and legal means for admission into Member States on humanitarian grounds.

*Article 7***Activities in the area of immigration**

In order to achieve the objectives set out in Article 3, the ARGO programme shall support the activities of the Member States in the area of immigration intended:

- (a) to ensure that Member States issue residence and work permits in compliance with the common principles and implementing rules laid down by Community legislation;

- (b) to promote the knowledge of the rules of residence and work permits for third-country nationals;
- (c) to encourage verification of the effects and the perception of Community immigration policy in migrants' countries of origin;
- (d) to ensure effective, efficient and homogeneous application of the relevant common rules and policies in relation to irregular migratory flows and illegal immigration while safeguarding a sufficient level of access to international protection;
- (e) to enhance cooperation in the field of the return of nationals of third countries and stateless persons without residence permits and refused asylum applicants, including transit through other Member States and third countries;
- (f) to strengthen the fight against illegal immigration networks and prevention of illegal flows of immigrants.

*Article 8***Types of actions**

With a view to pursuing the objectives set out in Article 3 and the activities laid down in Articles 4, 5, 6 or 7, the ARGO programme may support the following types of actions:

- (a) training actions including, in particular, the elaboration of harmonised curricula and common core-training programmes to be organised by national agencies and complementary actions aimed at making national agencies receptive to the best working methods and techniques developed in other Member States;
- (b) staff exchange ensuring that seconded staff participate effectively in the work of the host national agencies;
- (c) actions promoting, on the one hand, the use of computerised handling of files and procedures, including use of the most up-to-date techniques for electronic data exchange and, on the other hand, the collection, analysis, distribution and exploitation of information making the fullest use of information technology, in particular, the establishment of information points and websites;
- (d) evaluation of the impact of common rules and procedures based on Articles 62 and 63 of the Treaty;
- (e) actions intended to promote the development of best practices with a view to improving working methods and equipment, simplifying procedures and shortening deadlines;
- (f) operational activities which might include the setting up of common operative centres and of teams composed of staff drawn from two or more Member States;
- (g) studies, research, conferences and seminars involving staff of the Member States and the Commission and, where appropriate, staff of the relevant national and international governmental and non-governmental organisations;

- (h) mechanisms for consulting and associating the relevant national and international governmental and non-governmental organisations;
- (i) Member States' activities in third countries, in particular fact-finding missions in countries of origin and transit;
- (j) the fight against document fraud.

Article 9

Specific actions

Other modalities of cooperation between national agencies in the policy areas covered by Articles 62 and 63 of the Treaty, in particular urgent joint operations and actions with a limited scope and duration arising from situations which require an immediate reaction, may be included in the framework of the ARGO programme. The annual work programme referred to in Article 12 shall set out a framework for the financing of these specific actions including objectives and evaluation criteria.

CHAPTER III

FINANCIAL PROVISIONS, MANAGEMENT AND MONITORING

Article 10

Eligibility

1. To be eligible for co-financing under the ARGO programme, actions referred to in Article 8 and proposed by a national agency of one Member State must:
 - (a) involve:
 - at least two other Member States, or
 - another Member State and a candidate country, where the aim is to prepare for its accession, or
 - another Member State and a third country, where this would be beneficial for the purpose of the action proposed;
 - (b) pursue one of the general objectives referred to in Article 3;
 - (c) implement one of the activities in the respective policy area referred to in Articles 4, 5, 6 or 7.
2. Actions referred to in Article 8 may associate participants of the national agencies of any Member State not bound by this decision.
3. Actions proposed by the Commission will promote and facilitate administrative cooperation pursuing the general objectives referred to in Article 3 and support activities in the respective policy areas referred to in Articles 4, 5, 6 or 7.

Article 11

Financing

1. The financial reference amount for implementing the ARGO programme shall be EUR 25 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

3. Actions referred to in Article 10(1) on the one hand and actions referred to in Article 10(3) on the other shall receive an equitable share of the annual amount.

4. The co-financing of an action referred to in Article 10(1) by the ARGO programme shall be exclusive of any other financing by another programme financed by the budget of the European Communities.

5. Financing decisions concerning actions referred to in Article 10(1) shall be subject to grant agreements between the Commission and the national agencies proposing the actions. The financing decisions and contracts arising therefrom shall be subject to financial control by the Commission and to audits by the Court of Auditors.

6. The proportion of financial support from the budget of the European Communities for actions referred to in Article 10(1) shall generally not exceed 60 % of the cost of the action. However, in exceptional circumstances this proportion may be raised up to 80 %.

Article 12

Implementation

1. The Commission shall be responsible for the management and implementation of the ARGO programme, in partnership with the Member States.
2. The Commission shall manage the ARGO programme in accordance with the Financial Regulation.
3. To implement the ARGO programme, the Commission shall, within the scope of the general objectives set out in Article 3:
 - (a) prepare an annual work programme comprising specific objectives, thematic priorities, a description of the actions referred to in Article 10(3) which the Commission intends to undertake and, if necessary, a list of other actions;
 - (b) evaluate and select the actions proposed by national agencies.
4. The annual work programme and the specific actions provided for in Article 9 as well as actions proposed by the Commission shall be adopted according to the procedure referred to in Article 13(2). The list of selected actions shall be adopted according to the procedure referred to in Article 13(3).
5. The Commission shall evaluate and select actions proposed by the national agencies on the basis of the following criteria:
 - (a) conformity with the annual work programme, the general objectives set out in Article 3 and the activities in the respective policy area set out in Articles 4, 5, 6 or 7;
 - (b) the European dimension of the proposed action and/or scope for participation by the candidate countries;
 - (c) compatibility with the work undertaken or planned within the framework of the Community's political priorities in the areas covered by Articles 62 and 63;

- (d) complementarity to other past, present or future administrative cooperation actions;
- (e) the ability of national agencies to implement the proposed action;
- (f) the inherent quality of the proposed action in terms of its conception, organisation, presentation and expected results;
- (g) amount of the support requested under the ARGO programme and proportionality with the expected results;
- (h) impact of the expected results on the general objectives set out in Article 3 and on the activities in the respective policy area set out in Articles 4, 5, 6 or 7.

CHAPTER IV

GENERAL AND FINAL PROVISIONS

Article 13

Committee

1. The Commission shall be assisted by a Committee, hereinafter referred to as 'the ARGO Committee'.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.
The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at three months.
3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
4. The ARGO Committee shall adopt its rules of procedure.
5. The Commission may invite representatives from the candidate countries to information meetings after the ARGO Committee's meetings.

Article 14

Monitoring and evaluation

1. The Commission and the Member States shall monitor and evaluate the implementation of the ARGO programme on a continuous basis.
2. Each year the Commission shall submit a report to the European Parliament and the Council on the implementation of the ARGO programme.

The report shall analyse all the progress achieved and shall be accompanied where necessary by any proposals for ensuring homogeneous application in the Member States of Community legislation based on Articles 62 and 63 of the Treaty. The Commission shall submit the first report by 31 December 2003 at the latest and the final report by 31 December 2007 at the latest.

Article 15

Applicability

This Decision shall apply from the date of its publication in the *Official Journal of the European Communities*.

Article 16

Addressees

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Luxembourg, 13 June 2002.

For the Council
The President
M. RAJOY BREY