



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.11.2003
COM(2003) 727 final

2003/0284 (CNS)

Proposal for a

COUNCIL DECISION

Establishing a secure web-based Information and Co-ordination Network for Member States' Migration Management Services

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

An Early Warning System (EWS) for the transmission of information on illegal immigration and facilitator networks was first set up by Council Resolution of May 1999. Its objective was to create a standardised, permanent communication framework to enable Member States to report incidents or new trends in the field of illegal migration instantly.

However, this system has never satisfied Member States' expectations entirely, mainly because it has not been used as intended or because it has not been used coherently by all participating states (Member States, candidate and associated countries) and also because the technical infrastructure was poor. Following the proposal by the Commission in its Communication on a Common Policy on Illegal Immigration of 15 November 2001 (COM (2001) 672), the Council's comprehensive plan to combat illegal immigration and trafficking in human beings in the European Union, adopted on 28 February 2002 (OJ C 142 of 14 June 2002, p. 23), provides a mandate to develop the EWS further as a web-based secure intranet site.

A comprehensive, modern and secure web-site is needed to provide all relevant information for migration management services involved in the fight against illegal immigration. The Commission has, therefore, set up a web-site, which is called "Information and Co-ordination Network" and is a technically based so-called "interest group" on the existing Commission's "CIRCA" system (Communication and Information Resource Centre Administrator), introduced for information exchange among Member States and the institutions for all kinds of purposes. It is a web-based environment providing on-line-services with a common virtual workspace for closed user groups.

The first component and starting point of the network is the EWS itself. However, such an enhanced operational co-operation of Member States' migration management services should not be limited to information exchange on the few incidents which require an early warning. Moreover the possibilities of modern communication technology should be utilised to significantly improve the existing channels for information exchange, e.g. by providing strategic, tactical and operational information, up-to-date contact lists, ad-hoc documentation and reports on the subject, which should be shared among participants. Consequently, some additional elements should be available from the outset, others could be added at a later stage.

As a development of the Early Warning System, the network is primarily designed to facilitate the exchange of strategic and tactical information on irregular or illegal migratory flows and trends. It is, for the time being, not envisaged to exchange personal data regarding criminal networks involved in smuggling or trafficking of human beings.

2. OBJECTIVE

The purpose of this Decision is to establish a secure web-based Information and Co-ordination Network for Member States' Migration Management Services. The Decision sets out the basic conditions of this network.

Moreover, the Decision introduces a mechanism for the management of the system under the administration of the Commission. A consultative committee will assist the Commission in running and developing the system.

3. LEGAL BASIS AND SUBSIDIARITY

Articles 66 of the TEC is the legal basis of this decision whose immediate objective is to support the progressive establishment of an area of freedom, security and justice via the fight against illegal immigration and illegal residence and the reinforcement of the administrative co-operation between the relevant departments of Member States, Europol and the Commission.

Title IV of the TEC is not applicable to the United Kingdom and to Ireland, unless those Member States decide otherwise in accordance with the procedure laid down in the Protocol on the position of the United Kingdom and Ireland annexed to the Treaties.

The following proposal has a hybrid character in the sense that it does also represent a development of the Schengen "Acquis" in the sense of Article 1 of the Agreement concluded by the Council of the European Union with Iceland and Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis¹

In accordance with the principle of subsidiarity, the objective of the proposed action, namely secure and rapid information exchange between Member States on information on migratory flows and phenomena, cannot be sufficiently achieved by the Member States and can therefore, by reason of the effects of the envisaged action, be better achieved by the Community. The co-operation between Member States' migration management authorities by real-time information exchange via a secure website can only be established at Community level. The added value is to share information which is for the time being mostly available at national level only or is exchanged between Member States via informal or rather outmoded information channels. The setting-up of a secure website is a necessary and suitable method to improve the way of information exchange. This Decision does not go beyond what is necessary to achieve that objective.

4. COMMENTARY ON ARTICLES

Article 1

This article defines the purpose of this decision.

Article 2

This article determines the Commission to be responsible for the development and management of the network. Additionally, it enumerates a list of elements for information exchange.

The technical platform for the network is currently formed by the Commission's Communication and Information Resource Centre Administrator platform (CIRCA;

¹ OJ L 176/36, 10.7.1999, p. 36

<http://www.forum.europa.eu.int/>) in the framework of the trans-European telematic network for administrations (IDA) according to Article 4 of Council Decision 1999/1720/EC. CIRCA provides not only an ideal working environment but also has a number of other advantages, e.g. its immediate availability, the restricted access for registered users and selective access within the system. It also guarantees the secure sharing of resources and documents due to high-level encryption.

The CIRCA platform also contains standard management services, which are very useful for the network. Apart from a library section with the aforementioned elements for specific information exchange, there is a common e-mail function and the possibility to organise meetings electronically. Links to other web-based information resources can be shared in an information section. In a participant's directory members can exchange their contact details. In a newsgroup section members can organise online discussions on different subjects and post questions to the participating community.

Article 3

This article describes the tasks of the Commission.

Letter (a) requires the Commission to establish the terms and procedures for granting full or selective access to the network.

Letter (b) obliges the Commission to take all necessary decisions on the management and structure of the network, including rules or guidelines to run the system (confidentiality, transmission, storage, archiving and deletion of information). The Commission can also create or change standardised forms, such as the existing form for the EWS.

Article 4

Article 4 (1) requires Member States to provide the necessary technical infrastructure for the competent authorities.

Article 4 (2) requires Member States to designate national contact points.

Article 5

This article clarifies the individual ownership of and responsibility for the provided information. It sets up the confidential character of the information exchange and obliges Member States to ensure that unauthorised access is excluded.

Article 6

Article 6 institutes a comitology procedure to assist in the management of the network according to Articles 3 and 7 of Decision 1999/468/EC. A consultative committee shall assist the Commission in laying down all necessary rules and measures to ensure the implementation of this Decision.

Article 7

This article describes how and when this Decision will enter into force.

Article 8

This article defines who is addressed by this decision.

5. FINANCIAL STATEMENT

Proposal for a

COUNCIL DECISION

Establishing a secure web-based Information and Co-ordination Network for Member States' Migration Management Services

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 Commission²,

Having regard to the opinion of the European Parliament³,

Whereas:

- (1) The Council's comprehensive plan to combat illegal immigration and trafficking of human beings of 28 February 2002, which is based on the Commission's Communication of 15 November 2001 to the European Parliament and to the Council on a common policy on illegal immigration⁴, requested the development of a web-based secure intranet site.
- (2) It is appropriate that such a web-based intranet site be used to establish secure and rapid information exchange between Member States on irregular or illegal migratory flows and phenomena. It is appropriate that the development and management of the network be entrusted to the Commission.
- (3) Access to that web-based intranet site should be limited to authorised users in compliance with the established terms, procedures and security measures.
- (4) Since the objectives of the proposed action, namely secure and rapid information exchange between Member States cannot be sufficiently achieved by the Member States and can therefore, by reason of the effects of the envisaged action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary to achieve that objective
- (5) This Decision respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union as general principles of Community law.

² OJ C , , p. .

³ OJ C , , p. .

⁴ COM (2001) 672

- (6) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁵ should be taken into account in the context of the web-based intranet site .
- (7) 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.
- (8) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and 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. Given that this Decision aims to build upon the Schengen acquis under the provisions of Title IV of the Treaty establishing the European Community, in accordance with Article 5 of the above-mentioned Protocol, Denmark will decide within a period of six months after the Council has adopted this Decision whether it will apply this Decision.
- (9) As regards the Republic of Iceland and the Kingdom of Norway, this Decision constitutes a development of the Schengen acquis within the meaning of the Agreement concluded on 18 May 1999 between the Council of the European Union and those two States. As a result of the procedures laid down in that Agreement, the rights and obligations arising from this Decision should also apply to those two States and in relations between those two States and the Member States to which this Decision is addressed,

HAS ADOPTED THIS DECISION:

Article 1

This Decision establishes a secure web-based Information and Co-ordination Network for the exchanges of information on irregular migration, illegal entry and immigration and the return of illegal residents.

Article 2

1. The Commission shall be responsible for the development and management of the network, including the structure and content thereof and the elements for information exchange.
2. The information exchange shall include at least the following:
 - (a) Early Warning System on illegal immigration and facilitator networks;
 - (b) Network of Immigration Liaison Officers;
 - (c) Visa, borders and travel documents relating to illegal immigration;

⁵ OJ L 281 , 23.11.1995, p. 31

(d) Return related issues;

3. The network shall include administrative tools, such as a directory of participating units or officials and email, newsgroups and meeting functionality.

4. The Commission shall make use of the existing technical platform in the Community framework of the trans-European telematic network for administrations.

Article 3

In accordance with the procedure referred to in Article 6 (2) the Commission shall:

(a) establish the terms and procedures for granting full or selective access to the network;

(b) lay down rules and guidelines on the terms of use of the system, including rules on the confidentiality, transmission, storage, archiving and deletion of information and on standardised forms.

Article 4

1. Member States shall provide access to the network in compliance with the measures adopted by the Commission in accordance with Article 3.

2. Member States shall designate national contact points and notify the Commission thereof.

Article 5

1. The upload of data on the network does not affect the ownership of the information concerned. Authorised users shall remain solely responsible for the information they provide and shall ensure that its contents are fully compliant with existing Community and national law.

2. Unless it is marked as public the information provided is strictly limited to authorised users of the network and must not be disclosed to third parties without prior permission of the owner of the respective information.

3. Member States shall take the necessary security measures to:

(a) prevent any unauthorised person from having access to the network;

(b) guarantee that, in using the network, authorised persons have access only to data which are within their competence;

(c) prevent information in the network from being read, copied, modified or erased by unauthorised persons;

4. Without prejudice to paragraph 3, further security measures shall be adopted by the Commission in accordance with the procedure referred to in Article 6(2).

Article 6

1. The Commission shall be assisted by the existing “ARGO Committee” according to Council Decision 2002/463/EC⁶.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

Article 7

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 8

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council
The President*

⁶ OJ L 161, 19.6.2002, p. 11

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): Justice and Home Affairs

Activit(y/ies): 18 03 Immigration, asylum, visas.....(ABM)

TITLE OF ACTION: PROPOSAL FOR A COUNCIL DECISION ESTABLISHING A SECURE WEB-BASED INFORMATION AND COORDINATION NETWORK FOR MEMBER STATES' MIGRATION MANAGEMENT SERVICES

1. BUDGET LINE(S) + HEADING(S)

2. OVERALL FIGURES

2.1. Total allocation for action (Part B): € million for commitment

2.2. Period of application:

The proposed legal instrument does indicate neither duration nor revision period.

2.3. Overall multiannual estimate of expenditure:

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) *(see point 6.1.1)*

€ million (to three decimal places)

	2004	2005	2006	2007	2008	2009	Total
Commitments							
Payments							

(b) Technical and administrative assistance and support expenditure *(see point 6.1.2)*

Commitments							
Payments							

Subtotal a+b							
Commitments							
Payments							

- (c) Overall financial impact of human resources and other administrative expenditure
(see points 7.2 and 7.3)

Commitments/ payments	0,158	0,158	0,158	0,158	0,158		
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TOTAL a+b+c							
Commitments	0,158	0,158	0,158	0,158	0,158		0,790
Payments	0,158	0,158	0,158	0,158	0,158		0,790

2.4. Compatibility with financial programming and financial perspective

X Proposal is compatible with existing financial programming.

Proposal will entail reprogramming of the relevant heading in the financial perspective.

Proposal may require application of the provisions of the Interinstitutional Agreement.

2.5. Financial impact on revenue:⁷

Proposal has no financial implications on revenue

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
Non-comp	Non-diff	NO	NO	NO	No 3

4. LEGAL BASIS

Article 66 TEC

⁷ For further information, see separate explanatory note.

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention ⁸

5.1.1. Objectives pursued

The objective is to set up a comprehensive, modern and secure web-site for providing relevant information for migration management services involved in the fight against illegal immigration.

5.1.2. Measures taken in connection with ex ante evaluation

The Commission is proposing to set up the the network by using the existing technical platform “CIRCA” (Communication and Information Resource Centre Administrator) of the Commission. It is a web-based environment providing on-line-services with a common virtual workspace for closed user groups. It is being employed successfully in Committees and experts’ groups for instance when setting up a network of national contact persons and exchanging information necessary for the establishment of the EURODAC system. It is also employed for the SIS II committee and EURASIL.

5.1.3. Measures taken following ex post evaluation

The Commission will consider at regular intervals the possibility of introducing new elements for information exchange in line with technological developments and operational needs, in addition to those, which are already laid down in the proposal.

5.2. Action envisaged and budget intervention arrangements

The purpose of this proposal is to establish a secure web-based Information and Co-ordination Network for Member States’ Migration Management Services. The use of IT for the exchange of information is becoming indispensable for an effective co-operation between the Member States in the field of illegal immigration. Given the flexibility of the web-based applications this network can support a wide community of users for the exchange of information regarding illegal immigration, false documents, return, immigration liaison officers, etc.

The network is currently based on a common technical platform (CIRCA) that constitutes one of the generic services funded by the IDA programme.

5.3. Methods of implementation

The content of the network will be managed by Commission’s regular staff on the basis of the information provided by the various users (national or international agencies).

⁸ For further information, see separate explanatory note.

6. FINANCIAL IMPACT

6.1. Total financial impact on Part B - (over the entire programming period)

6.1.1. Financial intervention

Commitments (in € million to three decimal places)

Breakdown	2004	2005	2006	2007	2008	[n+5 and subs. Years]	Total
Upgrade of the platform							
Action 2							
etc.							
TOTAL							

6.1.2. Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)

	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. years]	Total
1) Technical and administrative assistance							
a) Technical assistance offices							
b) Other technical and administrative assistance: - intra muros: - extra muros: <i>of which for construction and maintenance of computerised management systems</i>							
Subtotal 1							
2) Support expenditure							
a) Studies							
b) Meetings of experts							
c) Information and publications							
Subtotal 2							
TOTAL							

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)⁹

Commitments (in € million to three decimal places)

Breakdown	Type of outputs (projects, files)	Number of outputs (total for years 2004-08)	Average unit cost	Total cost (total for years 2004-08)
TOTAL COST				

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A B C	1 B		1 B	<i>Managing the content and animating the IT platform and preparing the Committee meetings.,</i>
Other human resources					
Total		1 B			

7.2. Overall financial impact of human resources

Type of human resources	Amount (€)	Method of calculation *
Officials	108.000	108.000 * 1
Temporary staff		
Other human resources (specify budget line)		
Total	108.000	

The amounts are total expenditure for twelve months.

⁹ For further information, see separate explanatory note.

7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount €	Method of calculation
Overall allocation (Title A7)		
A0701 – Missions		
A07030 – Meetings		
A07031 – Compulsory committees ¹	50.000	4 additional meetings of the ARGO Committee * 25 * 500
A07032 – Non-compulsory committees ¹		
A07040 – Conferences		
A0705 – Studies and consultations		
Other expenditure (specify)		
Information systems (A-5001/A-4300)		
Other expenditure - Part A (specify)		
Total	50.000	

The amounts are total expenditure for twelve months.

¹ Specify the type of committee and the group to which it belongs.

I.	Annual total (7.2 + 7.3)	€ 158.000
II.	Duration of action	*5 years
III.	Total cost of action (I x II)	€ 790.000

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

The Commission will lay down rules and guidelines on the terms of use of the system, including rules on the confidentiality, transmission, storage, archiving and deletion of information and on standardised forms.

The common technical platform (CIRCA) will be evaluated in the framework of the revision of the IDA programme.

8.2. Arrangements and schedule for the planned evaluation

The Commission will consider at regular intervals, in line with technological developments and operational needs, the inclusion of new elements for information exchange. The Commission will permanently monitor the use made of the network by the members of the interest group.

9. ANTI-FRAUD MEASURES

The general antifraud provisions will be applicable.