

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.05.2004
COM(2004) 384 final

2004/0122 (CNS)

C6-0049/04

Proposal for a

COUNCIL DECISION

amending Decision No 2002/463/EC adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

The ARGO programme, which promotes administrative cooperation in the fields of external borders, visas, asylum and immigration, is a necessary complement to the legislative initiatives launched in accordance with Articles 62 and 63 of the Treaty. The fact that the legislative effort on its own is not sufficient and that there is need for effective operational cooperation between the competent authorities of the Member States for creating an Area of Freedom, Security and Justice has been repeatedly underlined including in the Draft European Constitution.

On the same day that the Council adopted the ARGO programme, 13 June 2002, it also adopted a Plan for the management of the external borders of the Member States of the EU[1] which again stressed the importance of a co-ordination and cooperation mechanism in this field. This action plan in line with the Communication of the Commission of May 2002[2] also referred to burden sharing between the Member States as part of an integrated management of the external borders. In Seville the European Council requested that the Commission examine the issues related to sharing the financial burden for the management of the external borders. The Commission elaborated on this in its Communications of December 2002 and June 2003[3]. In the second Communication the Commission confirmed the substantial size of the investments and the operational costs arising from this task, in particular regarding the control of persons. However, the gathering of detailed and comparable data for that as well as analyzing them proved to be very difficult. The Commission concluded by affirming that a substantial and adequate solution for burden sharing would have to wait for the post-2006 financial perspective, but that in the short term the Commission could study the possibility of revising the ARGO programme.

2. OBJECTIVE

The objective of the proposed amendment to the ARGO Decision is to make the provision of financial support to national projects in the area of external borders possible by addressing specific structural weaknesses at strategic border points. These would be identified in agreement with the Member States on the basis of objective criteria (risk assessment). The amended provisions clearly define the objectives that these projects or actions must pursue. These actions will not require the active involvement of other Member States, Candidate or Third Countries. However, they will play an important role when defining the criteria for the risk assessment since this is a joint exercise between all Member States and an essential part of an integrated management of the external borders. In addition, the Member States via the Committee will also have a say in the preparation of the annual work programme and selection of this new type of project. Other Member States could also take part as observers in the preparation and/or implementation of these actions.

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1 Council document 10019/02

2 Communication towards integrated management of the external borders of the Member States of the EU

3 Communication integrating migration issues in the EU's relations with third countries of 3.12.2002 COM (2002) 703 and Communication on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders and the return of illegal residents COM (2003) 323.

3. IMPLEMENTATION OF ARGO

The services of the Commission have recently made public their first annual report to the Council and the European Parliament on the implementation of the ARGO programme (2002-2003)[4]. In this report the Commission noted that for 2003 there is a clear indication of underperformance of the ARGO programme due mainly to the difficulties of the national administrations in organizing and mobilizing resources together with their EU partners for the types of actions that the ARGO Programme is promoting. The national agencies do not seem to be at ease with some of the eligibility requirements laid down in the ARGO decision, in particular compliance with the provisions regarding the involvement of agencies of other Member States or third countries. This experience obtained from past implementations is also an important argument in favour of the proposed amendment which is limited to the area of external borders. The central instrument for the implementation of ARGO is the work programme which defines the annual priorities, objectives and provides an outline of the actions that the Commission will undertake. The Commission also intends to use the annual work programme in order to determine, in cooperation with the Member States, which are the most relevant of the objective criteria in determining the eligibility of these new actions.

4. FUNDING

In its Communication of June 2003 the Commission explored ways of obtaining additional financial resources for, inter alia, the control of external borders that in 2004 could be allocated via the ARGO programme. The European Council endorsed this approach and the Budgetary Authority decided to substantially increase the total budget to be allocated to the programme for this year. It seems that the Council and European Parliament shared the view that the area of external borders has pressing needs. This increased budget in combination with the under-performance of ARGO in 2003 was another factor that led the Commission to reconsider the current ARGO provisions and propose this amending Decision. The proposal does, therefore, not require a study on the financial impact since the provisions amended are not at the origin of the new enlarged budget, but rather the result of it.

5. SUBSIDIARITY AND PROPORTIONALITY

The Commission would like to insist, as confirmed many times by the Council, that the responsibility for the control of external borders will remain with the Member States. The main objective of a Community policy in this field is to create an integrated approach to border management. A homogenous and efficient level of control and surveillance at the external borders across the EU is intended. This is crucial, not only in terms of the internal security of the Member States in an area without internal borders, but also in managing and promoting the movement of people between the EU and the rest of the world. The Commission, however, has fully taken into account the subsidiarity principle so that any type of financial intervention at the external borders of an EU Member States has clear added value for the Community. The Commission will also ensure that there is no overlap between the actions promoted by ARGO in the field of external borders and the operations coordinated by the proposed European Agency for the management of operational cooperation at the external borders. Thus, in 2005 the Agency will probably not yet be in the position to fund from its

[4] See document SEC (2004) 211

own operational budget the Member States' joint operations and pilot projects. For the programming of the last year of ARGO (2006) the Commission may remove from the annual work programme the section concerning external borders.

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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[5],

Having regard to the opinion of the European Parliament[6],

Having regard to the opinion of the European Economic and Social Committee[7],

Having regard to the opinion of the Committee of the Regions[8],

Whereas:

(1) The principal objective of Decision No 463/2002/EC[9] is to promote administrative cooperation in the fields of external borders, visas, asylum and immigration.

(2) In its Communication to the European Parliament and to the Council of 3 June 2003 on the development of a Common policy on illegal immigration, smuggling and trafficking of human beings, external borders and the return of illegal residents[10] the Commission puts forward the possibility of revising the ARGO programme for providing financial support to national projects in the area of external borders by addressing specific structural weaknesses at strategic border points that would be identified in agreement with the Member States on the basis of objective criteria .

(3) The European Council of Thessaloniki invited the Commission to examine the possibility of appropriating funds under heading 3 of the financial perspectives in order to address, during the period 2004-2006, the most pressing structural needs and

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5 OJ C […] […], p.[…]
6 OJ C […] […], p.[…]
7 OJ C […] […], p.[…]
8 OJ C […] […], p.[…]
9 OJ L 161, 19.6.2002 p. 11
10 COM (2003) 323 Final.

to cover a wider definition of solidarity that would include, inter alia, Community support in the management of external borders[11].

(4) The budgetary authority [12] has substantially increased the appropriations allocated to the ARGO programme for 2004, with a view to better management of the external borders.

(5) In order to promote the general objectives of the ARGO programme it is appropriate to increase the number of actions to be proposed in the area of external borders and to envisage new types of action.

(6) Member States should be able to propose actions which do not necessarily involve other Member States, but which contribute to the general objectives and support the activities in the area of external borders as set out in Decision No 2002/463/EC.

(7) The provisions on the consultation of the ARGO Committee in Decision No 2002/463/EC must be aligned with the new Financial Regulation applicable to the general budget of the E.C.[13]

(8) 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.

(9) 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 the Decision No 2002/463/EC.

(10) In accordance with Article 1 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on 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.

(11) Decision No 2002/463/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

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11 Conclusions of the Thessaloniki European Council, point 23

12 General budget of the EU for the financial year 2004 (OJ L 53, 23.2.2004)

13 Regulation No 1605/2002 O.J. L 248 16.09.2002

Article 1

Decision No 2002/463/EC is amended as follows:

1) In Article 10 the following paragraph 1a is inserted:

"1a Actions referred to in Article 8 and proposed by a national agency of one Member State which implement one of the activities in the policy area referred to in Article 4, shall be eligible for co-financing under the ARGO programme, provided they:

(a) pursue one of the general objectives referred to in Article 3 ;

(b) contribute to integrated border management by addressing specific structural weaknesses at strategic border points, identified on the basis of objective criteria ."

2) Article 11 is amended as follows:

(a) In paragraphs 3, 4 and 6 "Article 10 (1)" is replaced by "Article 10 (1) and (1a)".

(b) Paragraph 5 is replaced by the following:

"(5) The decisions to award community grants to the actions referred to in Article 10 (1) and (1a) shall be subject to grant agreements between the Commission and the national agencies proposing the actions. The implementation of these award decisions and agreements shall be subject to financial control of the Commission and to audits by the Court of Auditors."

3) Article 12 is amended as follows:

(a) Paragraph 3 (a) is replaced by the following:

"(a) prepare an annual work programme comprising specific objectives, thematic priorities, the objective criteria referred to in Article 10 (1a) (b), 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) Paragraph 4 is replaced by the following:

"4. The annual work programme including the actions proposed by the Commission and the specific actions provided for in Article 9 shall be adopted according to the procedure referred to in Article 13(2).

As regards the actions referred to in Article 10(1a), the list of selected actions shall be adopted according to the procedure referred to in Article 13(3)."

Article 2

This decision shall apply from the date of its publication in the *Official Journal of the European Union.*

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

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): **Justice and Home Affairs**

Activit(y/ies): Common Immigration and Asylum policies

TITLE OF ACTION: **DRAFT PROPOSAL FOR A COUNCIL DECISION AMENDING DECISION NO 2002/463/EC ADOPTING AN ACTION PROGRAMME FOR ADMINISTRATIVE COOPERATION IN THE FIELDS OF EXTERNAL BORDERS, VISAS, ASYLUM AND IMMIGRATION (ARGO PROGRAMME)**

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

18 03 07 : ARGO programme

18 01 04 06 : ARGO - expenditure on administrative management

2. OVERALL FIGURES

2.1. Total allocation for action (Part B): 46,179 € million for commitment

2.2. Period of application:

2002-2006

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)*

	2002	2003	2004	2005	2006	2007 et s.	Total
Commitments	3,000	7,675	21,300	6,200	7,200		45,375
Payments	2,400	4,438	12,549	7,476	9,836	8,678	45,375

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

	2002	2003	2004	2005	2006	2007 et s.	Total
Commitments	0,024	0,200	0,180	0,200	0,200		0,804
Payments	0,024	0,200	0,180	0,200	0,200		0,804

Subtotal a+b	2002	2003	2004	2005	2006	2007 et suiv.	Total
Commitments	3,024	7,875	21,480	6,400	7,400		46,179
Payments	2,424	4,638	12,729	7,676	10,036	8,678	46.179

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

Commitments/ payments	0,357	0,357	0,357	0,357	0,357	0,324	2,109

TOTAL a+b+c	2002	2003	2004	2005	2006	2007 et suiv.	Total
Commitments	3,381	8,232	21,837	6,757	7,757	0,324	48,288
Payments	2,781	4,995	13,086	8,033	10,393	9,002	48,288

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:

X Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

OR

Proposal has financial impact – the effect on revenue is as follows:

(€ million to one decimal place)

		Prior to action	Situation following action					
Budget line	Revenue	[Year n-1]	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]
	a) Revenue in absolute terms							
	b) Change in revenue	Δ						

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions form applicant countries	Heading in financial perspective
Non-comp	Diff	NO	NO	NO	**No** 3

4. LEGAL BASIS

Article 66 of the Treaty establishing the European communities.

Council Decision No 2002/463/EC adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO programme)

5. DESCRIPTION AND GROUNDS

5.1. Need for Community intervention

5.1.1. Objectives pursued

The ARGO Programme was established by Council Decision 2002/463/EC of 13 June 2002 (OJ L 161 of 19/06/2002 p.11*)* The aim of the ARGO Programme was to provide financial support for certain actions proposed by the Member States in the areas of external borders, visas, asylum and immigration intended to promote co-operation between national administrations, in order to reinforce the effectiveness of the procedures in these fields, while identifying difficulties in the implementation of the new Community legislation and ensuring an increased openness in its application.

Council Decision 2002/463/EC of 13 June 2002 establishing the ARGO Programme contained, in its article 11.1, a financial reference amount of Euro 25 M€ over the period 2002-2006. However, following policy developments in particular in the area of external borders, the Budgetary Authority increased substantially the amounts allocated to the ARGO programme in 2003 (+ 4,675 M€) and 2004 (+ 19,5 M€). In view of this significant increase, which reflects the importance given by the

Commission, the Council and the European Parliament to the development of actions in the specific area of external borders cooperation, as well as to the difficulties identified in the implementation of the ARGO programme over its first two years as described in the first annual report to the Council and the European Parliament on the implementation of the ARGO programme (SEC(2004)211 of 17/02/2004), the Commission is proposing a modification to Council Decision 2002/463/EC, in order to make the provision of financial support to national projects in the area of external borders possible when addressing specific structural weaknesses at strategic border points.

5.1.2. Measures taken in connection with ex ante *evaluation*

In Seville the European Council requested that the Commission examine the issues related to the sharing of the financial burden for the management of the external borders. The Commission elaborated on this in its Communications of December 2002 and June 2003[14]. In the second Communication the Commission confirmed the substantial size of the investments and the operational costs arising from this task, in particular regarding the control of persons. However, the gathering of detailed and comparable data for that as well as analyzing them proved to be very difficult. The Commission concluded by affirming that a substantial and adequate solution for burden sharing would have to wait for the post-2006 financial perspective, but that in the short term the Commission could study the possibility of revising the ARGO programme, in order to support national projects in the area of external borders for addressing specific structural weaknesses at strategic border points would be identified in agreement with the Member States on the basis of objective criteria (risk assessment).

The report on the implementation of the ARGO programme for the years 2002 and 2003 further supports the modification of the conditions for eligibility of projects under the Argo Programme. The difficulty of Member States' financial programming with regard to the co-financing requirements under the ARGO programme is even more acute when they require coordination with other Member States for joint actions. Actions in the field of external borders require substantial investments (staff recruitment and training, purchase and upgrade of equipment) which are difficult to programme on a transnational basis. It should however be noted that such investments, even if undertaken by one Member State, can have a positive effect in reinforcing the management of external borders of the Union for the benefit of all Members. Before providing ARGO funding the EU added value must be established on the basis of objective criteria agreed by a majority of Member States.

[14] Communication integrating migration issues in the EU's relations with third countries of 3.12.2002 COM (2002) 703 and Communication on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders and the return of illegal residents COM (2003) 323.

5.1.3. Measures taken following ex post *evaluation*

N/A.

5.2. Action envisaged and budget intervention arrangements.

The aim of the proposed amendment is to revise the eligibility conditions for the presentation of projects by the Member States (article 10). Thus, projects presented by one Member State in the field of external borders could be considered eligible, provided they address specific structural weaknesses at strategic border points, identified on the basis of objective criteria (risk assessment) which will be defined in the annual work programme established by the Commission in accordance with the Argo Committee (management procedure). The ARGO Committee must also deliver its opinion (advisory procedure) on the list of projects selected under these new conditions in order to confirm the EU value added of the projects supported.

5.3. Methods of implementation.

The method of implementation as regards grants to projects presented by national agencies are not affected by this proposal for amendment of the Council Decision.

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	2002*	2003*	2004	2005	2006	2007 et suiv.	Total
Action 1 – Member States projects in external borders, visas, asylum and immigration	2,116	2,636	19,000	4,200	5,200		33,152
Action 2 – Commission initiatives (studies)	0,699	0	2,300	2,000	2,000		6,999
TOTAL	2,815	2,636	21,300	6,200	7,200		40,151

*2002 and 2003 based on actual implemented

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

	2002	2003	2004	2005	2006	2007 et suiv.	Total
1) Technical and administrative assistance							
a) Technical assistance offices							
b) Other technical and administrative assistance: - intra muros: - extra muros: *of which for construction and maintenance of computerised management systems*							
Subtotal 1							
2) Support expenditure							
a) Studies		0,176	0,156	0,176	0,176		0,684
b) Meetings of experts	0,024	0,024	0,024	0,024	0,024		0,120
c) Information and publications							
Subtotal 2	0,024	0,200	0,180	0,200	0,200		0,804
TOTAL	**0,024**	**0,200**	**0,180**	**0,200**	**0,200**		**0,804**

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

Commitments (in € million to three decimal places)

Breakdown	Type of outputs (projects, files)	Number of outputs (total for years 1…n)	Average unit cost	Total cost (total for years 1…n)
	1	2	3	4=(2X3)
Action 1 Member States projects in external borders, visas, asylum and immigration - External borders - Asylum - Immigration / Visas	Projects relating to joint operations, training, staff exchange, use of new technologies, development of best practices	*70* *36* *60*	*0,350* *0,125* *0,075*	*24,000* *4,500* *4,652*
Action 2 Commission actions	Studies, service providers,..	15		6,999
TOTAL COST		181		40,151

If necessary explain the method of calculation

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 resources		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials	A	1		1	
	B	1		1	
	C	1		1	
Other human resources					
Total		3		3	

7.2. Overall financial impact of human resources

Type of human resources	Amount (€)	Method of calculation *
Officials 1A + 1B + 1C Temporary staff	324.000	108.000 average ma/year x 3
Other human resources (specify budget line)		
Total	324.000	

The amounts are total expenditure for twelve months.

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 (Programme Committee) A07032 – Non-compulsory committees A07040 – Conferences A0705 – Studies and consultations Other expenditure (specify)	33.600	€ 672 x 25 experts x 2 Committee
Information systems (A-5001/A-4300)		
Other expenditure - Part A (specify)		
Total	33.600	

The amounts are total expenditure for twelve months.

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

7.4. Allocation

The needs for human and administrative resources shall be covered within the allocation granted to the managing DG in the framework of the annual allocation procedure.

I.	Annual total (7.2 + 7.3)	€357.600
II.	Duration of action	5years
III.	Total cost of action (I x II)	€1.788.000

8. FOLLOW-UP AND EVALUATION

8.1. Follow-up arrangements

No modification foreseen.

8.2. Arrangements and schedule for the planned evaluation

No modification foreseen

9. ANTI-FRAUD MEASURES

No modification foreseen