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LIMITE

**MIGR 5
COMIX 90**

NOTE

from :	the Presidency
to :	Working Party on Migration and Expulsion
Subject :	Implementing Council Decision on the shared organisation of joint flights for removals, from the territory of two or more Member States, of third-country nationals who are the subject of individual removal orders.

Objective

This note looks at the practical issues relating to implementation of the joint flights Decision, namely information exchange and coordination. The issue of whether a pilot project should be organised is also addressed.

Background

The joint flights Decision was agreed by Council on 6 November 2003 and is expected to be formally adopted in Spring 2004. The Decision states that when a Member State, Iceland or Norway organises a flight for the removal of third-country nationals which is open to the participation of other Member States, it shall inform the national authorities of those Member States. However, the Decision does not explain how exactly this information should be exchanged between Member States. The Irish Presidency believes this issue needs to be addressed in order to give full effect to the Decision.

Outcome of Informal JHA Council

The implementation of this Decision was discussed at the Informal Justice and Home Affairs Council in Dublin on 22-23 January, 2004.

At the meeting, the Presidency proposed that interested Member States should consider initiating one or more joint flights as a pilot project. This would be organised on a voluntary basis and would provide a valuable insight into the practical issues involved in the implementation of the Decision. Furthermore, the Presidency invited Ministers to give their views on whether the forthcoming financial instrument on returns should be used to fund such a pilot project and possible future joint flights.

Reacting to the Presidency's suggestions, Commissioner Vitorino said joint flights are key to rationalising resources at EU level and to giving effectiveness to the overall asylum system. He called on Member States to educate their citizens that joint flights have nothing to do with collective expulsion. The Commissioner said he was in favour of the Presidency's pilot project suggestion.

Although there was also broad agreement among Member States on the idea of organising a joint flight as a pilot project, several Member States pointed out that such flights are already being organised regionally. These Member States believe a pilot project is unnecessary and would prefer to concentrate on sharing existing experience among European colleagues. Belgium in particular mentioned its plans to put together a set of practical rules to follow when organising joint operations and that these could be of use to other Member States.

Practically all Member States were in favour of using Community financing to fund these joint flights and welcomed the announcement by the Commission of the setting up of a €30 million Framework Preparatory Action for returns to run during 2005/2006. According to the Commission, this Preparatory Action will potentially cover costs for both transportation and integrated return programmes.

The issue of information exchange on joint flights was also raised at the meeting. One suggestion, which was welcomed by Ministers, is to extend the proposed ICONET for this purpose. Another option which was also favourably received at the meeting was the idea of giving the Border Management Agency a coordinating role in joint flights.

Next steps

Taking into account the above and in an effort to progress the discussion further, members of the Expulsion and Migration Working Party are invited to examine the following issues:

Pilot project

Member States must decide definitively whether a pilot project should be organised. If agreement to organise a pilot project is reached, the Presidency invites one or more Member States in the process of organising charter flights in the coming months to consider using these charters for this purpose. These flights would obviously have to be open to the participation of other Member States. The Presidency believes the proposed pilot project would provide valuable insight into the practical issues involved in the implementation of the Decision. The organising and participating Member States would be responsible for monitoring and reporting the results to the Migration and Expulsion Working Party. Among the areas the pilot project could assess include:

- **Pre-flight arrangements:** communication between parties, arranging departure details and travel documentation, agreeing contracts, etc.
- **Mid-flight arrangements:** distribution of tasks, transit to departure airport, handing over third-country nationals, reception at country of destination, other practical matters, etc.
- **Post-flight arrangements:** financial compensation, lessons for other Member States, etc.

In addition to the pilot project, those Member States already experienced in organising joint operations (Belgium, the Netherlands, Germany, Poland, and Italy) are asked to share their knowledge with the Migration and Expulsion Working Party. Preferably, this feedback should be in a written format and should highlight the benefits and pitfalls with such projects. Belgium, in particular, is asked to update the Working Party on developments with its joint flight guidelines. The Presidency suggests that Member States' experience could be used to put together best practice guidelines on the organisation of joint flights.

Information exchange and coordination

The second issue which must be addressed is information exchange and coordination. An information system which will allow Member States organising charter flights to notify their European partners about the possibility of cooperation is required. As mentioned earlier, there are several options currently available. Members of the Working Party are asked to examine these options and to give their views on which is the most suitable platform for the task at hand.

- **ICONET**

At the Informal JHA Council, there was clear consensus among Ministers that ICONET should be extended to allow information to be exchanged among Member States planning joint flights. Article 2.2.d of the proposed ICONET Decision notes that the network shall cover return-related issues. Among the questions which arise are as follows:

- Is this reference to return-related issues sufficient for the purposes of coordinating joint flights?
- Should more explicit reference to exchanging information on charter flights be included in the current draft ICONET Decision?
- How exactly could ICONET be used for this purpose?

Since ICONET is still in the pilot phase, the system could easily be adapted to fulfil the information exchange requirements under discussion. One suggestion is for Member States to nominate a national contact point who would be responsible for posting information on joint flights in a special subsection of the returns section of ICONET.

- **Border Management Agency**

At the JHA meeting in Dublin, Ministers were also keen to give a coordinating role to the Border Management Agency. This is in line with the Council's conclusions of 27 November 2003 which state that the Agency shall provide Member States with the necessary technical support in organising joint return operations.

The role of the Agency is being addressed in discussions on the proposed Regulation which is being dealt with by the Frontiers Working Party and the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA)

- **Network of Immigration Liaison Officers**

At the Dublin meeting, several Member States (Italy, Spain and France) were of the view that the ILO network should also be involved in joint operations.

- What role would these Member States envisage giving the ILO network, bearing in mind that return-related issues is not technically within the remit of ILOs in third countries?
