



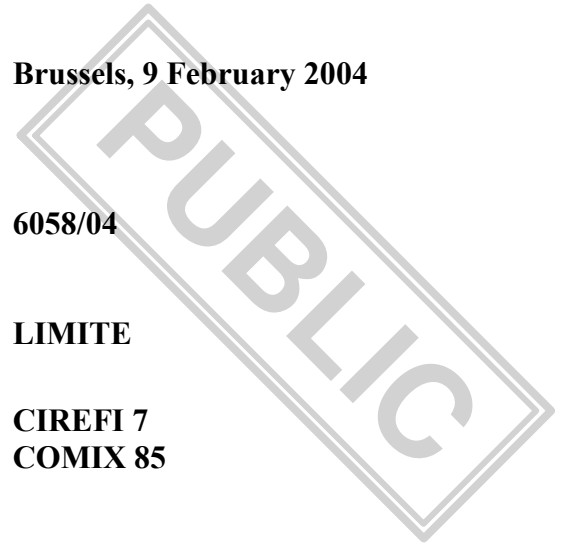
**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 9 February 2004

6058/04

LIMITE

**CIREFI 7
COMIX 85**



OUTCOME OF PROCEEDINGS

of : CIREFI

dated : 27 January 2004

No. Cion prop. : 157317/03 CIREFI 59 MIG 106 COMIX 727 (COM(2003) 727 final)

Subject : **Proposal for a Council Decision establishing a secure web-based Information and Coordination Network for Member States' Migration Management Services**

At its meeting on 27 January 2004, CIREFI carried out the first reading of the above proposal. CIREFI reached a general agreement on the text. However, some issues need to be examined at a later stage:

- the participation of Europol in the above-mentioned network. On the basis of the current proposal and its legal basis, Europol would be excluded from participation in the above-mentioned network. However, all delegations agreed that Europol could provide an added value in the exchange of information and pointed out that alternative solutions should be found to involve Europol in this exchange. One of these solutions could be the conclusion of an agreement between the Commission and Europol regarding Europol's participation in the Information and Coordination network.

- the exchange of personal data. The **German delegation** suggested that the network could also be used for the exchange of personal data between the national contact points and would submit a more concrete proposal in due time.

The **Commission representative** pointed out that the participation of the future Border Agency in this network would be an important element. Its inclusion in the network can be swiftly carried out once the Agency has been established.

The text of the articles as resulting from the discussions on 27 January 2004 is reproduced in the Annex.

DRAFT

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 Commission¹,

Having regard to the opinion of the European Parliament²,

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 immigration³, 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.

¹ OJ C , , p. .

² OJ C , , p. .

³ 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 data¹ 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.

¹ OJ L 281 , 23.11.1995, p. 31

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 immigration¹;
 - (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.

¹ Following a query from **F** and the **Pres**, the **Cion** clarified that the network would be of a supplementary nature, complementing other systems such as VIS and FADO.

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/EC¹.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

¹ OJ L 161, 19.6.2002, p. 11

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*
