

II

(Preparatory Acts)

COUNCIL

Initiative of the Hellenic Republic with a view to adopting a Council Regulation on the creation of an immigration liaison officers network

(2003/C 140/10)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 63(3)(b) and 66 thereof,

Having regard to the initiative of the Hellenic Republic,

Having regard to the Opinion of the European Parliament,

Whereas:

- (1) The plan for the management of the external borders of the Member States of the European Union, agreed by the Council at its meeting of 13 June 2003 envisages the setting up of networks of immigration liaison officers posted in third countries.
- (2) In the Conclusions of its meeting of 21 and 22 June 2002 the Seville European Council called for the creation of a network of immigration liaison officers of the Member States before the end of 2002.
- (3) At its meeting of 28 and 29 November 2002 the Council adopted Conclusions on the improvement of the Immigration Liaison Officers Network, taking note of the report of the Presidency showing that a network of liaison officers was in place in most of the countries surveyed in the report but noting also that there was a need to strengthen this network further.
- (4) It is desirable to formalise the existence and functioning of such a network — drawing on experiences gained in the operation of running projects, including the Belgian-led Western Balkans ILO network — through a legally binding instrument, which sets out the obligation to establish forms of cooperation among immigration liaison officers of the Member States, the objectives of such cooperation, the functions and appropriate qualifications of such liaison officers, as well as their responsibilities vis-à-vis the host country and the sending Member State.
- (5) It is also desirable to formalise the way in which the relevant institutions of the Community are informed of the activities of the immigration officers liaison network so as to allow them to take or propose such measures as may be necessary to improve further the overall

management of the controls on persons at the external borders of the Member States.

- (6) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis ⁽¹⁾, which falls within the areas referred to in Article 1(A) and (E) of Council Decision 1999/437/EC ⁽²⁾ on certain arrangements for the application of that Agreement.
- (7) 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 taking part in the adoption of this Regulation and is not bound by it nor subject to its application. Given that this Regulation builds upon the Schengen acquis under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation whether it will implement it in its national law.
- (8) The United Kingdom is taking part in this Regulation, in accordance with Article 5 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis ⁽³⁾.
- (9) Ireland is taking part in this Regulation, in accordance with Article 5 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on European Union and to the Treaty establishing the European Community, and Article 6(2) of Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis ⁽⁴⁾.

⁽¹⁾ OJ L 176, 10.7.1999, p. 36.

⁽²⁾ OJ L 176, 10.7.1999, p. 31.

⁽³⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁴⁾ OJ L 64, 7.3.2002, p. 20.

(10) The participation of the United Kingdom and Ireland in this Regulation is limited to the responsibilities of the Community for taking measures developing the provisions of the Schengen acquis against the organisation of illegal immigration to the United Kingdom and Ireland, but does not involve these Member States in the external border management activities for the prevention of illegal immigration to the territories of the Member States which have abolished or are committed to abolishing checks at their internal borders.

(11) This Regulation constitutes an act building on the Schengen acquis or otherwise related to it within the meaning of Article 3(1) of the 2003 Act of Accession,

HAS ADOPTED THIS REGULATION:

Article 1

1. 'Immigration liaison officer' means a representative of one of the Member States, posted abroad by the immigration service or other competent authorities to one or more third countries in order to establish and maintain contacts with the authorities of those countries with a view to contributing to the prevention and combating of illegal immigration, the return of illegal immigrants and the management of legal migration.

2. For the purposes of this Regulation, liaison officers who are dealing with immigration issues as part of their duties shall also be considered as immigration liaison officers.

3. Immigration liaison officers may be posted to the national consular authorities of Member States in third countries, to the relevant authorities of other Member States and also to the competent authorities of third countries, for a reasonable time period to be determined by the posting Member State.

4. This Regulation shall be without prejudice to the tasks of immigration liaison officers within the framework of their responsibilities under national law or under special agreements concluded with the host country.

Article 2

1. Each Member State shall ensure that its immigration liaison officers establish and maintain direct contacts with the competent authorities in the host country and any appropriate organisation within the host country, with a view to facilitating and expediting the collection and exchange of information.

2. Immigration liaison officers shall collect information for use at either operational or strategic level, or both. Such information shall in particular concern issues such as:

- (a) flows of illegal immigrants originating from or transiting through the host country;
- (b) routes followed by those flows of illegal immigrants in order to reach the territories of the Member States;

(c) the 'modus operandi' of illegal immigrants, including the means of transport used, the involvement of intermediaries, etc.;

(d) the existence and activities of criminal organisations involved in the smuggling of immigrants;

(e) incidents and events that may be, or may become, the cause of new developments with regard to flows of illegal immigrants;

(f) methods used for counterfeiting or falsifying identity documents and travel documents;

(g) ways and means to assist the authorities in host countries in preventing illegal immigration flows originating from or transiting through their territories;

(h) ways and means to facilitate the return and repatriation of illegal immigrants to their country of origin;

(i) legislation and legal practices relevant to the foregoing issues;

(j) information transmitted via the early warning system.

3. Immigration liaison officers may also render assistance in establishing the identity of third country nationals and in facilitating their return to their country of origin.

4. Member States shall ensure that their immigration liaison officers carry out their tasks within the framework of their responsibilities and in compliance with the provisions, including those on the protection of personal data, laid down in their national laws and in any agreements or arrangements concluded with host countries.

Article 3

1. Member States shall inform one another, the Council and the Commission of their secondments of immigration liaison officers to third countries, including a description of their duties. The Commission shall present an annual summary to the Council concerning Member States' postings of immigration liaison officers.

2. Each Member State shall also inform the others of its intentions as regards the secondment of immigration liaison officers to third countries, so as to allow the other Member States to express an interest in concluding a cooperative agreement with the Member State concerned on such secondment, as referred to in Article 5.

Article 4

1. Member States shall ensure that their immigration liaison officers posted to the same third countries constitute local or regional cooperation networks among each other. Within the framework of such networks immigration liaison officers shall:

(a) meet regularly and whenever necessary;

(b) exchange information and practical experience;

- (c) enhance the development of common practices and policies, including visa policies;
- (d) coordinate positions to be adopted in contacts with the authorities of the host country;
- (e) coordinate positions to be adopted in contacts with commercial carriers;
- (f) organise information sessions and training courses for members of the diplomatic and consular staff of the missions of the Member States in the host country;
- (g) adopt common approaches to methods of collecting and reporting strategically relevant information, including risk analyses, to the competent authorities of the sending Member States;
- (h) draw up bi-annual reports on their common activities;
- (i) set up regular contacts with similar networks in neighbouring third countries, as appropriate.

2. Local representatives of the Commission of the European Communities shall be entitled to participate in the meetings organised within the framework of immigration liaison officers network. Other bodies and authorities may also be invited, as appropriate.

3. The Member State holding the Presidency of the Council of the European Union shall take the initiative to hold the meetings referred to in paragraph 1(a). However, if the Member State holding the Presidency is not represented in the country or region, the Member State serving as acting Presidency shall take the initiative to hold the meeting.

Article 5

1. Member States may bilaterally or multilaterally agree that immigration liaison officers who are posted to a third country by a Member State shall also look after the interests of one or more other Member States.

2. Member States may also agree that their immigration liaison officers shall share certain tasks among each other.

Article 6

In order to secure a uniform management of information and the necessary coordination for the collection, evaluation and further use of information by the Council, Member States may transmit information of exceptional importance concerning issues relating to border management, the combating of

illegal immigration and the return and repatriation of illegal immigrants to the Council.

Article 7

1. The Member State holding the Presidency of the Council of the European Union or, if this Member State is not represented in the country or region, the Member State serving as acting Presidency shall draw up, by the end of each semester, a report to the Council and the Commission on the activities of immigration liaison officers networks in which it has a representative and on the situation in host countries, in matters relating to illegal immigration.

2. The report shall be drawn up in accordance with a model and format established by the Commission.

3. The reports constitute an essential form of information for the preparation at the end of each Presidency of an evaluation report drafted by the Presidency in cooperation with the Commission and submitted to the Council, on the existing situation in each third country, in which Member States' immigration liaison officers are posted.

4. The Commission shall, on the basis of the abovementioned reports draw up a summary factual report which shall be submitted to the European Parliament and the Council before the end of each year. When presenting its summary factual report to the Council the Commission may make such proposals or recommendations as it deems appropriate concerning improving the information-liaison officer network and the existing situation in each third country.

Article 8

This Regulation shall be without prejudice to the provisions on consular cooperation at a local level set out in the Common Consular Instructions on visas for the diplomatic missions and consular posts ⁽¹⁾.

Article 9

This Regulation shall enter into force on the date of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at

For the Council

The President

⁽¹⁾ OJ C 313, 16.12.2002, p. 1.