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20 March 2002

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## **REPORT**

on the proposal for a Council decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO)  
(COM(2001) 567 – C5-0553/2001 – 2001/0230(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Arie M. Oostlander

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 7 November 2001 the Council consulted Parliament, pursuant to Article 67(1) of the EC Treaty on the proposal for a Council decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 – 2001/0230(CNS)).

At the sitting of 12 November 2001 the President of Parliament announced that she had referred this proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and to the Committee on Budgets and the Committee on Legal Affairs and the Internal Market for their opinions (C5-0553/2001).

At the sitting of 13 December 2001 the President of Parliament announced that she had also referred the proposal to the Committee on Petitions for its opinion.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Arie M. Oostlander rapporteur at its meeting of 21 November 2001.

It considered the Commission proposal and the draft report at its meetings of 21 January 2002, 20 February 2002 and 19 March 2002.

At the last meeting it adopted the draft legislative resolution by 35 votes to 3, with 4 abstentions.

The following were present for the vote: Ana Palacio Vallelersundi, chairman; Robert J.E. Evans, Lousewies van der Laan and Giacomo Santini, vice-chairmen; Arie M. Oostlander, rapporteur; Maria Berger (for Ozan Ceyhun), Hans Blokland (for Ole Krarup pursuant to Rule 153(2)), Christian Ulrik von Boetticher, Mario Borghezio, Mogens N.J. Camre (for Niall Andrews), Marco Cappato (for Maurizio Turco), Michael Cashman, Charlotte Cederschiöld, Carlos Coelho, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Evelyne Gebhardt (for Gerhard Schmid), Marie-Thérèse Hermange (for Thierry Cornillet), Jorge Salvador Hernández Mollar, Pierre Jonckheer, Anna Karamanou (for Carmen Cerdeira Morterero), Margot Keßler, Timothy Kirkhope, Eva Klamt, Jean Lambert (for Alima Boumediene-Thiery), Baroness Sarah Ludford, Lucio Manisco (for Fodé Sylla), Luís Marinho (for Sérgio Sousa Pinto), William Francis Newton Dunn, Elena Ornella Paciotti, Paolo Pastorelli (for The Lord Bethell), Hubert Pirker, Martine Roure, Heide Rühle, Olle Schmidt (for Francesco Rutelli), Ilka Schröder, Patsy Sörensen, The Earl of Stockton (for Mary Elizabeth Banotti), Joke Swiebel, Anna Terrón i Cusí, Christos Zacharakis (for Giuseppe Brienza) and Olga Zrihen Zaari (for Adeline Hazan).

The opinions of the Committee on Budgets and the Committee on Petitions are attached; the Committee on Legal Affairs and the Internal Market decided on 27 November 2001 not to deliver an opinion.

The report was tabled on 20 March 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant

part-session.

## LEGISLATIVE PROPOSAL

### Proposal for a Council decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 – C5-0553/2001 – 2001/0230(CNS))

The proposal is amended as follows:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

Amendment 1  
Recital -1 (new)

***(-1) The European Parliament, in its resolution on a common immigration policy, called on the Commission and Council to lay down a uniform European legislative framework which covers the conditions governing entry and residence for migrant workers, a coherent concept for the issuing of visas, a graduated system of residence permits for migrant workers, and the conditions for free movement of third-country nationals within the Union.***

#### *Justification*

*In its resolution adopted on 3 October 2001 (A5-0305/2001), the European Parliament urged the Commission and the Council to come forward with a coherent legislative framework which would form a basis for a common immigration policy.*

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<sup>1</sup> OJ C 25, 29.1.2002, p. 526.

Amendment 2  
Recital 1

(1) Administrative co-operation between the Member States in the areas covered by Articles 62 and 63 of the Treaty *is* part of the Community's objective of progressively establishing an area of freedom, security and justice.

(1) Administrative co-operation between the Member States in the areas covered by Articles 62 and 63 of the Treaty ***constitutes the basis for the Community*** part of the Community's objective of progressively establishing an area of freedom, security and justice.

*Justification*

*Articles 62 and 63 come under Title IV of the EC Treaty. Accordingly, the Community dimension should be emphasised here.*

Amendment 3  
Recital 3

(3) In accordance with the conclusions of the European Council in Tampere on 15 and 16 October 1999, the Commission has defined in its Communication to the Council and the European Parliament on the biannual update of the scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union (first half of 2001) an ambitious legislative programme that should lead to a new body of Community rules in the area of Justice and Home Affairs that will have to be implemented by the Member States.

(3) In accordance with the conclusions of the European Council in Tampere on 15 and 16 October 1999, the Commission has defined in its Communication to the Council and the European Parliament on the biannual update of the scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union (first half of 2001) an ambitious legislative programme that should lead to a new body of Community rules in the area of Justice and Home Affairs that will have to be implemented ***mainly*** by the Member States ***themselves***.

*Justification*

*This wording also makes it possible for the Community institutions to be involved.*

Amendment 4  
Recital 3a (new)

***Communitarisation of EU responsibility for controls at the EU's external borders will become all the more important now that a significant enlargement of the Union is scheduled to take place during the period in which ARGO will be operational. Accordingly, ARGO must be seen simply as a modest forerunner of more extensive activities in this field.***

*Justification*

*It is obvious that, in the future, the Community will be entrusted with much greater responsibility for the monitoring of the Community's external borders because the applicant countries will be unable to do so by themselves. This recital is designed to ensure that the Member States are made aware of the urgent nature of this issue.*

Amendment 5  
Recital 4

(4) Uniformity between the practices of the Member States when applying Community law can be obtained by strengthening co-operation and collaboration among their national administrations, ***and between them and*** the Commission.

(4) Uniformity between the practices of the Member States when applying Community law ***cannot*** be obtained by strengthening co-operation and collaboration ***simply*** among their national administrations, ***it also requires the backing of*** the Commission ***in its capacity as guardian of the Community's interests.***

*Justification*

*The original text contradicts Recital 5 and the explanatory memorandum to the Commission proposal. This amendment therefore constitutes a correction.*

Amendment 6

## Recital 5

(5) **Individual action by each administration is incapable of achieving such results.** A Community framework is therefore necessary for improving mutual understanding between the competent national administrations **and** the way they implement the relevant Community legislation, and for defining the priority areas of administrative co-operation required.

(5) A Community framework is therefore necessary for improving mutual understanding between the competent national administrations, the way they implement the relevant Community legislation **and the degree to which Community policy is reflected therein**, and for defining the priority areas of administrative co-operation required.

### *Justification*

*See also the Justification to Amendment 4. The policy must also remain consistent. Accordingly, a reference to the Community dimension is required.*

## Amendment 7 Recital 7

(7) The implementation of a Community action programme constitutes one of the most effective ways of achieving these objectives and will provide a basis to the Commission for assessing **whether establishing a common training institution would be a suitable way of improving** the training in Community law given to the staff of the Member States.

(7) The implementation of a Community action programme constitutes one of the most effective ways of achieving these objectives and will provide a basis to the Commission for assessing **how and by means of what initiatives improvements may be made to** the training in Community law given to the staff of the Member States, **for example by establishing a common training institution.**

### *Justification*

*This amendment offers scope for initiatives other than simply the training institution referred to in the Commission text.*

Amendment 8  
Recital 7 a (new)

***(7a) The actions of the programme should be implemented in accordance with the principles of coherence, complementarity and coordination, together with other activities in the areas of training and administrative cooperation financed from the Community budget.***

*Justification*

*The rapporteur stresses the need to avoid overlapping with other actions in the same area and to look for Community added-value in this field.*

Amendment 9  
Recital 9 (new)

***(9) The financial framework of the activities shall be compatible with the current ceiling under Heading 3 of the financial perspective, with no restriction being placed on other currently funded programmes under the same heading.***

*Justification*

*The amount proposed for the framework of activities should be compatible with the ceiling laid down in the financial perspective. If, in the course of the adoption of the decision, other amounts were to be proposed by the legislative authority, the budgetary authority would need to be consulted again. In that event, the Committee on Budgets would consider the impact on the ceiling under the current financial perspective.*

Amendment 10  
Recital 10 (new)

**(10) The annual appropriation for the programme shall be determined by the budgetary authority during the budgetary procedure. Any expenditure of an administrative nature within the meaning of Article 19 of the Financial Regulation shall be financed from Article B5-820A relating to the programme.**

*Justification*

*The rapporteur recalls that, while it is the legislative authority which determines the multiannual budget, the annual amounts of the programme are determined during the budgetary procedure. As for administrative costs, the rapporteur considers that all expenditure of an administrative nature should be financed from the BA line relating to the programme.*

Amendment 11  
Article 1

This Decision establishes a Community action programme to be called “ARGO” to support and complement the actions undertaken by the Community and the Member States in the implementation of Community legislation founded on Articles 62, 63 and 66 of the Treaty.

This Decision establishes a Community action programme to be called “ARGO” to support and complement the actions undertaken by the Community and the Member States in the implementation of Community legislation founded on Articles 62, 63 and 66 of the Treaty. ***This shall be done in a manner which allows for the exercise of the Commission’s right to propose legislation and of the European Parliament’s power of scrutiny.***

The ARGO programme shall cover the period from 1 January 2002 to 31 December 2006.

The ARGO programme shall cover the period from 1 January 2002 to 31 December 2006.

*Justification*

*There is no harm in emphasising the Community dimension of this programme which is, in part, financed from the EU budget.*

Amendment 12  
Article 3, introductory phrase and subparagraph (a)

This action programme shall *contribute to* the following objectives:

(a) to promote co-operation between national administrations in implementing Community rules with special attention to the pooling of resources and co-ordinated and homogeneous practices;

This action programme shall *assist in the implementation of the Community policy on external borders, asylum, immigration and visas. The development of the requisite uniform approach will ultimately result in improved working methods and a common training policy and methodology. Accordingly, this action programme shall have* the following objectives:

(a) to promote co-operation between national administrations *and the Commission* in implementing Community rules with special attention to the pooling of resources and co-ordinated and homogeneous practices;

*Justification*

*The aim of this amendment is to outline the prospects for what is already a third-generation programme (following Odysseus, which itself followed Sherlock). Although the Commission outlines the long-term prospect in its explanatory memorandum, there is no reference thereto in the legislative text. In addition, the role of the Commission in this matter must be underscored.*

Amendment 13  
Article 3(b)a (new)

*(b)a. to ensure full respect for human rights and applicable international conventions at all stages where Community legislation is applied.*

*Justification*

*Respect for human rights is fundamental when dealing with issues concerning border control, asylum, the issuing of visas and immigration.*

Amendment 14  
Article 3(e)

(e) to encourage transparency of actions

(e) to encourage transparency of actions

taken by the national authorities by strengthening relations between the national administrations and relevant national and international governmental and non-governmental organisations.

taken by the national authorities by strengthening relations between the national administrations and relevant national and international governmental and non-governmental organisations **and by extending the scope for scrutiny by the national parliaments and the European Parliament.**

*Justification*

*Parliamentary scrutiny strengthens transparency and ensures democratic control.*

Amendment 15  
Article 4(a)a (new)

***(a)a. to reduce the inconvenience for those subject to border controls and to ensure that they are treated with respect and dignity;***

*Justification*

*Controls at the EU's external borders should be effective but should also obstruct travellers as little as possible.*

Amendment 16  
Article 4(a)b (new)

***(a)b. to ensure that, when border controls are carried out, asylum-seekers and others in need of protection have access to procedures for international protection in accordance with the applicable conventions and legislation;***

*Justification*

*Self-explanatory.*

Amendment 17  
Article 4, subparagraph (b)

(b) to provide an equivalent level of effective protection and surveillance at external borders;

(b) to provide an equivalent level of effective protection and surveillance at external borders ***and to make preparations for a responsibility-sharing scheme in which Community responsibility for the EU's external borders would apply;***

*Justification*

*The use of 'burden-sharing' as proposed in the Oostlander amendment fixes a negative image of what should be seen as Member States' responsibilities in the field of asylum and immigration.*

Amendment 18  
Article 5, introductory part

In order to achieve the objectives set out in Article 3, this action programme shall support the activities of the Member States in the area of visas intended:

In order to achieve the objectives set out in Article 3 ***and to promote cooperation between the consular administrations of the Member States,*** this action programme shall support the activities of the Member States in the area of visas intended:

*Justification*

*The procedures for examining visa applications should be harmonised in the Member States as well as in their consulates, which play a crucial role in the issuing of visas.*

Amendment 19  
Article 5(b)a (new)

***(b)a. to increase efficiency in the processing of visa applications and simplify the application procedures in order to offer applicants a good service and shorter waiting times;***

*Justification*

*Self-explanatory.*

Amendment 20  
Article 5(d)a (new)

***(d)a. to enhance cooperation between the Member States in order to facilitate visa applications in third countries where one or more Member States have no representation;***

*Justification*

*It is reasonable that and should be possible for applications for all Schengen countries to be submitted in all third countries in which at least one Schengen country is represented.*

Amendment 21  
Article 5, subparagraph (e) (new)

***(e) generally to enhance consular cooperation between Member States.***

*Justification*

*This amendment has been proposed by the Council and constitutes an essential component of this article.*

Amendment 22  
Article 6(d)a (new)

***(d)a. to develop a common approach to the analysis of regions in crisis and the causes of the exodus so as to prevent the Member States from taking contradictory decisions on applications for asylum;***

*Justification*

*It frequently happens that decisions on applications for asylum from individuals from the same region in crisis differ from one Member State to another. That heightens the sense of injustice among asylum seekers.*

Amendment 23  
Article 6(d)a (new)

***(d)a. to ensure that asylum-seekers and others in need of protection are treated with respect and dignity at all stages of the asylum process and in accordance with the applicable conventions and legislation;***

*Justification*

*Self-explanatory.*

Amendment 24  
Article 6(e)a (new)

***(e)a. to promote knowledge about the situation in asylum-seekers' countries of origin;***

*Justification*

*It is important that border control personnel and the asylum authorities are fully familiar with asylum-seekers' problems.*

Amendment 25  
Article 7(b)a (new)

***(b)a. to promote knowledge and the uniform application of anti-discrimination provisions relating to Article 13 of the Treaty on European Union;***

*Justification*

*Anti-discrimination measures must be an integral part of the programme.*

Amendment 26  
Article 7(d)a (new)

***(d)a. to ensure humane treatment of migrants and improve respect for the human rights of migrants, particularly when expelling those who have entered illegally;***

*Justification*

*Self-explanatory.*

Amendment 27  
Article 7, subparagraph (e)

(e) to enhance co-operation in the field of the return of ***illegal residents***, including transit through other Member States.

(e) to enhance co-operation in the field of the return of ***nationals of third countries and stateless persons without residence permits, and refused asylum applicants***, including transit through other Member States ***and third countries***.

*Justification*

*This amendment has been proposed by the Council.*

Amendment 28  
Article 7, point (e) a (new)

***(e)a. to strengthen cooperation in the areas of illegal immigration, the fight against organised crime and document fraud;***

*Justification*

*Illegal immigration leads to social exploitation, exclusion and marginalisation affecting a large number of people who have become victims of criminal mafias. Consequently, the rapporteur proposes that activities to guarantee their rights and to provide the necessary means for their social integration be included.*

Amendment 29  
Article 8(a)

(a) training actions including, in particular, the elaboration of harmonised curricula and common core-training programmes to be organised by national administrations and complementary actions aimed at making national administrations receptive to the best working methods and techniques developed in other Member States;

(a) training actions including, in particular, the elaboration of harmonised curricula and common core-training programmes to be organised by national administrations and complementary actions aimed at making national administrations receptive to the best working methods and techniques developed in other Member States ***or applicant countries;***

*Justification*

*The applicant countries should take a full part in the area of freedom, security and justice as soon as possible after accession; exchange of experience between the applicant countries and the Member States is of the utmost importance in this respect.*

Amendment 30  
Article 8(f)

(f) setting up of common operative centres and of teams composed of staff drawn from two or more Member States to act, in particular, in emergency situations;

(f) setting up of common operative centres and of teams composed of staff drawn from two or more Member States ***or applicant countries*** to act, in particular, in emergency situations;

*Justification*

*The applicant countries should take a full part in the area of freedom, security and justice as soon as possible after accession; exchange of experience between the candidate countries and the Member States is of the utmost importance in this respect.*

Amendment 31

Article 8(g)

(g) studies, research, conferences and seminars involving staff of the Member States and the Commission and, where appropriate, staff of the relevant national and international governmental and non-governmental organisations;

(g) studies, research, conferences and seminars involving staff of the Member States, ***the applicant countries*** and the Commission and, where appropriate, staff of the relevant national and international governmental and non-governmental organisations;

*Justification*

*The applicant countries should take a full part in the area of freedom, security and justice as soon as possible after accession; exchange of experience between the candidate countries and the Member States is of the utmost importance in this respect.*

Amendment 32

Article 8, subparagraph (j) (new)

***(j) the fight against document fraud.***

*Justification*

*This amendment has been proposed by the Council. The fight against document fraud is important and fits into the framework of this article.*

Amendment 33  
Article 10, paragraph 1 and subparagraph (a)

1. To be eligible for co-financing under the ARGO action programme, the actions referred to in Article 8 must:

(a) be proposed by the national administration of one Member State and involve:

1. To be eligible for co-financing under the ARGO action programme, ***irrespective of the European Commission's right to propose legislation***, the actions referred to in Article 8 must:

(a) be proposed by ***the European Commission or by*** the national administration of one Member State and involve:

*Justification*

*The Commission's right to propose legislation must be respected in this instance, since Articles 62 and 63 of the EC Treaty are involved. In this way, NGOs and universities may also qualify for Commission co-financing.*

Amendment 34  
Article 11, paragraph 4

4. The proportion of financial support from the budget of the European Communities shall generally not exceed 60% of the cost of the action. ***However, in*** exceptional circumstances this proportion ***may*** be raised up to 80%.

4. The proportion of financial support from the budget of the European Communities shall generally not exceed 60% of the cost of the action. ***The Commission may decide that, because of*** exceptional circumstances, this proportion ***shall*** be increased to 80%.

*Justification*

*This amendment specifies just who is to decide what is to be understood by the term 'exceptional circumstances'.*

Amendment 35  
Article 12, paragraph 4

4. Annual Work Programme shall be adopted *according to the management procedure referred to in Article 13 paragraph 2*. The list of selected actions shall be adopted *according to* the advisory procedure referred to in Article 13 paragraph 3.

4. *The Annual Work Programme, drawn up by the European Commission*, shall be adopted *by the European Parliament*. The list of selected actions *covered by that Work Programme* shall be adopted *in accordance with* the advisory procedure referred to in Article 13 paragraph 3.

*Justification*

*It is better for Parliament as such to be responsible for the selection of the political criteria and the assessment thereof. If the Council and Commission do not approve, Parliament will be unable to release the funds for the following year. Selected actions may then be approved under a consultation procedure.*

Amendment 36  
Article 13, paragraph 2

*2. Where reference is made to this paragraph, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply, in compliance with Article 7 thereof.  
The period provided for in Article 4 paragraph 3 of Decision 1999/468/EC shall be set at three months.*

*Deleted.*

*Justification*

*This is connected with Article 12(4).*

Amendment 37

Article 13, paragraph 1

1. The Commission shall be assisted by a Committee, hereinafter referred to as “the ARGO Committee”, composed of **representatives** of **the** Member **States** and chaired by the representative of the Commission.

1. The Commission shall be assisted by a Committee, hereinafter referred to as “the ARGO Committee”, composed of **one representative** of **each** Member **State** and chaired by the representative of the Commission.

*Justification*

*The rapporteur considers that national representation in the ARGO Committee should be limited to one representative per Member State so as to ensure the efficiency of its activities.*

Amendment 38

Article 14, paragraph 1

1. The Commission and the Member States shall monitor and evaluate the implementation of the ARGO action programme **on a continuous basis**.

1. The Commission and the Member States shall **constantly** monitor and evaluate the implementation of the ARGO action programme **with regard to its Community and national aspects respectively**.

*Justification*

*This involves a clear allocation of responsibilities.*

Amendment 39

Article 14, paragraph 2

2. Each year the Commission shall submit a report to the European Parliament and the Council on the implementation of the ARGO action programme.

The report shall analyse all the progress achieved and shall be accompanied where necessary by any proposals for ensuring homogeneous application in

2. Each year the Commission shall submit a report to the European Parliament and the Council on the implementation of the ARGO action programme.

The report shall analyse all the progress achieved and shall be accompanied where necessary by any proposals for ensuring homogeneous application in

the Member States of Community legislation founded on Articles 62 and 63 of the Treaty. The Commission shall submit the first report by 31 December 2003 at the latest and the final report by 31 December 2007 at the latest.

the Member States of Community legislation founded on Articles 62 and 63 of the Treaty. The Commission shall submit the first report by 31 December 2003 at the latest and the final report by 31 December 2007 at the latest.

***When the Commission submits the preliminary draft budget, it shall forward to the budgetary authority the results of the quantitative and qualitative evaluation of the measures financed under the programme.***

*Justification*

*A qualitative and quantitative evaluation of the programme should be made available at the same time as the preliminary draft budget so as to provide the necessary information to the budgetary authority.*

Amendment 40  
Article 14, paragraph 2a (new)

***2a. The Commission shall also ensure that the results obtained, together with the documents, studies and reports produced in the course of the implementation of the programme, are disseminated as widely as possible, in particular through the publication thereof on the Internet.***

*Justification*

*The Treaties, the regulation on access to documents, and the Commission communication on the EU's information and communications policy all require studies, documents, reports and results relating to projects financed under the framework programme to be disseminated and to be placed on the Internet so that they may be made accessible to the general public and, in particular, to operators in the sectors concerned.*

## DRAFT LEGISLATIVE RESOLUTION

### **European Parliament legislative resolution on the proposal for a Council decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 – C5-0553/2001 – 2001/0230(CNS))**

#### **(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2001) 567<sup>1</sup>),
  - having regard to Article 66 of the EC Treaty,
  - having been consulted by the Council pursuant to Article 67(1) of the EC Treaty (C5-0553/2001),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinions of the Committee on Budgets and the Committee on Petitions (A5-0085/2002),
1. Approves the Commission proposal as amended;
  2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  3. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
  4. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> OJ C 25, 29.1.2002, p. 526.

## EXPLANATORY STATEMENT

With this proposal for a decision, the Council is seeking to ensure the continuity of the Odysseus programme, a joint action adopted in 1998 (98/224/JHA) which introduced a programme for training, exchange and cooperation in the fields of asylum and immigration policy and the crossing of external borders. Since that programme will expire at the end of 2002, a new programme is required to replace it.

### *Success of the Odysseus Programme*

Unfortunately, the appropriations allocated to the programme ran out in 2001. The aim is for the Council to adopt the ARGO programme before April so that the appropriations required for this year may still be released, where necessary under the new programme. On the one hand, that demonstrates the success of the Odysseus programme, the result being that the appropriations available have been increased from EUR 12 million to EUR 25 million. On the other hand, it also demonstrates the lack of foresight of those responsible for the programme. The Commission really should have recognised by late 2000 that the success of Odysseus was such that a new programme would have to be proposed. However, the Commission did not adopt the basic document until 16 October 2001 - decidedly late! The timetable for the European Parliament is, therefore, very tight, although a technical agreement has already been reached in the Council. That is tantamount to a lack of respect for Parliament, as was the case with the discussion about the European arrest warrant and the definition of terrorism.

### *The underlying problem; who are the beneficiaries?*

With regard to the general objectives, ARGO is virtually indistinguishable from Odysseus. The only changes involve a strengthening of cooperation between Member States and with applicant countries and or/ third countries in the fields of asylum, immigration and the crossing of external borders. The ARGO programme also incorporates cooperation in the field of visas.

In addition, many more actions are possible. Odysseus covered merely three types of actions (training, exchange of officials, and studies and research). They also constitute part of the ARGO programme, but the range has become broader (see Article 8).

According to the third annual report on the Odysseus programme, published in 2000 (SEC(2001) 903), the major financial beneficiaries were national administrations (56%) and international organisations (19%). The remaining 25% was allocated to universities and NGOs.

However, the text proposed by the Commission totally ignores the last-named category. Accordingly, they will find it much more difficult to secure funding. In fact, according to Article 10, only actions proposed by 'national administrations' would be *eligible* for co-financing. Article 8(g) is unclear, and there is no guarantee that universities and NGOs will be deemed to be beneficiaries as well. Your rapporteur wishes to close that loophole by emphasising the Commission's right to propose legislation.

### ***The other problem: commitology***

Here, the Commission has opted for the cumbersome management procedure and the advisory procedure. Given the efforts it has made, and is still making, to achieve greater transparency, Parliament cannot accept the management procedure as a substitute for parliamentary scrutiny. Furthermore, that procedure increases the bureaucratic dimension of the ARGO programme.

The ARGO budget constitutes non-compulsory expenditure (NCE), and the European Parliament has the final say on such expenditure. As one arm of the budgetary authority, and on the basis of an opinion from its Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, Parliament may block the Annual Programme on the grounds that it does not comply with parliamentary requirements.

### ***ARGO and the Community method***

Since the bounds of Title IV of the EC Treaty are not exceeded, this programme clearly falls within the Community framework (although that will not apply until 2004). Such is, however, not apparent from the text.

Accordingly, your rapporteur proposes that the Commission, too, should be able to submit proposals, not just the Member States, as provided for in Article 10. On the one hand, that will increase the Community dimension and also ensure that non-governmental organisations may become beneficiaries of the programme. That constitutes the solution to the underlying problem referred to above.

Most amendments concern the strengthening of the Community dimension. On the one hand, that underpins the Commission's right to propose legislation and firmly establishes the European Parliament's scrutiny of the programme. On the other hand, it provides for the desired general consistency which would be unattainable if this cooperation programme were to remain the exclusive province of 'national administrations'. This is also stated expressly in the explanatory memorandum to the Commission proposal.

### ***Enlargement and external borders***

This proposal does not, unfortunately, give due consideration to the situation which will arise after enlargement of the Union. At that time, there will, of course, be a need to declare control at the Union's external borders to be a Community responsibility. Preparations should be put in hand as of now for the drawing up of a scheme for a reasonable distribution of the ensuing burdens (financial, material and staffing). A number of the amendments relate to this concern.

### ***Nota bene:***

The Council has already reached a technical agreement on this text. The changes proposed therein are incorporated into this report in the form of amendments (the Justification refers to their inclusion in the Council text). In this way Parliament, too, may give its opinion on the changes. That does not apply to the amendment to Article 13 (commitology), in respect of which your rapporteur has tabled a different amendment.

## MINORITY OPINION

tabled by Ilka Schröder

on the proposal for a Council decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 – C5-0553/2001 – 2001/0230(CNS))

This proposal constitutes nothing more than an attempt to strengthen 'Fortress Europe' even further. In view of the imminent enlargement to include the countries of Central and Eastern Europe, the ARGO Programme provides the start-up finance for an 'equivalent level of protection' at the EU's external borders. Over the next five years, EUR 25 million will be spent on extending the effectiveness of the controls and making the borders more watertight. The policy of sealing off the EU has made it impossible in practice for persons to seek and to find protection against persecution in the EU. Every year, hundreds of refugees die at Europe's borders. The refugees that do succeed in reaching EU territory are subsequently exposed to institutionalised discrimination applied by the European States and to racist resentment from the inhabitants of Europe. As a result, access to the EU is regulated by a market-type system of refugee aid which will be exacerbated by any further sealing off of borders. Supporters of such sealing off of borders bear joint responsibility for the deaths of refugees. All stances taken in support of refugees but against clandestine immigration networks are at best hypocritical. At worst, they constitute aid to the deathly system of border controls. Anyone who wishes to help refugees must break through the hypocrisy of the debate on Europe's frontiers and demand open borders for all. Tear down the barricades at the frontiers! Support refugees! Support total freedom of movement for all!

24 January 2002

## **OPINION OF THE COMMITTEE ON BUDGETS**

for the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

on the proposal for a Council decision on adopting an action programme for administrative co-operation in the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 – C5-0553/2001 – 2001/0230(CNS))

Draftsman: Juan Andrés Naranjo Escobar

### **PROCEDURE**

The Committee on Budgets appointed Juan Andrés Naranjo Escobar draftsman at its meeting of 21 November 2001.

It considered the draft opinion at its meeting of 21 January 2002.

At that meeting it adopted the following amendments unanimously.

The following were present for the vote: Terence Wynn, chairman; Reimer Böge, vice-chairman; Juan Andrés Naranjo Escobar, draftsman; Kathalijne Maria Buitenweg, Joan Colom i Naval, Den Dover, Salvador Garriga Polledo, Neena Gill, Jutta D. Haug, Ian Stewart Hudghton, Anne Elisabet Jensen, John Joseph McCartin, Guido Podestà, Kyösti Tapio Virrankoski, Ralf Walter and Brigitte Wenzel-Perillo.

## SHORT JUSTIFICATION

### 1. Background

The Commission has presented a new action programme entitled ARGO to assist national administrations in the implementation of Community legislation in the field of visas, asylum, immigration and control of external borders. The proposal replaces the current Odysseus programme, which was set up in 1998 for training, exchanges and cooperation in the fields of asylum, immigration and crossing of external borders. The appropriation for the Odysseus programme (EUR 12 million) was exhausted in 2001, so that a new programme is necessary for the period 2002-2006.

The new action programme aims to improve the implementation of EU legislation on visas, asylum, immigration and free movement of persons. Its ultimate target is to provide equal treatment to third-country nationals, regardless of the national administration with which they are dealing.

The ARGO programme aims to complement the objectives of the Odysseus programme with the following actions, among others:

- improving the collection, analysis, distribution and exploitation of information, making full use of information technology;
- defining and strengthening a common training policy, which would make national administrations more receptive to the best working methods developed in other Member States;
- setting up of common operative centres and teams composed of staff from two or more Member States to act in emergency situations; and
- supporting Member States activities in third countries, in particular fact-finding missions in countries of origin and transit.

The programme would be open to the participation of the applicant countries, where the aim is to prepare for their eventual accession, as well as of third countries, where this is considered to be beneficial for the proposed action.

The proportion of EU financial support would not exceed 60% of the cost of these activities. However, in exceptional cases, the level of co-financing could be increased to 80%.

The implementation of the new action programme would be realised in cooperation between the Commission and the Member States. It would be based on an Annual Work Programme specifying the areas and priorities of administrative cooperation.

### 2. Financial and legislative remarks

The proposal is in line with Articles 62, 63 and 66 of the Treaty establishing the European Community. Similarly, it complies with the European Council conclusions of Tampere and Laeken, in which Member States pledged to develop and adopt a common asylum and

migration policy<sup>1</sup>.

According to the proposal, the programme would have a financial impact of EUR 25 million in 2002-2006, of which EUR 23.68 million would be earmarked for operational appropriations and EUR 1.32 million for technical and administrative assistance. In addition, the programme would require an estimated EUR 1.785 million in human resources, which would be covered from the Commission's administrative expenditure (see table below).

**Breakdown of expenditure in 2002-2006 (EUR million)**

	2002	2003	2004	2005	2006	Total
Operational expenditure	5.0	4.0	5.34	6.34	3.0	23.68
Technical and administrative aid	0.024	0.424	0.024	0.424	0.424	1.32
<b>Total</b>	<b>5.024</b>	<b>4.424</b>	<b>5.364</b>	<b>6.764</b>	<b>3.424</b>	<b>25.0</b>

The proposal would entail an annual increase of EUR 2 million compared to current activities financed under the Odysseus programme. This increase seems justified considering the wider scope of activities compared to the existing programme. However, a glance at the working document prepared for the preliminary draft budget for 2002 shows that, out of the reserve of EUR 15.56 million earmarked for B5-820, only an amount of EUR 3 million is devoted to ARGO in 2002. Consequently, the Commission should clarify whether it plans to take the remaining amount (EUR 2.024 million) from another activity under B5-820 or whether it intends to recover this amount by increasing the endowment of ARGO in the following years. In either case, the Commission should provide updated information on the financial programming of B5-820 before a final decision on the programme can be taken by the budgetary authority.

In order to ensure that the multiannual programme is compatible with the current ceiling of Heading 3 and with other activities financed under the same heading, your draftsman suggests that a provision be incorporated in the legislative text, whereby the budgetary authority would need to be consulted again should new amounts be proposed by the Commission.

As for commitology, the Commission suggests that the management procedure be used for the adoption of the Annual Work Programme and the advisory procedure for the approval of the list of selected actions. Your draftsman would recall that this approach has been endorsed by the Committee on Budgets in some of the latest programmes proposed by the Commission, such as the CARDS programme. Hence, no major changes on commitology seem to be necessary.

### **3. Concluding remarks**

Your draftsman would recall that the outcome of a coherent policy in the area of external borders, visas, asylum and immigration depends not only on the existence of a common

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<sup>1</sup> Paragraphs 10-27 of the conclusions of the Tampere European Council (15-16 October 1999), and paragraphs 39-41 of the conclusions of the Laeken European Council (14-15 December 2001).

approach but also on a harmonised method for the implementation of EU legislation. A common framework for administrative cooperation seems all the more necessary, given the increasing level of immigration to the European Union. Consequently, the Community should extend and reinforce its cooperation in this field.

## AMENDMENTS

The Committee on Budgets calls on the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

Amendment 1  
Recital -1 (new)

***(-1) The European Parliament, in its resolution on a common immigration policy, called on the Commission and Council to lay down a uniform European legislative framework which covers the conditions governing entry and residence for migrant workers, coherent concepts for the issuing of visas, a graduated system of residence permits for migrant workers, and the conditions for free movement of third-country nationals within the Union.***

### *Justification*

*In its resolution adopted on 3 October 2001(A5-0305/2001), the European Parliament urged the Commission and the Council to come forward with a coherent legislative framework, which would form a basis for a common immigration policy.*

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<sup>1</sup> OJ C (not yet published).

Amendment 2  
Recital 7 a (new)

**(7a) The actions of the programme should be implemented in accordance with the principles of coherence, complementarity and coordination, together with other activities in the areas of training and administrative cooperation financed from the Community budget.**

*Justification*

*The rapporteur stresses the need to avoid overlapping with other actions in the same area and to look for Community added-value in this field.*

Amendment 3  
Recital 9 (new)

**(9) The financial framework of the activities shall be compatible with the current ceiling under heading 3 of the financial perspective, with no restriction being placed on other currently funded programmes under the same heading.**

*Justification*

*The amount proposed for the framework of activities should be compatible with the ceiling laid down in the financial perspective. If, in the course of the adoption of the decision, other amounts were to be proposed by the legislative authority, the budgetary authority would need to be consulted again. In that event, the Committee on Budgets would consider the impact on the ceiling under the current financial perspective.*

Amendment 4  
Recital 10 (new)

**(10) The annual appropriation for the programme shall be determined by the budgetary authority during the budgetary procedure. Any expenditure of an administrative nature within the meaning of Article**

**19 of the Financial Regulation shall be financed from Article B5-820A relating to the programme.**

*Justification*

*The rapporteur recalls that, while it is the legislative authority which determines the multiannual budget, the annual amounts of the programme are determined during the budgetary procedure. As for administrative costs, the rapporteur considers that all expenditure of an administrative nature should be financed from the BA line relating to the programme.*

Amendment 5

Article 5, introductory part

In order to achieve the objectives set out in Article 3, this action programme shall support the activities of the Member States in the area of visas intended:

In order to achieve the objectives set out in Article 3, **and to promote cooperation between the consular administrations of the Member States**, this action programme shall support the activities of the Member States in the area of visas intended:

*Justification*

*The procedures for examining visa applications should be harmonised in the Member States as well as in their consulates, which play a crucial role in the issuing of visas.*

Amendment 6

Article 7, point (e) a (new)

**(e)a. to strengthen cooperation in the areas of illegal immigration, and the fight against organised crime and document fraud;**

*Justification*

*Illegal immigration leads to social exploitation, exclusion and marginalisation affecting a large number of people who have become victims of criminal mafias. Consequently, the rapporteur proposes that activities to guarantee their rights and to provide the necessary means for their social integration be included.*

Amendment 7

Article 12, paragraph 4

4. Annual Work Programme shall be

4. The Annual Work Programme shall be

adopted according to the management procedure referred to in Article 13 paragraph 2. The list of selected actions shall be adopted according to the advisory procedure referred to in Article 13 paragraph 3.

adopted according to the management procedure referred to in Article 13 paragraph 2. The list of selected actions shall be adopted according to the advisory procedure referred to in Article 13 paragraph 3. ***Parliament shall be regularly informed of the committee proceedings in accordance with Article 7(3) of Council Decision 1999/468/EC laying down the procedure for the exercise of implementing powers conferred on the Commission.***

*Justification*

*Your draftsman considers that Parliament should be regularly informed about the committee proceedings in accordance with the legislative act on committee.*

Amendment 8  
Article 13, paragraph 1

1. The Commission shall be assisted by a Committee, hereinafter referred to as “the ARGO Committee”, composed of ***representatives*** of ***the*** Member ***States*** and chaired by the representative of the Commission.

1. The Commission shall be assisted by a Committee, hereinafter referred to as “the ARGO Committee”, composed of ***one representative*** of ***each*** Member ***State*** and chaired by the representative of the Commission.

*Justification*

*The rapporteur considers that national representation in the ARGO Committee should be limited to one representative per Member State so as to ensure the efficiency of its activities.*

Amendment 9  
Article 14, paragraph 2

2. Each year the Commission shall submit a report to the European Parliament and the Council on the implementation of the ARGO action programme.

2. Each year the Commission shall submit a report to the European Parliament and the Council on the implementation of the ARGO action programme.

The report shall analyse all the progress achieved and shall be accompanied where necessary by any proposals for

The report shall analyse all the progress achieved and shall be accompanied where necessary by any proposals for

ensuring homogeneous application in the Member States of Community legislation founded on Articles 62 and 63 of the Treaty. The Commission shall submit the first report by 31 December 2003 at the latest and the final report by 31 December 2007 at the latest.

ensuring homogeneous application in the Member States of Community legislation founded on Articles 62 and 63 of the Treaty. The Commission shall submit the first report by 31 December 2003 at the latest and the final report by 31 December 2007 at the latest.

***When the Commission submits the preliminary draft budget, it shall forward to the budgetary authority the results of the quantitative and qualitative evaluation of the measures financed under the programme.***

#### *Justification*

*A qualitative and quantitative evaluation of the programme should be made available at the same time as the preliminary draft budget so as to provide the necessary information to the budgetary authority.*

22 February 2002

## **OPINION OF THE COMMITTEE ON PETITIONS**

for the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

on the proposal for a Council decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 – C5-0553/2001 – 2001/0230 (CNS))

Draftsman: Margot Keßler

### **PROCEDURE**

The Committee on Petitions appointed Margot Keßler draftsman at its meeting of 22 November 2001.

The committee considered the draft opinion at its meeting of 20/21 February 2002.

At that meeting it adopted the following conclusions unanimously.

The following were present for the vote: Vitaliano Gemelli, chairman; Roy Perry and Proinsias De Rossa, vice-chairmen; Margot Keßler, draftsman; Richard A. Balfe, Felipe Camisón Asensio, Glyn Ford, Janelly Fourtou, Laura González Álvarez, Ioannis Marinos, The Earl of Stockton and Christian Ulrik von Boetticher.

## SHORT JUSTIFICATION

This opinion has been drawn up in response to the Commission proposal for a Council decision on a new action programme (ARGO) designed to support the national administrations in the implementation of Community law governing external borders, visas, asylum and immigration.

The action programme has been drawn up as the successor to the joint action for the period 1998-2002, adopted by the Council in March 1998, introducing a programme of training, exchanges and cooperation in the fields of asylum, immigration and crossing of external borders (known as ODYSSEUS) with the ultimate objective of standardising the applicability of Community law in the fields referred to above so that third-country nationals might enjoy equal treatment irrespective of which national administration they approach in the Member States.

The Committee on Petitions welcomes this action programme on the grounds that an extension and strengthening of cooperation between national authorities will contribute to the abolition of existing differences in the application of Community law by the competent authorities. Failure by the competent authorities of the Member States to ensure equal treatment has been demonstrated in particular by the large number of petitions submitted to the European Parliament. In the period from 1987 to 2001, a total of 468 petitions relating to asylum, visa, immigration and external borders issues were submitted to the European Parliament's Committee on Petitions by EU citizens and third-country nationals. Of those petitions, some related to more than one of the headings referred to. The petitions are available for consultation from the secretariat of the Committee on Petitions or from the draftsman.

The Committee on Petitions welcomes in particular the qualitative improvement over the Odysseus Programme, with visas being expressly included for the first time. It emphasises this with particular regard to the petitions submitted in that connection.

A particularly warm welcome is given to the efforts to develop and spread the use of 'the best new working methods with particular attention to the computerisation process and electronic exchange of data in order to support the Member States' national administrations to face their mission with increased efficiency'<sup>1</sup>. The Committee on Petitions is convinced that the optimum use of information technologies must be guaranteed immediately, in the interests of the petitioners themselves and of all the various users of these essential computer applications, in particular by means of better access to petitions and easier processing thereof thanks to a Europe-wide common database. In so doing, the utmost care must be taken to ensure protection of privacy and the confidential nature of the data.

Finally, the Committee on Petitions finds unacceptable the delays in and obstacles raised by national authorities to the supplying of information and explanations relating to the substance of citizens' petitions submitted to the Committee on Petitions or of the complaints lodged with the European Ombudsman. Compliance with reasonable deadlines in this area is, therefore, absolutely essential. In urgent cases, and after having given a reasonable period for reply to the authorities against which criticism has been levelled, it must be able to publicise

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<sup>1</sup> See Explanatory Memorandum to the proposal for a decision, Section 2, 'Objective', third paragraph, point 1.

such failure to act on the part of the authorities before the procedure for bringing the matter before the European Court of Justice is initiated.

## CONCLUSIONS

The Committee on Petitions calls on the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, as the committee responsible, to incorporate the following points in its report:

1. Points out that it has proved very useful for third-country nationals to be able to submit petitions pursuant to Rule 174(10) of the European Parliament's Rules of Procedure. The appreciable number of petitions submitted by third-country nationals provides evidence of the problems existing in this area;
2. Proposes, with regard to electronic exchange of data, that:
  - (a) a Europe-wide common database of petitions submitted should be set up, one to which every national competent authority and the competent administrations of the European institutions would have access,
  - (b) the competent authorities in third countries should also have access to the stored data, should they have an interest in such access.

Such 'publication' by electronic means of data relating to a petition must be compatible with technological capabilities and must guarantee protection of privacy and the confidential nature of the information;

3. Calls for the national authorities to supply, within a reasonable period of time and when asked to do so by the Committee on Petitions or by the European Ombudsman, information and explanations relating to the substance of petitions and/or complaints. Problems for the petitioner resulting from delays are unacceptable;
4. Believes that, in urgent cases, and after having given to the authorities against which criticism has been levelled a reasonable amount of time in which to act, the Committee on Petitions should be able to publish details of such failure to act before proceedings before the European Court of Justice are initiated.