

10621/96

LIMITE

CK4 33

NOTE

from: German delegation

to: ~~:K.4 Committee~~

Subject: Financing of Title VI

- Draft Joint Action for adoption by the Council on the basis of Article K.3 of the Treaty on European Union establishing a programme of administrative assistance on asylum,
~~immigration and refugee policy matters in States with firm prospects of accession to the~~
European Union ("AIR")

Delegations will find the above draft Joint Action attached; it is intended for discussion at the next meeting of the Article K.4 Committee.

Draft Joint Action
of.....

adopted by the Council on the basis of Article K.3
of the Treaty on European Union

establishing a programme of administrative assistance on asylum,
immigration and refugee policy matters in States with firm prospects
of accession to the European Union ("AIR")

The Council of the European Union,

Having regard to Articles K.3(2)(b) and K.8(2) of the Treaty on European Union,

Having regard to the proposal from the Federal Republic of Germany,

Whereas the Member States consider asylum, refugee and immigration policy to be a matter of common interest;

Whereas it is appropriate and necessary to establish a programme of administrative assistance on asylum, immigration and refugee matters in States with firm prospects of accession to the European Union in order to familiarize them with the European Union's existing machinery in such matters and draw them closer to the European Union, in preparation for accession;

Whereas an undertaking of this nature can be carried out more effectively at European Union level, drawing on the expertise of all Member States, than by individual Member States working on their own,

Has adopted this Joint Action:

Article 1

1. A programme of incentives and exchanges for staff of departments involved in procedures and decisions on asylum, immigration and refugee policy matters in States with firm prospects of accession to the European Union, to be known as "AIR" [*Asylum, Immigration, Refugees*], is hereby established for the period 1996-1999, in order to:

- improve knowledge of legal rules and procedures in such matters in the States concerned;
- familiarize those States with the practical consequences of implementing the existing legislative machinery of the European Union and its Member States and with the measures required to do so;
- bring those States closer to the European Union, with a view to accession.

2. The programme shall comprise the following measures for specialized personnel from States with firm prospects of accession to the European Union, especially those taking decisions and hearing evidence in relevant proceedings:

- training;
- exchange and work-experience programmes;
- factfinding and educational visits;

- studies and research;
- distribution of information.

Article 2

The financial reference amount for the implementation of the programme for the period 1996-1999 shall be ECU [4,2] million. The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective.

Article 3

The measures referred to in Article 1(2) shall cover the following topics:

- asylum procedures, including legislation governing aliens and border police, compiling documentation on countries of origin;
- establishment and development of computer-assisted administration of population movement;
- reception and accommodation of asylum-seekers and refugees;
- assistance with integration;
- cooperation between the relevant authorities (for example, asylum and refugee authorities, immigration authorities, social welfare departments, police and border police);
- expulsion;
- role of non-governmental organizations.

Article 4

1. Projects financed by the Community must be of demonstrable European interest and involve at least one Member State and one State with firm prospects of accession to the European Union.
2. Projects may be managed by public sector or non-governmental organizations, in particular departments responsible for asylum, immigration and refugee policy matters.
3. The selection process for projects for which finance is requested shall have regard, inter alia, to:

- the extent to which the projects conform with Council Decisions on asylum, immigration and refugee policy matters that relate to States with firm prospects of accession to the European Union;
- their contribution to drawing States with firm prospects of accession closer to the European Union in the relevant field;
- their relevance and usefulness for the day-to-day work or relevant procedures in States with firm prospects of accession to the European Union;
- the quality of the institution responsible;
- the operational and practical nature of the projects;
- the relevant practical experience of the participants;
- the possible contribution to the further development of asylum, immigration and refugee policy in the European Union.

[Articles 5 to 11 – implementing and financing rules – correspond to Articles 9 to 15 of the final version of the GROTIUS programme.]

Article 12

This Joint Action shall enter into force on the day of its adoption.

It shall be applicable for a period of four years, at the end of which it may be extended.

It shall be published in the Official Journal.

Done at Luxembourg,

For the Council
The President

Grounds

Cooperation with the associated States in the fields of asylum, immigration and refugee policy is a matter of common and pressing importance to the Member States of the European Union:

At its meeting on 9 and 10 December 1994 in Essen, the European Council decided to boost and improve the process of further preparing the States of Central and Eastern Europe for accession to the European Union. This aim was confirmed by the Ministers for Justice and Home Affairs of the Member States during their discussions with the States of Central and Eastern Europe and the Baltic States on 20 June 1995 in Luxembourg. The discussions form an integral part of a structured dialogue with the States in question, something which is also called for by the European Parliament in its Recommendation of May 1995 concerning the pact for stability in Europe.

Particular importance is attached to the fields of asylum, immigration and refugee policy in the structured dialogue.

The Treaty on European Union of 7 February 1992 confirms, in the version of 1 January 1995, that the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, as general principles of Community law (Article F). The objectives of the common foreign and security policy include the development and consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms (Article J.1(2)). Reference should also be made inter alia to Article K.2(1) of the TEU. This provision obliges the Member States to deal with the matters referred to in Article K.1 in compliance with the European Convention for the Protection of Human Rights and the Geneva Convention relating to the Status of Refugees.

The Langdon Report therefore rightly includes asylum procedures as a topic to which priority should be given in cooperation with the associated States.

The Federal Republic of Germany thinks that the need to bring the associated States more into line with the standard obtaining in the Member States as regards asylum, immigration and refugee policy is also clear from the German Constitution. According to Article 16a(2) of the German Basic Law, all Member States of the European Union are described as "safe third countries". In its judgment of 14 May 1996 on the principle of "safe third countries", the Federal German Constitutional Court made it clear that this provision describes the existing situation in each of the Member States. When the associated States accede to the Union, they will therefore become "safe third countries" by virtue of the German Constitution. The Federal German Constitutional Court consequently thinks that it will be necessary on the occasion of ratification of each accession Treaty (Article O of the TEU) to ascertain whether the acceding State will comply with the obligations imposed by the European Convention for the Protection of Human Rights and the Geneva Convention relating to the Status of Refugees. When this is being done, a careful look will have to be taken not only at internal rules for transposing the two Conventions but also at the administrative and legal practice of the acceding State.

The programme therefore comprises both application of the existing legal machinery of the European Union and projects of a practical nature such as the establishing of documentation on information concerning countries of origin or the training of employees of the relevant authorities in interviewing techniques for asylum-seekers. Since the aim of the programme is to provide administrative help for all States associated with the European Union, an amount of ECU 4,2 million will be required to implement it in the period from 1996 to 1999. Past experience has, it should be noted, shown that it is above all practical training measures, which should also include the practical training of employees of the associated States operating in this area in the Member States, that prove timesaving and cost-intensive.