

General programme "Solidarity and Management of Migration Flows": External Borders Fund 2007-2013

2005/0047(COD) - 06/04/2005 - Legislative proposal

PURPOSE: proposal to establish the External Borders Fund for the period 2007-2013 as part of the general programme 'Solidarity and Management of Migration Flows'.

PROPOSED ACT: Decision of the European Parliament and of the Council.

CONTEXT: The Communication establishing a Framework programme on "Solidarity and the management of migration flows" is part of a coherent set of proposals aiming at providing an adequate support to an area of freedom, security and justice under the financial perspectives 2007-2013. Indeed, the three key objectives of freedom, security and justice are to be developed in parallel and to the same degree of intensity, thus allowing for a balanced approach, based on the principles of democracy, respect for fundamental rights and freedoms, and the rule of law. Each of these objectives is supported by a Framework programme, providing for the necessary coherence between relevant interventions in each policy area, and clearly linking political objectives and the resources available to support them. Furthermore, this structure represents a major simplification and rationalisation of existing financial support in the area of freedom, justice and security, thus allowing for greater flexibility in the allocation of priorities and increasing overall transparency.

The key objective for the "Solidarity and management of migration flows" general programme is as follows: to support the principle of solidarity in managing people flows by ensuring a fair share of responsibilities between Member States as concerns the financial burden arising from the introduction of an integrated management of the Union's external borders and from the implementation of common policies on asylum and immigration.

This solidarity will support the implementation of Community legislation relating to four complementary dimensions of management of migration flows:

- integrated management of external borders, in order to ensure an equivalent and uniform level of protection at the external borders;
- asylum policy, as is already the case under the European Refugee Fund in order to support the development and implementation of a common European asylum policy based on solidarity between Member States and promote a balance in the efforts made by Member States in bearing the consequences of receiving refugees and displaced persons;
- fight against illegal immigration, and in particular the return of illegally resident third country nationals in the EU or persons irregularly migrating towards the EU;
- admission and integration of third country nationals, in particular as regards their social, civic and cultural integration, in order to enable them to settle and take actively part in all aspects of European societies.

Consequently, four Funds are set up as part of the framework programme.

(Please also see proposals under procedure references **COD/2005/0046**, **CNS/2005/0048**, and **COD/2005/0049**.)

CONTENT: Burden-sharing between Member States and the Union for the management of external borders is one of the components of the common policy for the management of the external borders. Comparatively few Member States have land and/or sea borders of any length or geopolitical importance which require close and detailed surveillance - these bear the brunt of the responsibility for controlling illegal immigration and for safeguarding internal security by controlling the crossing of external borders of the Schengen area. They also as a result bear a disproportionate share of the costs involved not only in preventing illegal entry but equally importantly of enabling those who are authorised to do so to enter without undue delay or inconvenience.

The four main policy objectives to which the Fund will contribute are:

- to improve the efficiency of controls and thereby the effectiveness of the management and protection of external borders in order to reduce illegal entry and increase the security of the internal EU area of free movement;
- to make it easier and faster for authorised travellers to enter the EU in conformity with the Schengen acquis while protecting the EU against illegal entry;
- to achieve a uniform application of the EU law by Member States and an overall efficiency of national border guards in carrying out their tasks in accordance with EU law;
- to enhance the efficiency of the issuing of visas and the implementation of other pre-frontier checks.

It is proposed that the Fund also supports actions relating to the common visa policy. An efficient visa management can be considered as a stage preliminary to external border control and would therefore constitute an integral part of a common integrated border management system in the EU, as suggested in the Hague Programme.

Under these objectives will also be incorporated aspects of two existing financial instruments: the 'Schengen Facility' and the 'Kaliningrad Facility'.

The proposal discusses the complementarity of the Fund with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the

EU. The Agency provides the Commission and the Member States with the necessary technical support and facilitates the application of Community measures on external borders. Consequently, the Fund will only support actions by Member States at national level which contribute to the Community objectives and not actions relating to the co-operation with other Member States in the management of the external borders. Moreover, the resources set aside under the Fund for actions of interest to the Community ('Community actions') will primarily relate to visa policy (objective no 4 under the Fund), a matter which does not fall under the competence of the Agency.

New Member States are eligible for support under this Fund as of its entry into force on the 1 January 2007, even if Council Decisions have yet to be taken with respect to the application of the Schengen provisions on removing checks on persons for one or more of the new Member States concerned. The following points should be noted:

- for the purpose of the annual calculation of the length of the external borders under the distribution key, all external borders with third countries not associated with the implementation, application and development of the Schengen acquis will be counted;
- the temporary borders will be counted but only for the Member States which already fully implement the Schengen acquis;

- to underline the provisional character of the temporary borders and to express the fact that the political priorities should be with supporting the 'definitive' borders, it is proposed that the temporary borders will not be given the same weight as the 'definitive' borders.

The proposal goes on to discuss the allocation of resources. Without prejudice to the specific calculation in regard to the burden of the Kaliningrad transit Scheme, the resources will be allocated to the Member States on the basis of a distribution key defining in general the relative burden of Member States in relation to integrated border management and the common visa policy. The distribution key will consist of two components: one related to the constant elements and one to more variable elements. The available resources would be broken down between the Member States as follows:

- 40 % in proportion to the constant elements (namely the length of the external land borders, the length of the sea borders, the number of authorized border crossing points (land, air, sea) and the number of consular offices) and

- 60% in proportion to the variable elements (namely the number of persons crossing the external borders; the number of third country nationals refused entry, the number of apprehended people and the number of visa applications (visas issued and visas refused).

To ensure the use of funds in the most efficient way, the proposal contains very detailed provisions as regards the operational objectives to be achieved as well as the types of actions identified as contributing to these objectives.

In accordance with the need to rationalise and harmonise management and control systems, the provisions of this proposal are aligned with the provisions proposed for the three other Funds under the general programme on "Solidarity and Management of Migration Flows". Programming is organised on a multiannual level, with two programming periods: 2007-2010 and 2011-2013, with annual programmes implementing the multiannual programmes.

The United Kingdom and Ireland will not take part in the application of the Decision.

This proposal is one of four draft decisions which comprise the framework programme "Solidarity and management of migration flows". (Please refer to COM(2005)0123). Four Funds are set up as part of the framework programme.

The proposal on the External Border Fund, along with the draft decisions establishing the Fund for integration of legally staying third country nationals (**CNS/2005/0048**), the European Refugee Fund (**COD/2005/0046**) and the Return Fund (**COD/2005/0049**) provides for the creation of mechanisms ensuring a coherent approach of the programming, implementation and evaluation of the four instruments. The financial allocation for the Fund under the Financial Perspectives proposed by the Commission for the 2007-2013 period is EUR 2.152 million.

For further information concerning the financial implications of this measure, please refer to the financial statement.