

General programme "Solidarity and Management of Migration Flows": European Return Fund 2008-2013

2005/0049(COD) - 06/04/2005 - Legislative proposal

PURPOSE: proposal to establish the European Return 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/2005/0047**, **CNS/2005/0048**, and **COD/2005/0046**.)

CONTENT: The return of third country nationals who do not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territories of the Member States of the European Union

either because they entered illegally or overstayed their visa or residence permit, or because their asylum claim has been finally rejected is essential. In practice, however, putting into effect return policy is a considerable challenge, in particular for Member States with relatively low GDP's and little experience. Return management is a complex process: it requires the development of good working relationships with the countries of return, whilst balancing individual rights and humanitarian considerations with the state interest in law enforcement. Illegal situations are often de facto allowed to continue and Member States tend to incur substantial and ongoing costs in detaining the people

concerned for long periods as well as in engaging in protracted legal battles over their removal.

The Commission foresees that action at EU level will have a number of positive effects, including:

- ensuring the common implementation of effective procedures for the return of illegal migrants, which also protect their basic rights and human dignity;
- promoting the adoption of best practices in this regard as well as with regard to the measures taken to provide incentives to the people concerned to return to their country of origin voluntarily;
- encouraging a more intensive exchange of information between Member States on the national initiatives developed, the challenges relating to returns and the management of complex return processes, as well as the relations with third countries in this regard;
- enhancing cost-effectiveness of return measures through joint operations.

The main objectives of the Fund are the following:

- The introduction and improvement of the organisation and implementation of integrated return management by Member States;
- The enhancement of the co-operation between Member States in the framework of integrated return management and its implementation;
- The promotion of an effective and uniform application of common standards on return according to the policy development in the field.

The Fund would in principle cover the return of both immigrants and asylum seekers who have received a negative decision.

Financing return measures for rejected asylum seekers under the European Refugee Fund shall become ineligible only from 1 January 2008, in order to allow for the full implementation of the first multiannual programming cycle under the current decision. This year the Commission will initiate preparatory actions in the area of return. The preparatory actions will take place in 2005 and 2006. In order to take into account as much as possible the (first) results of these preparatory actions, it is proposed to start the implementation of the Fund only in 2008. Consequently, there is no funding foreseen in 2007.

Each Member State will receive a fixed amount of EUR 300.000 from the Fund's annual allocation.

This amount will be fixed at EUR 500.000 per annum for the period 2007-2013 for the states which acceded to the European Union on 1 May 2004. This amount will be fixed at EUR 500.000 per annum for

Member States which will accede to the European Union in the period 2007 – 2013 for the remaining part of the period 2007 - 2013 following the year of their accession. The remainder of the available annual resources shall be broken down between the Member States as follows:

- 70 % in proportion to the total number of third country nationals illegally residing or having resided illegally in the territory of the Member State and who are subject to a return decision under national and Community law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return, over the previous three years;
- 30% in proportion to the number of third country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion over the previous three years.

The financial allocation for the Fund under the Financial Perspectives proposed by the Commission for the 2008-2013 period is EUR 759 million.

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 Integration Fund, along with the draft decisions establishing the External Border Fund (COD/2005/0047), the European Refugee Fund (COD/2005/0046) and the Integration Fund (CNS/2005/0048) provides for the creation of mechanisms ensuring a coherent approach of the programming, implementation and evaluation of the four instruments.

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