

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

2005/0049(COD) - 23/05/2007 - Final act

PURPOSE: the establishment of the “**European Return Fund**”.

LEGISLATIVE ACT: Decision No 575/2007/EC of the European Parliament and of the Council establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme “Solidarity and Management of Migration Flows”.

BACKGROUND: the EU is committed to the progressive establishment of an area of freedom, security and justice. These three key objectives are to be developed in parallel and to the same degree of intensity to allow for a balanced approach based on the principles of democracy, respect for fundamental rights and freedoms, and the rule of law.

Further, the “Solidarity and Management of Migration flows” general programme is to support the principle of solidarity by ensuring a fair share of responsibilities between the 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 is to be supported, financially, through the setting up of four funds namely:

- [The European Refugee Fund](#)
- [The External Borders Fund](#)
- [The Fund for the Integration of third country nationals](#)
- [The European Return Fund](#)

The return of third country nationals who do not, or no longer, fulfil the conditions for entry to be present in, or residence on, the territories of the Member States of the EU, 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 a return policy is a considerable challenge – especially so for Member States with relatively low GDPs. Return management is a complex process: it requires the development of a good working relationship 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.

CONTENT: for the reasons outlined above, the purpose of this Decision is the establishment of a “**European Return Fund**”. Between the 1 January 2007 and 31 December 2013 the Fund will benefit from a EUR 676 million financial envelope.

**General Objectives:** The general objective of the Fund will be to support the Member States in the management of their return policies by providing joint actions to be implemented at Member State level. National actions will also be supported on condition that they pursue Community objectives and are in full compliance with fundamental rights.

**Specific Objectives:** Specifically, the Fund will seek to:

- Improve integrated return management methods in the Member States.
- Enhance Member State cooperation on integrated return management.
- Promote an effective and uniform application of common standards on return policy.

Integrated return plans should be based on comprehensive assessments of the situation in the Member States concerning the targeted population; they should encourage voluntary return schemes of third-country nationals; include time tables for the adjustment of the plan and include, where appropriate, measures to facilitate cooperation between national administrations, judicial bodies and law enforcement agencies. Further, integrated Return Plans should focus, in particular, on effective and sustainable returns through such actions as information on pre-departure stage, travel arrangements, transit in the country of return for both voluntary and enforced return. As far as possible, incentives for voluntary returnees, such as return assistance, may be provided for in order to promote voluntary return.

**Eligible Actions in the Member States:** The Decision sets out a comprehensive list of actions that will be eligible for funding including, *inter alia*, operations that effect stable and lasting operational cooperation between the Member States, operations that provide information on return as early as possible in asylum and immigration procedures; actions that encourage individuals to make use of voluntary returns; operations that seek lasting cooperation with third countries; and the organisation of seminars and joint training for staff.

Eligible measures in the Member States includes counselling to third-country national on return options, specific assistance being given to vulnerable persons such as minors, unaccompanied minors, the disabled and the elderly, costs for travel, food and temporary accommodation of returnees and their escorts in cases where a third-country national no longer fulfils the conditions for entry and stay. Some funding may also be given to returnees for reintegration measures such as training, placement and post-return assistance.

**Community measures:** Upon the initiative of the Commission, up to 7% of the Fund's available resources may be spent on transnational, Community actions. Funding will focus on enhancing Community cooperation and implementing Community law and good practices; it will support the setting up of transnational cooperation networks and pilot projects based on transnational partnerships between bodies located in two or more Member States. These partnerships should be designed to stimulate innovation, facilitate the exchange of experience and good practice and improve the quality of a return policy. Funding may also go to awareness raising campaigns, studies, pilot projects, the development of a common handbook on best practices and offering support to Member States in cases of emergency situations that require urgent action.

**Target Group:** Those targeted by the Decision include: all third country nationals who have not yet received a final negative decision but who may want to make use of voluntary return; all third countries nationals employing a form of international protection and who choose to make use of voluntary return; all third country nationals who do not, or no longer, fulfil the conditions entry and/or stay in a Member State and who wish to make use of voluntary return; all other third-country nationals who do not, or no longer, fulfil the conditions for entry and/or stay in a Member States.

The Commission will be responsible for implementing the Fund. Provisions have been put in place regarding implementation methods, the financial framework of the Fund (i.e. annual distribution of

resources for eligible actions in the Member States); the adoption of strategic guidelines; management and control systems and responsibilities and control of the Fund.

**Financial provisions:** The financial envelope for the implementation of this Decision shall be **EUR 676 million** (please refer to the financial statement).

Annual distribution of resources for eligible actions in the Member States is as follows:

- each Member State shall receive a fixed amount of EUR 300 000 from the Fund's annual allocation. This amount shall be raised to EUR 500 000 per annum for the period 2008 to 2013 for those Member States which acceded to the European Union on 1 May 2004. This amount shall be raised to EUR 500 000 per annum for those Member States which accede to the European Union during the period from 2007 to 2013 for the remaining part of the period 2008 to 2013 following the year of their accession.

The remainder of the available annual resources shall be broken down between the Member States as follows: a) 50 % in proportion to the total number of third-country nationals who do not or no longer fulfil the conditions for entry and stay in the territory of the Member State and who are subject to a return decision under national and/or 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; b) 50 % 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.

Furthermore, at the initiative of and/or on behalf of the Commission, subject to a ceiling of EUR 500 000 of the Fund's annual allocation, the Fund may finance preparatory measures, monitoring, administrative and technical support measures, as well as evaluation, audit and inspection measures necessary for implementing this Decision.

**Reporting:** On the basis of strategic guidelines adopted by the Commission, each Member State should prepare a multiannual programming document taking into account its specific situation and needs and setting out its development strategy that should constitute the framework for the implementation of the actions to be listed in the annual programmes.

The final report on the implementation of the annual programme shall include the following information in order to obtain a clear view of the implementation of the programme: a) the financial and operational implementation of the annual programme; b) the progress made in implementing the multiannual programme and its priorities in relation to its specific, verifiable targets, with a quantification, wherever and whenever they lend themselves to quantification, of the indicators; c) the steps taken by the responsible authority to ensure the quality and effectiveness of implementation, in particular: i) monitoring and evaluation measures, including data collection arrangements, (ii) a summary of any significant problems encountered in implementing the operational programme and any measures taken, (iii) the use made of technical assistance; d) the measures taken to provide information on and make public the annual and multiannual programmes.

**Territorial provisions:** the United Kingdom and Ireland have notified their wish to take part in the adoption and application of this Decision. On the other hand, Denmark shall not participate in this Decision.

**Review:** on a final point, the Parliament and Council will review the Decision, on the basis of a proposal from the Commission, by 30 June 2013.

**ENTRY INTO FORCE:** 7 June 2007. This Decision shall apply from 1 January 2008, with the exception of certain specific provisions which shall apply from 7 June 2007.

