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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the proposal for a Council decision establishing the European Fund for the Integration of Third-country Nationals for the period 2007-2013 as part of the General programme 'Solidarity and Management of Migration Flows' (COM(2005)0123 – C6-0238/2005 – 2005/0048(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Barbara Kudrycka

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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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision establishing the European Fund for the Integration of Third-country Nationals for the period 2007-2013 as part of the General programme 'Solidarity and Management of Migration Flows' (COM(2005)0123 – C6-0238/2005 – 2005/0048(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2005)0123)¹,
 - having regard to Article 63(3)(a) of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0238/2005),
 - having regard to Rules 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Budgets and the Committee on Employment and Social Affairs (A6-0000/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 5 (a) new

(5 a) This instrument should be conceived towards as a step in contributing to create a level playing field in terms of integrating third-country nationals across the Member States.

¹ OJ C ... / Not yet published in OJ.

Justification

The amendment is self-evident.

Amendment 2

Recital 14

(16) This instrument is designed to form part of a coherent framework entitled the General programme ‘Solidarity and Management in Migration Flows’, which aims at addressing the issue of 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, as developed in accordance with Title IV of the Treaty establishing the European Community.

(16) This instrument is designed to form ***an indispensable*** part of a coherent framework entitled the General programme ‘Solidarity and Management in Migration Flows’, which aims at addressing the issue of 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, as developed in accordance with Title IV of the Treaty establishing the European Community.
Consequently this instrument is adopted at the same time with Decision.../.../... establishing the European Refugee Fund for the period 2008-2013, with Decision .../.../...establishing the External Borders Fund for the period 2007-2013 and with Decision .../.../...establishing the European Fund for the Integration of Third-country nationals for the period 2007-2013.

Justification

All the funds are part of a coherent package and will be adopted together.

Amendment 3

Recital 16

(16) On the basis of the strategic guidelines adopted by the ***Commission***, each Member State should prepare a multiannual

(16) On the basis of the strategic guidelines adopted by the ***European Parliament and the Council***, each Member State should

programming document taking into account its situation and needs and setting out its development strategy, which is negotiated with the Commission and decided by the Commission, and constitutes the framework for preparing the annual programmes.

prepare a multiannual programming document taking into account its situation and needs and setting out its development strategy, which is negotiated with the Commission and decided by the Commission, and constitutes the framework for preparing the annual programmes.

Justification

The guidelines will be adopted in co-decision by the European Parliament and the Council.

Amendment 4
Recital 20

(20) In order to ensure a genuine impact, contributions from the Fund *may* not replace public expenditure by the Member States under the terms of this Decision.

(20) In order to ensure a genuine impact, contributions from the Fund ***shall add value and shall*** not replace public expenditure by the Member States under the terms of this Decision.

Justification

Contributions coming from the fund shall not replace national funds and shall add value to national policies.

Amendment 5
Recital 33

(33) The measures necessary for the implementation of this Decision should be adopted in ***accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.***

(33) The measures necessary for the implementation of this Decision should be adopted in ***an identical procedure for all the funds financed under the General programme "Solidarity and Management of Migration Flows" and are defined in the text of each Decision.***

Justification

See justification to amendment to Article 51, paragraph 1 a (new).

Amendment 6
Article 3, point c

(c) Increase of civic, cultural and political participation of third-country nationals in the host society and improvement of the dialogue between different groups of third-country nationals, the government and civil society, in order to promote their active citizenship and recognition of fundamental values;

(c) Increase of civic, cultural and political participation of third-country nationals in the host society and improve dialogue between different groups of third-country nationals, the government, ***regional and local authorities*** and civil society, in order to promote their active citizenship and recognition of fundamental values;

Justification

All these authorities are the main actors of integration policies.

Amendment 7
Article 4, paragraph 3, point b

(b) increase third-country nationals' civic participation and their role as active citizens by facilitating their participation in mainstream (volunteer) organisations or by supporting the development and implementation at local or regional level of special volunteering programmes, internship schemes and capacity building designed ***for that purpose***;

(b) increase third-country nationals' civic participation and their role as active citizens by facilitating their participation in mainstream (volunteer) organisations or by supporting the development and implementation at local or regional level of special volunteering programmes, internship schemes and capacity building designed ***thereto, in cooperation with migrant organisations***;

Justification

The participation of the organisations of migrants is crucial for the success of integration policies.

Amendment 8
Article 4, paragraph 5, point (b)

(b) increase the acceptance of migration and admission programmes in the host society through awareness raising campaigns;

(b) increase the acceptance of migration and admission programmes in the host society through awareness raising campaigns, *particularly in the media*;

Justification

The media plays a leading role in the formation of attitudes towards immigration and integration.

Amendment 9
Article 4, paragraph 6, point (d)

(d) develop high quality tests and evaluation schemes for **compulsory** integration programmes;

(d) develop high quality tests and evaluation schemes for integration programmes;

Justification

It is better not to limit this action to compulsory tests. Compulsory tests are not carried out in all Member States.

Amendment 10
Article 12, paragraph 1, point (b)

(b) any other appropriate body representing civil society, non-governmental organisations, including the social partners.

(b) any other appropriate body representing civil society, **migrants organisations**, non-governmental organisations, including the social partners.

Justification

The participation of the organisations of migrants is crucial for the success of integration policies.

Amendment 11
Article 18, paragraph 3

3. The Commission shall **adopt** the strategic guidelines relating to the first multiannual programming period (**2007-2010**) on 31 **March** 2006, and those relating to the second multiannual programming period (2011-2013) on 31 **March 2010**.

3. The Commission shall **submit** the strategic guidelines relating to the first multiannual programming period (**2008-2010**) on 31 **December** 2006 **at the latest**, and those relating to the second multiannual programming period (2011-2013) on 31 **December 2009 to the European Parliament and the Council**.

Justification

Parliament and Council need more time to adopt in co-decision the strategic guidelines. See amendment to Article 18, paragraph 4.

Amendment 12
Article 18, paragraph 4

4. The strategic guidelines shall be adopted in accordance with the procedure referred to in **Article 51(2)**.

4. The strategic guidelines shall be adopted in accordance with the procedure referred to in **article 251 of the Treaty**.

Justification

This decision is just the skeleton of the programme. The strategic guidelines are fundamental for the correct implementing of the fund and therefore should be adopted under the co-decision procedure.

Amendment 13
Article 26, paragraph 3 a (new)

(3. a) The Commission shall assist the Member States in the training of staff, in particular as regards the correct application of Chapter V-IX of this Decision.

Justification

The implementation of this programme will be heavy and the staff in Member States need

training.

Amendment 14
Article 31, paragraph 1

1. Member States shall be responsible for ensuring sound financial management of multiannual and annual programmes and the legality and regularity of underlying transactions.

1. Member States shall be responsible for ensuring sound financial management of multiannual and annual programmes and the legality and regularity of underlying transactions. ***Each Member State shall give together with the final annual report referred to in Article 51 for each annual work programme a formal ex-post declaration of assurance. The Commission shall suspend payments in the event of non-compliance with this obligation.***

Justification

In those cases in which the Member States are responsible for implementing the Union budget they should also assume the political responsibility that the appropriations are spend correctly.

Amendment 15
Article 35, paragraph 5 a (new)

(5. a) Member States should guarantee that all expenditure is legal, regular and respects the principle of sound financial management.

Justification

This is a basic rule for a correct financial management.

Amendment 16
Article 49, paragraph 3, point a

(a) no later that 30 June 2010, ***an evaluation*** report on the ***implementation of actions co-financed by the Fund***;

(a) no later than 30 June 2010, ***a*** report on the ***application of the criteria set out in Article 14 for the annual breakdown of resources between Member States, together with proposals for amendments if deemed necessary***;

Justification

It is important that if the evaluation shows that the criteria under article 14 are not effective, it is foreseen the possibility to modify them under the mid term revision.

Amendment 17 **Article 52, paragraph 1 a (new)**

(1 a) The "Committee". It shall be composed of the representatives of the Member States and chaired by the representative of the Commission.

Justification

The right of the Council, as legislator, to partly delegate its implementing powers to the Commission, has been recognized by the European Court of Justice since 1970 (decision Koster 25/70). The Court of Justice decision also required that such a delegation should specify the principles as well as the conditions for its exercise (as setting-up Committees of Member States' representatives to assist the Commission) and eventually the power 'to callback' the delegation.

These principles have been inserted in Article 202 TEC. The Council however 'forgot' in implementing the Article 202 (in the Comitology Decision 1999/468) to recognize the same right of 'call-back' in acts decided by codecision for the European Parliament.

In order to have the benefit of this right, the European Parliament would have to insert it in the initial decision foreseeing the delegation of implementing powers. This is the purpose of the amendments to Article 39. Instead of making reference to the Articles of the Decision 1999/468, the amendments reproduce their content when it comes to the role of the Council, and propose similar prerogatives for the European Parliament (including the power to 'call back').

Amendment 18 **Article 51, paragraph 2**

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of the Article 8 thereof. ***Deleted***

Justification

See justification to amendment to Article 51, paragraph 1 a (new).

Amendment 19

Article 51, paragraph 2 a (new)

(2. a) Where this Decision imposes procedural requirements for the adoption of implementing measures, the representative of the Commission shall submit a draft of those measures to the Committee and to the European Parliament. The Committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter which shall not be less than one month. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

Justification

See justification to amendment to Article 51, paragraph 1 a (new).

Amendment 20

Article 51, paragraph 2 b (new)

(2. b) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee and if no objection has been raised in the meantime by the competent committee of the European Parliament.

Justification

See justification to amendment to Article 51, paragraph 1 a (new).

Amendment 21

Article 51, paragraph 2 c (new)

(2. c) Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, or an objection has been raised by the

competent committee of the European Parliament, the Commission shall, without delay, submit to the Council and to the European Parliament a proposal relating to the measures to be taken.

Justification

See justification to amendment to Article 51, paragraph 1 a (new).

Amendment 22
Article 51, paragraph 2 d (new)

(2. d) If, within a period which may not exceed three months from the referral, the proposal has not been rejected either by the European Parliament, by an absolute majority of its members, or by the Council, acting by qualified majority, it shall be adopted by the Commission. Otherwise the Commission shall submit an amended proposal or present a legislative proposal on the basis of the Treaty.

Justification

See justification to amendment to Article 51, paragraph 1 a (new).

Amendment 23
Article 51, paragraph 2 e (new)

(2. e) Without prejudice to any implementing measures already adopted, application of the provisions of this Regulation which provide for the adoption of technical rules and decisions shall cease four years after the entry into force of this Decision.

Justification

See justification to amendment to Article 51, paragraph 1 a (new).

Amendment 24
Article 51 a (new)

Publication of projects

Member States shall publish every year the list of projects financed under this programme with a short description of each project.

Justification

This is important for transparency reasons.

Amendment 25
Article 51 b (new)

Acknowledgement of Funding

Any institution, association or activity receiving a grant from this programme has the obligation to acknowledge the support received by the European Union. To this end the Commission shall lay down detailed visibility guidelines.

Justification

Financial support from the EU should always be acknowledged. This is a matter of transparency as well as an important tool to communicate the Union's efforts. The Commission has already elaborated detailed visibility guidelines for external aid (http://europa.eu.int/comm/europeaid/visibility/index_en.htm) that could be used as a general model.