



4.10.2018

DRAFT OPINION

of the Committee on Development

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council
establishing the Asylum and Migration Fund
(COM(2018)0471 – C8-0271/2018 – 2018/0248(COD))

Rapporteur for opinion: Elly Schlein

PA_Legam

SHORT JUSTIFICATION

The Commission has presented to the European Parliament and the Council a proposal establishing the Asylum and Migration Fund, as part of the Multiannual Financial Framework (MFF) 2021-2027. The Fund will provide support to the efficient management of migration by EU Member States with an envelope of EUR 10, 4 billion.

The migration crisis has shown the need for a common European approach based on solidarity and fair sharing of responsibility. The Rapporteur therefore welcomes the increase of the budget available for migration and asylum as an essential step to build a strong, fair and effective asylum and reception system within the EU.

However, the Rapporteur considers that the proposal as it stands puts excessive emphasis on increasing return rates. In fact, the proposed criteria for the allocation of funding to the national programmes under shared management provide that 40% of this funding will be destined depending on indicators related to countering irregular migration and issuing returns to the detriment to actions in the field of asylum, legal migration and integration. This would create incentives for Member States to issue and enforce return decisions, without taking into account the risks for returnees and possible impact for countries of origin.

The steps taken by the Commission to build a robust EU migration policy have to be welcomed. However, the Rapporteur believes that the European Parliament and the Council should include in the proposal the necessary guarantees for returnees and countries of origin. Return decisions cannot be taken without a comprehensive assessment of the situation in countries of origin and the absorption capacity at the local level. It is essential to verify the possible impact of returnees on the stability of the countries of origin, as returns could contribute to conflict, friction and fragility.

In addition, the Parliament and the Council should ensure that EU relations with third countries are not conditional to the cooperation in the field of return and readmission. Cooperation with third countries should be based on mutual interest and a comprehensive approach rather than on EU interests and priorities in the field of migration. A narrow focus on migration management can jeopardize EU cooperation with third countries.

AMENDMENTS

The Committee on Development calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) The Fund should support the

Amendment

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efficient management of migration flows, inter alia by promoting common measures in the area of asylum, including Member States' efforts in receiving persons in need of international protection through resettlement and the transfer of applicants for or beneficiaries of international protection between Member States, supporting integration strategies and a more effective legal migration policy, so as to ensure the Union's long-term competitiveness and the future of its social model **and reduce incentives for** irregular migration **through** a sustainable return and readmission policy. The Fund should support the strengthening of cooperation with third countries to reinforce management of flows **of persons applying for asylum or other forms of international protection**, avenues on legal migration and to counter irregular migration and ensure sustainability of return and effective readmission to third countries.

efficient management of migration flows, inter alia by promoting common measures in the area of asylum, including Member States' efforts in receiving persons in need of international protection through resettlement and the transfer of applicants for or beneficiaries of international protection between Member States, supporting integration strategies and a more effective legal migration policy, so as to ensure the Union's long-term competitiveness and the future of its social model, **counter** irregular migration **and implement** a sustainable return and readmission policy. The Fund should support the strengthening of cooperation with third countries to reinforce management of flows, avenues on legal migration and to counter irregular migration and ensure sustainability of return and effective readmission to third countries. **Cooperation with third countries shall be genuinely based on mutual interest.**

Or. en

Amendment 2

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Partnerships and cooperation with third countries are an essential component of Union asylum policy to ensure the adequate management of flows of persons applying for asylum or other forms of international protection. With the aim of replacing the unsafe and irregular arrivals with legal and safe arrival to the territory of the Member States of third-country nationals or stateless persons in need of international protection, expressing solidarity with countries in regions to

Amendment

(11) Partnerships and cooperation with third countries are an essential component of Union asylum policy to ensure the adequate management of flows of persons applying for asylum or other forms of international protection. With the aim of replacing the unsafe and irregular arrivals with legal and safe arrival to the territory of the Member States of third-country nationals or stateless persons in need of international protection, expressing solidarity with countries in regions to

which or within which a large number of persons in need of international protection have been displaced by helping to alleviate the pressure on those countries, helping achieve the Union's migration policy objectives **by increasing the Union's leverage vis-à-vis third countries**, and of effectively contributing to global resettlement initiatives by speaking with one voice in international fora and with third countries, the Fund should provide financial incentives to the implementation of the Union Resettlement [and Humanitarian Admission] Framework.

which or within which a large number of persons in need of international protection have been displaced by helping to alleviate the pressure on those countries, helping achieve the Union's migration policy objectives and of effectively contributing to global resettlement initiatives by speaking with one voice in international fora and with third countries, the Fund should provide financial incentives to the implementation of the Union Resettlement [and Humanitarian Admission] Framework.

Or. en

Amendment 3

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) Specific support measures for returnees in the Member States and in the countries of return can improve conditions of return and enhance their reintegration.

Amendment

(23) Specific support measures for returnees, **with a particular attention to their humanitarian and protection needs**, in the Member States and in the countries of return can improve conditions of return and enhance their reintegration. **Return decisions shall be based on a comprehensive and careful assessment of the situation in the country of origin, including an evaluation of the absorption capacity at the local level. Specific measures and actions supporting countries of origin, and in particular vulnerable people, contribute to ensure the sustainability and effectiveness of returns.**

Or. en

Amendment 4

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) Measures in and in relation to third countries supported through the Fund should complement other actions outside the Union supported through the Union's external financing instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action **and** foreign policy in respect of the country or region in question and the Union international commitments. In relation to the external dimension, the Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management ***in areas of interest to the Union's migration policy.***

Amendment

(30) Measures in and in relation to third countries supported through the Fund should complement other actions outside the Union supported through the Union's external financing instruments. In particular, in implementing such actions, full coherence should be sought with the principles and general objectives of the Union's external action, foreign policy **and development policy** in respect of the country or region in question and the Union international commitments. In relation to the external dimension, the Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management.

Or. en

Amendment 5

Proposal for a regulation Article 3 – paragraph 2 – point c

Text presented by the Commission

(c) to contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries

Amendment

(c) to contribute to countering irregular migration and ensuring effectiveness **and sustainability** of return and readmission in third countries ***for both returnees and countries of origin.***

Or. en

Justification

Returns can have destabilizing effects on countries of origins and entail humanitarian and

protection risks for returnees. Therefore, ensuring the sustainability of return decisions for both countries of origins and returnees remains essential.

Amendment 6

Proposal for a regulation

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

The Fund shall be open to third countries in accordance with the conditions laid down in a specific agreement covering the participation of the third country to the Asylum and Migration Fund, provided that the agreement:

Amendment

The Fund shall be open to third countries ***for activities in the field of legal migration, return and readmission*** in accordance with the conditions laid down in a specific agreement covering the participation of the third country to the Asylum and Migration Fund, ***which should be made publicly available***, provided that the agreement:

Or. en

Justification

The EC proposal allows third countries to be associated with the AMF strengthening EU support to third countries under this Fund. However, article 5 fails to clearly specify the areas of cooperation allowed under the AMF, making it difficult to assess the possible impact on third countries. Therefore, it is essential to limit cooperation with third countries under this Fund to the domain of internal affairs and specifically to legal migration, return and readmission; avoiding to destabilize third countries with a narrow approach based on EU interests and priorities on migration management.

Amendment 7

Proposal for a regulation

Article 29 – paragraph 1

Text proposed by the Commission

1. The Commission shall carry out a mid-term and a retrospective evaluation of this Regulation, including the actions implemented under the Fund.

Amendment

1. The Commission shall carry out a mid-term and a retrospective evaluation of this Regulation, including the actions implemented under the Fund ***and the assessment of the impact of***

returns on Third countries.

Or. en

Amendment 8

Proposal for a regulation

Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The result of the evaluation shall be made public and accessible.

Or. en

Justification

The evaluation of the Fund shall also cover the impact of returns on third countries. In addition, the results of this evaluation shall be made public and accessible in order to ensure transparency in the use of funding, and guarantee full scrutiny of the European Parliament and civil society.

Amendment 9

Proposal for a regulation

Annex I – point 1

Text proposed by the Commission

Amendment

1. The available resources referred to in Article 11 shall be broken down between the Member States as follows:

(a) Each Member State shall receive a fixed amount of EUR 5 000 000 from the Fund at the start of the programming period only;

(b) The remaining resources referred to in Article 11 shall be distributed based on the following criteria:

– **30 %** for asylum;

1. The available resources referred to in Article 11 shall be broken down between the Member States as follows:

(a) Each Member State shall receive a fixed amount of EUR 5 000 000 from the Fund at the start of the programming period only;

(b) The remaining resources referred to in Article 11 shall be distributed based on the following criteria:

– **40%** for asylum;

– **30 %** for legal migration and integration;
– **40%** for countering irregular migration including returns.

– **40%** for legal migration and integration;
– **20%** for countering irregular migration including returns.

Or. en

Justification

The allocation of funding for national programmes proposed by the European Commission may create incentives for the Member States to issue and enforce return decisions to the detriment to actions in the field of asylum, legal migration and integration. The preoccupation with returns could discourage Member States from devoting a particular attention to the impact returns can have on countries of origin and returnees.

Amendment 10

Proposal for a regulation Annex I – point 4

Text proposed by the Commission

4. ***The following criteria in the area of countering irregular migration including returns will be taken into account and shall be weighted as follows:***

(a) 50% in proportion to the 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;

(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

Amendment

4. ***The*** 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, ***will be taken into account in the area of countering irregular migration including returns.***

order to leave, whether undertaken voluntarily or under coercion.

Or. en

Justification

The allocation of funding for national programmes proposed by the European Commission may create incentives for the Member States to issue and enforce return decisions to the detriment to actions in the field of asylum, legal migration and integration. The preoccupation with returns could discourage Member States from devoting a particular attention to the impact returns can have on countries of origin and returnees.

Amendment 11

**Proposal for a regulation
Annex III – point 4 – point d**

Text proposed by the Commission

(d) countering *incentives for* irregular migration, including the employment of irregular migrants, through effective and adequate inspections based on risk assessment, the training of staff, the setting-up and implementation of mechanisms through which irregular migrants can claim back payments and lodge complaints against their employers, or information and awareness-raising campaigns to inform employers and irregular migrants about their rights and obligations pursuant to Directive 2009/52/EC8;

Amendment

(d) countering irregular migration, including the employment of irregular migrants, through effective and adequate inspections based on risk assessment, the training of staff, the setting-up and implementation of mechanisms through which irregular migrants can claim back payments and lodge complaints against their employers, or information and awareness-raising campaigns to inform employers and irregular migrants about their rights and obligations pursuant to Directive 2009/52/EC8;

Or. en

Amendment 12

**Proposal for a regulation
Annex III – point 4 – point d a (new)**

Text proposed by the Commission

Amendment

(da) assessment of the situation and stability of the countries of origin, and of the absorption capacity at the local level;

Or. en

Justification

Returns can have destabilizing effects on countries of origins and entail humanitarian and protection risks for returnees. Therefore, it is of utmost importance to assess the situation in the countries of origin and the absorption capacity at the local level.

Amendment 13

Proposal for a regulation Annex III – point 4 – point h

Text proposed by the Commission

Amendment

(h) removal operations, including related measures, in accordance with the standards laid down in Union law, with the exception of coercive equipment;

(h) removal operations, including related measures, ***in full respect of human rights and*** in accordance with the standards laid down in Union law, with the exception of coercive equipment;

Or. en

Justification

Cooperation with third countries on returns should be in line with international and human rights standards.

Amendment 14

Proposal for a regulation Annex III – point 4 – point i

Text proposed by the Commission

Amendment

(i) measures to support the returnee's

(i) measures to support, ***with a long term approach***, the returnee's durable

durable return and reintegration;

return and reintegration;

Or. en

Amendment 15

Proposal for a regulation Annex III – point 4 – point j

Text proposed by the Commission

Amendment

(j) ***facilities and services*** in third countries ensuring appropriate temporary accommodation and reception upon arrival, ***including for unaccompanied minors and other vulnerable groups*** in line with international standards;

(j) ***support to*** third countries ***in*** ensuring appropriate temporary accommodation and reception upon arrival in line with international standards;

Or. en

Justification

While EU support to third countries in ensuring appropriate reception and accommodation of returnees should be welcomed, more clarity is needed on the actions and measures the EU can take in the cooperation with third countries under the AMF. General reference to facilities and services should therefore be deleted as they seem to exceed the objectives of the AMF.

Amendment 16

Proposal for a regulation Annex III – point 4 – point k

Text proposed by the Commission

Amendment

(k) ***cooperation with third countries on countering irregular migration and on effective return and readmission, including in the framework of the implementation of readmission agreements and other arrangements;***

deleted

Or. en

Amendment 17

Proposal for a regulation Annex III – point 4 – point m

Text proposed by the Commission

(m) support for and actions in third countries, ***including on infrastructure, equipment and other measures***, provided these contribute to enhancing effective cooperation between third countries and the Union and its Member States on return and readmission.

Amendment

(m) support for and actions in third countries, provided these contribute to enhancing effective cooperation between third countries and the Union and its Member States on return and readmission.

Or. en

Justification

While EU support to third countries in ensuring appropriate reception and accommodation of returnees should be welcomed, more clarity is needed on the actions and measures the EU can take in the cooperation with third countries under the AMF. General reference to infrastructure, equipment and other measures should therefore be deleted as they seem to exceed the objectives of the AMF.