

# EUROPEAN PARLIAMENT

2004



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*Committee on Budgets*

**2005/0046(COD)**

28.3.2006

## OPINION

of the Committee on Budgets

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a decision of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 - 2013 as part of the General programme "Solidarity and Management of Migration Flows" (COM(2005)0123 – C6-0124/2005 – 2005/0046 (COD))

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## SHORT JUSTIFICATION

The Commission proposed a *new Heading 3* on Citizenship, Freedom, Security and Justice in its proposals for the next financial framework of the Union (2007-2013) presented to Parliament and Council<sup>1</sup> with a total allocation of **EUR 24,705 billion** out of which 65% were proposed to be addressed to the completion of an Area of Freedom, Security and Justice. In its resolution of 8 June 2005 "Policy Challenges and Budgetary Means of the Enlarged Union 2007-2013"<sup>2</sup> Parliament proposed an increase of **EUR 1 billion** (2004 prices) specifying that it should be dedicated to fundamental rights and the fight against crime. The European Council in its agreement of 15/16. December however proposes an amount of only **EUR 6,630 billion** for this policy area.

### I. COMMISSION PROPOSAL

This proposal is one of the four draft decisions which comprise the framework programme "*Solidarity and Management of Migration Flows*"<sup>3</sup> presented by the Commission on 6 April 2005 and proposed for a period from January 2007 to December 2013 with a global allocation of EUR 5.866 million in commitment appropriations. Four funds are set up as part of the framework programme: The European Refugee Fund, the External Border Fund, the Integration Fund and the Return Fund.

The present proposal concerns the *European Refugee Fund* which mainly aims at supporting and encouraging the efforts made by the Member States in receiving and bearing the consequences of receiving refugees and displaced persons, including in the case of a sudden mass influx of displaced persons. The issue of financial support for certain aspects of a Community-wide system of resettlement (Lambert Report)<sup>4</sup> has however not yet been incorporated in the Commission proposal.

The *target group* comprises:

- *refugees* in the sense of the Geneva Convention of 1951 as amended by the New York Protocol of 1967 who are permitted to reside in one of the Member states, including those who are applying for this status;
- third-country nationals and stateless persons who enjoy subsidiary protection within the meaning of Directive 2004/83/EC, including those who are applying for this status;
- third-country nationals and stateless persons who enjoy temporary protection within the meaning of Directive 2001/55/EC (mass influx of displaced persons).
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- The Fund shall support actions (eligible actions) in Member States relating to:
- reception conditions and asylum procedures;

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<sup>1</sup> COM(2004)0101.

<sup>2</sup> P6\_TA(2005)0224.

<sup>3</sup> COM (2005)0123.

<sup>4</sup> Paragraph 8 of EP Resolution P6\_TA(2004)0100 of 15 December 2004.

- integration of persons from the target group whose stay in the Member State is of a lasting and stable nature;
- voluntary return of persons from the target group except for those that have received a negative decision further to their request for international protection under the Geneva Convention of 28 July 1951 and the 1967 protocol thereto, or a form of subsidiary protection within the meaning of Council Directive 2004/83/EC.
- An amount of EUR 10 million will be annually reserved to cover the first few weeks of action in the case of a mass influx of refugees or displaced persons (emergency measures).

According to the Commission proposal **Member States** will be allocated a fixed amount each year (EUR 300 000). This amount will be higher for the states which acceded to the European Union on 1 May 2004 and for Member States which accede to the European Union in the period 2007 – 2013 (EUR 500 000).

The remainder of the available annual resources will be broken down between Member States as follows:

- 30% in proportion to the number of persons admitted as *refugees* or admitted as *subsidiarily protected persons* over the previous three years;
- 70% in proportion to the number of persons registered over the previous three years as *applicants* for the status of refugee or of subsidiarily protected person or admitted as *temporarily protected person*.

The financial allocation for the Fund for the period 2007-2013 is **EUR 1.184 million** which breaks down as follows:

	2007	2008	2009	2010	2011	2012	2013	2014...	TOTAL
<b>Operational Expenditure</b>									
<b>C.A.</b>	60	140	140	150	200	204,2	208,6		<b>1.102,8</b>
<b>P.A.</b>	54,77	105	150	145	175	202,1	206,4	64,52	<b>1.102,8</b>
<b>Administrative Expenditure</b>	1,3	1,6	1,5	1,6	1,85	1,55	1,8		<b>11,2</b>
<b>Emergency Measures</b>	10	10	10	10	10	10	10		<b>70</b>
<b>C.A. + Admin. Expenditure + Emergency Measures</b>	<b>71,3</b>	<b>151,6</b>	<b>151,5</b>	<b>161,6</b>	<b>211,85</b>	<b>215,75</b>	<b>220,4</b>		<b>1.184</b>

## II. RAPPORTEUR'S PROPOSALS

The Commission proposal can be welcomed but raises a number of comments:

1. The appropriations indicated in the proposal for a decision are purely for guidance until an agreement is reached on the financial perspective for the period 2007-13. Regarding this particular point, several amendments are tabled.

2. In order to assure coherence and simplification, a common article on implementing measures for the fund to be discussed within the advisory committee is proposed. This article includes the annual work programme the guidelines and the proposals for project selection among other measures to be adopted within the aforementioned committee in order to assure transparency. An amendment is thus proposed to create a new Article 21a.
3. In order to assure an efficient comitology procedure, the Committee on Budget's traditional approach of advocating the use of the advisory procedure should be followed. Thus an amendment to Article 51 is proposed. At the same time however the Parliament should ensure that its legislative powers are respected. To that end amendments are proposed so as not to lose its say over the strategic guidelines which are of a political nature rather than technical implementing measures.
4. It is important to ensure democratic scrutiny by means of suitable arrangements for fund monitoring and evaluation. Amendments have therefore been tabled to the corresponding articles in this respect.
5. It is preferable to finance the emergency measures outside the headings of the financial perspective so as to avoid that every year budgetary appropriations have to remain available in the budget without guarantee of them being used. Several amendments are tabled to meet this objective.

## **AMENDMENTS**

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

### **I. Draft legislative resolution**

#### Amendment 1 Paragraph 1 a (new)

***1a. Specifies that the appropriations indicated in the proposal for a decision are purely for guidance until agreement is reached on the financial perspective for the period 2007 and the following years;***

#### Amendment 2 Paragraph 1 b (new)

***1b. Calls on the Commission to submit, where appropriate, a proposal to adjust the financial reference amount for this programme once the next multiannual financial framework has been adopted;***

#### *Justification*

*Amendments emphasising that the amounts proposed are subject to confirmation by a possible multiannual financial framework. Once decided, the Commission shall present another legislative proposal in order to determine the final reference amount.*

Amendment 3  
Paragraph 2 a (new)

**2a. *Reiterates that any change of the rules concerning shared management pursuant to Article 53(3) of the Financial Regulation (Council Regulation 1605/2002/EC of 25 June 2002) should be dealt with horizontally within the framework of the current review of the Financial Regulation.***

*Justification*

*The provisions of the Financial Regulation and its implementing rules concerning shared management are extensive and sufficient to deal with the management of all Community funds. Exceptions to the rules of the Financial Regulation should be reduced to the minimum and in principle dealt with within the text of the Financial Regulation itself.*

## **II. Proposal for a Decision**

Text proposed by the Commission<sup>5</sup>

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Amendments by Parliament

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Amendment 4  
Recital 10 a (new)

***(10a) Applicant States may have an immediate need for financial assistance to help cover expenditure relating to a mass influx of refugees as described in Council Directive 2001/55/EC. Where an applicant State so requests, advance funding should therefore be made upon receipt of that application, subject to budgetary availability.***

*Justification*

*Prevents that each year budgetary appropriations have to remain available in the budget without guarantee of them being used and whilst eating up the margin in the new Heading 3A. It is preferable to finance these measures outside the headings of the financial perspective, following the model of the Solidarity Fund (Council Regulation 2012/2002/EC of 11 November 2002, OJ L 311 of 14.11.2002, and Reform Proposal COM(2005)108 of 6. April 2005.*

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<sup>5</sup> OJ C ..., 8.12.2005, p. ....

Amendment 5  
Recital 10 b (new)

***(10b) It is appropriate to allow a rapid decision to be taken to commit specific financial resources and mobilise them as quickly as possible. Administrative procedures should be adjusted accordingly and confined to the minimum absolutely necessary. To this end, the EP, the Council and the Commission have concluded the Interinstitutional Agreement of 7. November 2002.***

*Justification*

*Prevents that each year budgetary appropriations have to remain available in the budget without guarantee of them being used and whilst eating up the margin in the new Heading 3A. It is preferable to finance these measures outside the headings of the financial perspective, following the model of the Solidarity Fund (Council Regulation 2012/2002/EC of 11 November 2002, OJ L 311 of 14.11.2002, and Reform Proposal COM(2005)108 of 6. April 2005.*

Amendment 6  
Recital 10 c (new)

***(10c) The mechanisms for payment and use of grants under this Decision should reflect the urgency of the situation. Therefore a deadline should be laid down for the use of the financial assistance awarded.***

*Justification*

*Prevents that each year budgetary appropriations have to remain available in the budget without guarantee of them being used and whilst eating up the margin in the new Heading 3A. It is preferable to finance these measures outside the headings of the financial perspective, following the model of the Solidarity Fund (Council Regulation 2012/2002/EC of 11 November 2002, OJ L 311 of 14.11.2002, and Reform Proposal COM(2005)108 of 6. April 2005.*

Amendment 7  
Article 5 a (new)

***Article 5a***

### ***Applications***

***As soon as possible and no later than ten weeks after the start of the mass influx of refugees, an eligible State may submit to the Commission an application for assistance from the Fund, providing all available information.***

### ***Justification***

*Prevents that each year budgetary appropriations have to remain available in the budget without guarantee of them being used and whilst eating up the margin in the new Heading 3A. It is preferable to finance these measures outside the headings of the financial perspective, following the model of the Solidarity Fund (Council Regulation 2012/2002/EC of 11 November 2002, OJ L 311 of 14.11.2002, and Reform Proposal COM(2005)108 of 6. April 2005.*

### **Amendment 8 Article 5 b (new)**

### ***Article 5b***

### ***Advance Funding***

***Immediately upon receipt of the application referred to in Article 5 a, the Commission may, subject to budgetary availability, adopt a decision granting advance funding for the most urgent eligible operations and pay the advance funding to the State concerned in a single instalment without delay.***

***This shall apply only where the application contains an explicit request for advance funding.***

### ***Justification***

*Prevents that each year budgetary appropriations have to remain available in the budget without guarantee of them being used and whilst eating up the margin in the new Heading 3A. It is preferable to finance these measures outside the headings of the financial perspective, following the model of the Solidarity Fund (Council Regulation 2012/2002/EC of 11 November 2002, OJ L 311 of 14.11.2002, and Reform Proposal COM(2005)108 of 6. April 2005.*

Amendment 9  
Article 5 c (new)

*Article 5c*  
***Budget Procedure***

***1. If the Commission has concluded that financial assistance should be granted from the Fund, it shall submit to the budgetary authority the proposals needed to authorise appropriations corresponding to the amount determined in accordance with Article 22.***

***2. Once the appropriations are made available by the budgetary authority, the Commission shall adopt a grant decision, taking into account any advance funding paid pursuant to Article 5 b.***

*Justification*

*Prevents that each year budgetary appropriations have to remain available in the budget without guarantee of them being used and whilst eating up the margin in the new Heading 3A. It is preferable to finance these measures outside the headings of the financial perspective, following the model of the Solidarity Fund (Council Regulation 2012/2002/EC of 11 November 2002, OJ L 311 of 14.11.2002, and Reform Proposal COM(2005)108 of 6. April 2005.*

Amendment 10  
Article 13, paragraph 1

1. The financial reference amount for the implementation of ***the Fund from 1 January 2008 to 31 December 2013 shall be EUR 1.112,7 million.***

1. The ***indicative*** financial reference amount for the implementation of ***this instrument is set at EUR 1.112,7 million for the period of 6 years as from 1 January 2008.***

*Justification*

*This amendment emphasises that the amounts proposed are subject to confirmation by a possible multiannual financial framework. Once decided, the Commission shall present a legislative proposal in order to determine the final reference amount.*

Amendment 11  
Article 14, paragraph 1, subparagraph 3



This amount shall be fixed at EUR 500.000 per annum for Member States which will accede to the European Union in the period **2008** – 2013 for the remaining part of the period 2008 - 2013 from the year following their accession.

This amount shall 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 2008 - 2013 from the year following their accession.

*Justification*

*The decision on the date of the accession of Romania and Bulgaria is before us. These two countries can not be punished by 200.000 euros for 6 years only because they were able to join in 2007.*

Amendment 12  
Article 15 a (new)

***Article 15a***

***The provisions of the Financial Regulation shall apply. If the Commission intends to depart from those provisions for any specific needs of the fund, it shall explicitly and separately inform the European Parliament committee responsible for budgetary matters of this fact.***

*Justification*

*Transparency in respect of the application of the provisions of the Financial Regulation. This amendment should be seen together with am. 4 on Article 53, par. -1 new allowing for a mid-term review*

Amendment 13  
Article 18 a (new)

***Article 18a***

***Before adopting the strategic guidelines referred to in Article 18, on which the multi-annual programme will be based, the Commission shall submit the draft text to the European Parliament and the Council. Within three months of the submission of the draft text, each institution may either suggest amendments, if it considers that the draft text does not meet the objectives laid down by the legislative authority, or object to the adoption of that text and, possibly, ask the Commission to submit a proposal for a legislative act to be adopted in accordance***

***with Article 251 of the Treaty.***

*Justification*

*It is imperative that the EP keeps influence over the strategic guidelines, since they are of a political nature rather than purely technical implementing measures. In principle, the EP should insist that the co-decision procedure of Article 251 be maintained for the adoption of the strategy papers. But in order to provide some flexibility for the Commission a procedure is proposed where the strategy papers can be decided upon in comitology, provided that neither of the institutions objects. This would mean that only in case that the draft texts by the Commission meet heavy opposition by the co-legislators, the legislative procedure would have to be followed.*

Amendment 14  
Article 21 a (new)

***Article 21a***

***Implementing measures***

***The measures necessary for the implementation of the programme relating to the following matters shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 52:***

- (a) the annual work programme;***
- (b) the annual budget and distribution of funds between the various actions of the European Refugee Fund;***
- (c) the general guidelines for implementing the European Refugee Fund and the selection criteria procedures;***
- (d) the distribution of funds among the actions to be managed through the corresponding national authorities;***
- (e) the arrangements for monitoring and evaluating the actions and for the dissemination and transfer of results;***
- (f) the proposals for project selection.***

*Justification*

*An article on the implementing measures has to be introduced in order to separate technical adaptation via committees from political sensitive change, to be done by the co-legislators EP / Council. The traditional approach of the Committee on Budgets is the advisory procedure*

*pursuant to Council Decision 468/1999 in order to assure efficient and speedy procedures. The Commission proposals for project selection may be submitted to the Committee for transparency reasons.*

Amendment 15  
Article 30, paragraph 1, letter (b)

(b) ensure that audits are carried out on actions on the basis of an appropriate sample to verify expenditure declared; the sample shall represent at least **10%** of the total eligible expenditure for each annual programme;

(b) ensure that audits are carried out on actions on the basis of an appropriate sample to verify expenditure declared; the sample shall represent at least **20%** of the total eligible expenditure for each annual programme;

*Justification*

*In its 2003 and 2004 Annual Reports the European Court of Auditors identified shortcomings in the control systems employed in connection with the European Refugee Fund. With a view to remedying such shortcomings in the future, Member States should ensure that measures are administered in a manner consistent with current Community rules by carrying out checks on at least 20% of the total eligible expenditure. This is also in keeping with the recommendation made by the European Court of Auditors.*

Amendment 16  
Article 49, paragraph 1, subparagraph 1 a (new)

***The Commission shall ensure that the actions covered by this Decision are subject to prior evaluation, monitoring and ex-post evaluation. It shall ensure that the programme is accessible and is implemented in a transparent manner***

*Justification*

*The programme needs to be monitored and evaluated at the appropriate times, so as to ensure democratic scrutiny.*

Amendment 17  
Article 49, paragraph 3 a (new)

***3a. The Commission shall give the European Parliament and the Council regular and timely notice of the implementation of the programme, in particular the use of the available resources.***

*Justification*

*The two arms of the budgetary authority should receive regular and early information in order to ensure that the programme is monitored and assessed in an effectively*

Amendment 18  
Article 50, paragraph 4

4. The Commission shall submit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: no later than 31 December 2012 for the period 2008-2010 and 31 December 2015 for the period 2011-2013 respectively, an ex post evaluation report.

4. The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:

***(a) an intermediate report on the results achieved and on qualitative and quantitative aspects of implementation of the Fund, having regard to its objectives, together with a proposal on the Fund's future development, three years after the adoption of the decision. Moreover the Commission shall present annually a short report monitoring the situation of the implementation of the European Refugee Fund;***

***(b) no later than 31 December 2012 (for the period 2008-2010) and 31 December 2015 (for the period 2011-2013) respectively, an ex post evaluation report covering the implementation and results of the programme, on completion of its implementation.***

*Justification*

*The fund needs to be monitored and evaluated at the appropriate times, so as to ensure democratic scrutiny.*

Amendment 19  
Article 51, paragraph 2

***2. The reports shall be judged acceptable where they contain all the information listed***

2. The Commission shall reach a decision on the content of the annual report on

**in paragraph 1.** The Commission shall reach a decision on the content of the annual report on implementation submitted by the responsible authority within two months. If the Commission does not respond within the time limit laid down, the report shall be deemed to be accepted.

implementation submitted by the responsible authority within two months. If the Commission does not respond within the time limit laid down, the report shall be deemed to be accepted.

Amendment 20  
Article 52

1. The Commission shall be assisted by the common Committee “Solidarity and Management of Migration flows”, ***established by the Decision establishing the External Borders Fund*** for the period 2007-2013 as part of the General programme ‘Solidarity and Management of Migration Flows’ ../... (“the “committee”).

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 Article 8 thereof.***

3. The Committee shall adopt its Rules of Procedure.

1. The Commission shall be assisted by the common Committee “Solidarity and Management of Migration Flows” for the period 2007-2013 as part of the General programme ‘Solidarity and Management of Migration Flows’ ../... (“the “committee”).

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

3. The Committee shall adopt its Rules of Procedure.

*Justification*

*Awaiting a decision by the Council on the proposal of the Commission concerning the reform of the comitology regime, the advisory procedure pursuant to Article 3 and 7 of Council decision 1999/468/CE is the Committee on Budgets’ standard approach to ensuring that comitology procedures is effective and transparent.*

Amendment 21  
Article 53

The European Parliament and the Council shall review this Decision on the basis of a proposal from the Commission by 30 June 2013 at the latest.

***1. The Commission may submit this Decision for a mid-term review by the end of 2010 in order to improve implementation of the Fund.***

2. The European Parliament and the Council shall review this Decision on the basis of a proposal from the Commission by 30 June 2013 at the latest.

*Justification*

*Providing for some flexibility and improvement of the implementation of the Fund.*

## PROCEDURE<sup>(1)</sup>

<b>Title</b>	Proposal for a decision of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 - 2013 as part of the General programme "Solidarity and Management of Migration Flows"
<b>References</b>	COM(2004)0123 – C6-0124/2005 – 2005/0046(COD)
<b>Committee responsible</b>	LIBE
<b>Opinion by</b> Date announced in plenary	BUDG 22.06.2005
<b>Enhanced cooperation – date announced in plenary</b>	0.0.0000
<b>Draftswoman</b> Date appointed	Kathalijne Maria Buitenweg 22.06.2005
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	23.06.2006
<b>Date adopted</b>	23.06.2006
<b>Result of final vote</b>	+: 26 –: 0:
<b>Members present for the final vote</b>	Richard James Ashworth, Reimer Böge, Simon Busuttil, Gérard Deprez, Valdis Dombrovskis, Hynek Fajmon, Neena Gill, Ingeborg Gräßle, Louis Grech, Catherine Guy-Quint, Jutta D. Haug, Ville Itälä, Anne E. Jensen, Wiesław Stefan Kuc, Janusz Lewandowski, Mario Mauro, Jan Mulder, Giovanni Pittella, Antonis Samaras, Nina Škottová, László Surján, Kyösti Virrankoski, Ralf Walter
<b>Substitute(s) present for the final vote</b>	Kathalijne Maria Buitenweg, Lidia Joanna Geringer de Oedenberg, Peter Šťastný
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	
<b>Comments (available in one language only)</b>	.