

EUROPEAN PARLIAMENT

2004



2009

Committee on Development

2005/0046(COD)

13.2.2006

OPINION

of the Committee on Development

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a European Parliament and Council decision 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))

Draftsman: Fernando Fernández Martín

PA_Leg

SHORT JUSTIFICATION

1. A solidarity framework programme

Under the title ‘Framework Programme on Solidarity and the Management of Migration Flows for the period 2007-2013’,¹ the European Commission is proposing three decisions of the Council and the European Parliament (subject to the codecision procedure) and one Council decision (subject to the consultation procedure). The idea behind these proposals is to give greater coherence to the European Union’s immigration policy, and to harmonise it. Ratification by all the Member States of the Treaty establishing a Constitution for the European Union would have made the institutions’ task easier, but the legal instruments currently available to the European Union should be sufficient to allow us to make progress in this area.

The intention of the proposal is to increase solidarity among the Member States in managing and funding the costs engendered by receiving immigrants. Immigration is a priority for the European Union, as the Commission and Parliament have stated on several occasions. It should be stressed that the budgets of the four funds provided for under this package should not be transferable among themselves. The Committee on Development must therefore be sure to make clear in the debate on the financial perspectives that, in order to achieve this shared management objective, no reduction whatsoever in the current budget of the instruments can be tolerated, and that in fact an increase would be desirable.

2. Setting up a European Refugee Fund for the period 2008-2013

Set up, *inter alia*, in response to calls by the European Parliament in 2000, the European Refugee Fund (ERF) has been instrumental in laying the foundations of collective action by the Community for the reception of asylum-seekers and has also helped to provide for temporary protection in the event of a mass influx of displaced persons. The second phase of the ERF – 2005 to 2010 – has just begun, taking into account the new Community regulatory framework on asylum policy. This being the case, the present proposal provides for an extension of this instrument until 2013, with the first multiannual tranche up to 2007 as provided for in the current regulation, and two further tranches – 2008-2010 and 2011-2013 – under the new framework programme. The Fund amounts to a total of € 1,184 million for the period from 2008 to 2013.

3. The rapporteur’s position

Given that the burden of implementing the standards adopted in the European Union (e.g. the Schengen acquis) is currently shared unequally among the Member States, a solidarity mechanism is needed, and should as its first priority guarantee equal treatment for refugees, asylum-seekers and migrants, in complete compliance, it goes without saying, with recognised human rights standards.

It must also be borne in mind that the discussions on ‘solidarity’ should not simply be about the Member States, but that the concept of ‘solidarity’ should apply to all the countries

¹ COM(2005)0123, 6.4.2005.

involved, including third countries. This being the case, the rapporteur welcomes a deepening of the ongoing discussions on the benefits that development policy could bring to an effective migration policy. Events in recent months in the Spanish enclaves of Ceuta and Melilla have once again underscored a need that was already obvious: 'more development for less migration'. With this in mind, the rapporteur takes the view that a balance must be struck between security and solidarity with immigrants.

Since these are guidelines for the framework programmes for a whole financial perspective, the texts only outline parameters, the details of which will be filled in by multiannual programmes. For this reason, these proposals do not lend themselves to detailed amendment; furthermore, the texts taken overall seem to take account of the discussions of the past few years. The concrete form that the proposals eventually take must be carefully monitored.

Nonetheless, the rapporteur proposes giving greater importance to certain aspects of the Refugee Fund. Firstly, the link between refugees and development policy is to be included in the article on the general objectives of the proposal. Immigration policy has two dimensions – internal and external. It is therefore essential to lay down clear mechanisms to give an operational, coordinated character to the two dimensions. The rapporteur takes the view that regulated immigration provides a guarantee that immigrants' human rights and living and working conditions are respected. In any event, support for developing countries and full collaboration between the European Union and those countries are essential to the success of any immigration policy.

Given the unceasing efforts to harmonise Community measures, the rapporteur considers it extremely modest to set aside only 7% of the budget for Community actions, particularly given that one of the calls made in the Hague Programme¹ – as cited in the proposal – is for the establishment of 'appropriate structures involving the national asylum services of the Member States with a view to facilitating practical and collaborative cooperation'. Likewise, it is not enough to put in place asylum procedures; guaranteed access to these procedures must also be ensured. In addition, a key element in the discussion on a European Refugee Fund is, in the opinion of the rapporteur, that of reinforcing respect for human rights. This concept must be included as a matter of urgency in the provisions relating to the adoption of strategic guidelines and the drafting of multiannual programmes.

Bearing in mind these comments and the question of monitoring practical implementation, the rapporteur can only support this proposal for a decision as a necessary step towards a common asylum policy for the European Union.

AMENDMENTS

The Committee on Development calls on the Committee on Civil Liberties, Justice and Home

¹ Given the conclusions reached by the European Council at its meeting of 4 and 5 November 2004 in Brussels.

Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Article 2, paragraph 1

1. The general objective of the Fund shall be to support and encourage the efforts made by the Member States in receiving and bearing the consequences of receiving refugees and displaced persons, taking account of Community legislation in these matters by co-financing the actions provided for by this Decision.

1. The general objective of the Fund shall be to support and encourage the efforts made by the Member States in receiving and bearing the consequences of receiving refugees and displaced persons, taking account of Community legislation in these matters ***and of the legislation of the countries of origin and the general principles of development policy***, by co-financing the actions provided for by this Decision.

Justification

The general objectives of the Refugee Fund cannot really be defined without also taking account of refugees' reasons for leaving their countries. This is why the objectives must include not only supporting the efforts made by the Member States, but also the existing possibilities for action before the refugees leave their own countries, such as the bilateral clauses between the Union and the countries of origin, and the positive impact of realising the Millennium Development Objectives.

Amendment 2
Article 3, paragraph 2, point (-a) (new)

(-a) information and access to asylum procedures for asylum-seekers;

Justification

It is not enough to set up the structures for asylum procedures – asylum-seekers must also, most importantly, be guaranteed access to these structures. This may also imply an information policy in asylum-seekers' countries of origin. This is why it is important to include this right to information and access in the eligible measures under the financial instrument.

¹ Not yet published in OJ.

Amendment 3
Article 3, paragraph 2, point (g)

(g) information for local communities who will be interacting with those being received in the host country.

(g) information for local communities **and training for staff of local authorities and reception facilities** who will be interacting with those being received in the host country.

Justification

It is very important that people received by local bodies are perceived in a positive light. In order to achieve this positive image, it is certainly important that local populations should be sensitised, but for this to be effective it is more important still that staff of local authorities and reception facilities should be appropriately trained.

Amendment 4
Article 3, paragraph 6

6. Actions shall take account of the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

6. Actions shall take account of the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, **while guaranteeing first and foremost, and for all measures, full respect for human rights laws.**

Justification

Absolute priority must be given to full respect for human rights laws throughout the measure. In view of the often precarious situation of asylum-seekers, human dignity, over which current practices still all too often ride roughshod, must be respected in the procedures followed.

Amendment 5
Article 4, paragraph 1

1. At the Commission's initiative, up to **7%** of the Fund's available resources may be used to finance transnational actions or actions of interest to the Community as a whole ("Community actions") concerning

1. At the Commission's initiative, up to **15%** of the Fund's available resources may be used to finance transnational actions or actions of interest to the Community as a whole ("Community actions") concerning

asylum policy and measures applicable to the target groups referred to in Article 6.

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Justification

The 7% of the budget set aside for Community actions within this instrument is nowhere near enough to realise the ambition set out as an objective in the proposal of bringing ‘...collective benefits at EU level through the implementation of coordinated or joint actions’ (p.9). In order to facilitate ‘practical and collaborative cooperation’ (p. 10), a higher percentage is definitely necessary.

Amendment 6

Article 5, paragraph 2, point (ea)(new)

(ea) legal assistance and interpretation and translation services.

Justification

In the emergency measures provided for in Article 5, the proposal mentions the need for ‘medical, psychological or other assistance’ (Article 5(2)(c)). The wording ‘other assistance’ is very vague, and in our view it is just as important that asylum-seekers should be informed of their rights and obligations as that they should receive medical assistance. Legal advice that the asylum-seeker can understand is therefore essential, and must be mentioned specifically in the emergency measures.

Amendment 7

Article 9, paragraph 1

1. Implementation of multiannual and annual programmes referred to in Articles 19 and 21 shall be the responsibility of Member States ***at the appropriate territorial level***, in accordance with the institutional system specific to each Member State. This responsibility shall be exercised in accordance with this Decision.

1. Implementation of multiannual and annual programmes referred to in Articles 19 and 21 shall be the responsibility of ***the competent authority in the*** Member States, in accordance with the institutional system specific to each Member State. This responsibility shall be exercised in accordance with this Decision.

Justification

The internal structures of the Member States vary enormously. Management and implementation of the multiannual programmes should therefore take place in accordance with the laws and internal structures of each Member State (whether territorial or not).

Amendment 8
Article 18, paragraph 2

2. For each of the objectives of the Fund, those guidelines shall in particular give effect to the priorities of the Community with a view to promoting the implementation of the Common European Asylum System.

2. For each of the objectives of the Fund, those guidelines shall in particular give effect to the priorities of the Community with a view to promoting the implementation of the Common European Asylum System, ***while guaranteeing full respect for human rights laws.***

Justification

Absolute priority must be given to full respect for human rights laws throughout the measure. In view of the often precarious situation of asylum-seekers, human dignity, over which current practices still all too often ride roughshod, must be respected in the procedures followed.

PROCEDURE

Title	proposal for a European Parliament and Council decision establishing the European Refugee Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows'
References	COM(2005)0123 – C6-0124/2005 – 2005/0046(COD)
Committee responsible	LIBE
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 22.6.2005
Enhanced cooperation Date announced in plenary	
Draftsman Date appointed	Fernando Fernández Martín 31.8.2005
Previous draftsman	
Discussed in committee	14.11.2005 1.12.2005 25.1.2005
Date adopted	25.1.2005
Result of final vote	+: 22 -: 0 0: 1
Members present for the final vote	Margrietus van den Berg, Danutė Budreikaitė, Marie-Arlette Carlotti, Thierry Cornillet, Nirj Deva, Fernando Fernández Martín, Hélène Goudin, Filip Andrzej Kaczmarek, Glenys Kinnock, Wolfgang Kreissl-Dörfler, Maria Martens, Miguel Angel Martínez Martínez, Gay Mitchell, Toomas Savi, Frithjof Schmidt, Jürgen Schröder, Anna Záborská, Mauro Zani
Substitute(s) present for the final vote	Milan Gaľa, Linda McAvan, Manolis Mavrommatis, Anne Van Lancker, Gabriele Zimmer
Substitute(s) under Rule 178(2) present for the final vote	
Observations (information available in one language only)	