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Committee on Development

2005/0049(COD)

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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 Return Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows'

(COM(2005)0123 – C6-0126/2005 – 2005/0049(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. Establishing a European Return Fund for the period 2008-2013

Under The Hague Programme², the Return Fund will be established as part of the framework programme in 2008. The main objectives of the fund are to introduce and improve the organisation and implementation of integrated return management by Member States, as well as enhancing cooperation between Member States. In this context, it is also important to establish a common definition of the categories of people that can be returned and to draw up a set of shared rules for implementing a return policy. The aim of the proposal for a directive on common standards³ is to harmonise return procedures within the EU. Preparatory actions related to return policy are planned for 2005 and 2006⁴. The fund will amount to a total of EUR 759 million for the period 2008-2013.

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.

¹ COM(2005)0123, 6.4.2005.

² As mentioned in the Presidency Conclusions of the Brussels European Council of 4 and 5 November 2004.

³ COM(2005)0391, 1.9.2005.

⁴ RETURN Programme 2005-2006, EUR 15 000 000.

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 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.

Nevertheless, the rapporteur suggests that emphasis should be placed on the importance of certain aspects of the Return Fund. First of all, the link between refugees and development policy should be mentioned in the article that deals with the general objectives of the proposal. Next, in view of the continual efforts to step up the harmonisation of Community action as regards a common return policy, the rapporteur considers the proposal of setting aside just 7% of the budget for Community measures to be a very modest one. The rapporteur should like to underline once again that, regardless of the administrative situation of the returnees, respect for human rights should be of paramount importance in the return process. This approach would encourage, inter alia, voluntary return programmes accompanied by measures that aim to help reintegrate returnees and provide assistance for them after their return. There is no mention in the proposal of a common definition of ‘good practice’ as regards forced returns, taking into account full respect for the fundamental rights of the people concerned.

Particular attention should be paid to those areas in the EU that are under greater pressure from migration. The pressure on these areas arises most often as a result of population density, a small surface area and geographical distances or conditions. Such exceptional circumstances make it harder to manage migration. That is why appropriate measures need to be taken to enhance migration management. Specific reference must also be made to this in the integrated return plans.

In the rapporteur’s view, it is very important that, in parallel with the proposal, relations should also be enhanced with the returnees’ countries of origin. The rapporteur emphasises that the proposal is very positive when it comes to the actions and strategies required, involving governments and civil society in the third countries concerned in the establishment of a sustainable return policy. In this respect, the proposal addresses the requests made by the Committee on Development in its opinion on the own-initiative report on the links between legal and illegal migration and integration of migrants¹. Taking into account these comments and the practical implementation of the framework programme, the rapporteur can do nothing other than support this proposal for a decision, which represents a necessary step towards a common return policy for the European Union.

¹ A6-0136/2005

AMENDMENTS

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

Text proposed by the Commission ¹	Amendments by Parliament
<p>Amendment 1 Article 2, paragraph 1</p>	
<p>1 The general objective of the Fund shall be to support the efforts made by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management, taking account of Community legislation in this field.</p>	<p>1 The general objective of the Fund shall be to support the efforts made by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management, taking account of Community legislation in this field <i>and of the legislation of countries of origin and of the general principles of development policy.</i></p>
<p><i>Justification</i></p> <p><i>The general objectives of the Return Fund cannot be set without taking account of refugees' reasons for leaving their country. The aim should not only be to support efforts made by the Member States, but also to reinforce existing possibilities for taking action before refugees leave their country, for example bilateral clauses between the Union and countries of origin and the positive impact of achievement of the Millennium Development Goals in terms of reducing poverty. Development policy also plays a crucial role in preparing support arrangements for people returning to their country of origin.</i></p>	
<p>Amendment 2 Article 3, paragraph 2, indent 1</p>	
<p>- are based on a comprehensive assessment of the situation in the Member State with respect to the targeted population and the challenges with respect to the operations envisaged (such as those related to obtaining travel documents and other practical</p>	<p>- are based on a comprehensive assessment of the situation in the Member State with respect to the targeted population and the challenges with respect to the operations envisaged (such as those related to obtaining travel documents and other practical</p>

¹ Not yet published in OJ.

obstacles to return). The comprehensive assessment shall be drawn up in co-operation with all relevant authorities and partners; and

obstacles to return), ***paying special attention to areas that are under particularly great pressure from migration***. The comprehensive assessment shall be drawn up in co-operation with all relevant authorities and partners; and

Justification

Special attention must be paid to areas in the EU that are under particularly great pressure from migration. The pressure on these areas is often the result of the population density, restricted space or geographical conditions. Special attention is therefore needed in order to safeguard the conditions of implementation of this decision.

Amendment 3 Article 4, paragraph 2, point (c)

(c) Design of joint integrated return plans and their implementation, including joint voluntary return programmes on specific countries or regions of origin, former residence or transit;

(c) Design of joint integrated return plans and their implementation, including joint voluntary return programmes on specific countries or regions of origin, former residence or transit, ***with due respect for the right of each person returning voluntarily or forced to return to be dealt with and counselled on an individual basis***;

Justification

Even if there are obvious synergies according to actions and the country to which a person is returning and the group to which a person belongs, this must not deprive returnees of their right to be dealt with and counselled on an individual basis.

Amendment 4 Article 4, paragraph 2, point (i)

(i) Joint measures to monitor the situation of returnees and sustainability of their situation after return.

(i) Joint measures to monitor the situation of returnees and sustainability of their situation after return, ***provided that the persons concerned have given their prior consent***.

Justification

Returnees may only be monitored in their country of origin with their prior consent. It is wholly within their rights to refuse such an intrusion into their private life.

Amendment 5
Article 4, paragraph 5

5. 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.

5. 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, ***whilst above all, and in all actions, ensuring full compliance with human rights standards.***

Justification

Full respect for human rights must be paramount in all actions. In view of the often precarious situations in which people forced to return find themselves, it is vital that their human dignity and rights be respected rather than flouted, as is often the case under the current arrangements.

Amendment 6
Article 6, 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 immigration and integration policy and measures applicable to the target group as referred to in Article 7.

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 immigration and integration policy and measures applicable to the target group as referred to in Article 7.

Justification

Earmarking 7% of the budget for Community actions under this financial instrument is not nearly enough to fulfil the objectives outlined in the proposal. 'With a view to facilitating practical and collaborative cooperation' (page 9 of the proposal), a higher level of funding is a must.

Amendment 7
Article 19, paragraph 1

1 For each multiannual programme, the Commission shall adopt strategic guidelines setting out a framework for the intervention

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of the Fund, taking into account the progress in the development and implementation of Community legislation in the area of return and measures taken by the Community in the area of illegal immigration as well as the indicative distribution of the financial resources of the Fund for the period of the multiannual programme;

of the Fund, taking into account the progress in the development and implementation of Community legislation in the area of return and measures taken by the Community in the area of illegal immigration as well as the indicative distribution of the financial resources of the Fund for the period of the multiannual programme, ***whilst ensuring, via such guidelines, full compliance with human rights standards at all times;***

Justification

Full respect for human rights must be paramount in all actions. In view of the often precarious situations in which people forced to return find themselves, it is vital that their human dignity and rights be respected rather than flouted, as is often the case under the current arrangements.

PROCEDURE

Title	Proposal for a European Parliament and Council decision establishing the European Return Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows'
References	COM(2005)0123 – C6-0126/2005 – 2005/0049(COD)
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Members present for 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 final vote	Milan Gaľa, Linda McAvan, Manolis Mavrommatis, Anne Van Lancker, Gabriele Zimmer
Substitute(s) under Rule 178(2) present for final vote	
Comments (available in one language only)	