# EUROPEAN PARLIAMENT

*2004* *2009*

*Committee on Foreign Affairs*

**2005/0046(COD)**

22.3.2006

# OPINION

of the Committee on Foreign Affairs

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))

Draftsperson: Tatjana Ždanoka

PA_Leg

## SHORT JUSTIFICATION

In order to achieve a greater coherence and simplicity of the Union's migration policy, the Commission is proposing a '*Framework programme on Solidarity and Management of Migration Flows for the period 2007-2013*'. The programme foresees the creation of four funds: the European Refugee Fund, the European Return Fund, the External Borders Fund and the European Fund for the Integration of Third -country nationals.

The new programme aims to support the internal policies of the Union and create a mechanism for burden sharing between the Member States in dealing with migrants and asylum seekers, guaranteeing proper border control at the Union's external borders and visa policies.

The main body of the proposal for a decision on the Refugee Fund is of a technical nature, reaching beyond the terms of reference of the Committee on Foreign Affairs. However, reinforcing the external dimension of the area of freedom, security, prosperity and justice of the EU and its neighbouring countries is a matter at the heart of the European foreign policy. It goes without saying that the success of the Union's migration and asylum policy depends on the effectiveness of co-operation with the countries of origin and transit.

Your draftsperson supports the proposed structure of the framework programme and stresses that the funds should form a coherent package. Further, a coherent and global approach to EU migration policy presupposes complementarity and synergy between all related internal regulatory instruments, as well as the new external policy instruments, in particular with the ENPI and a new thematic programme providing assistance to the third countries. Thereby, close co-operation with the UN Commissioner for Human Rights and the full implementation of the international conventions are imperative prerequisites for a fair, coherent and successful policy.

The proposal for the European Refugee Fund foresees a continuation of the already running programme, with its second phase already begun (2005-2010), with the modification that a part of the funding for the voluntary return is now covered under the Return Fund.

## AMENDMENTS

The Committee on Foreign Affairs 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 |
|---|---|

[1] Not yet published in OJ.

Amendment 1
Recital 2 a (new)

***(2a) This Decision respects the fundamental rights and observes the principles recognised in particular by the Universal Declaration of Human Rights, by the European Convention on Human Rights, by the Charter of Fundamental Rights of the European Union, by the Geneva Convention Relating to the Status of Refugees and by the Convention on the Rights of the Child.***

Amendment 2
Recital 3

| | |
|---|---|
| (3) Implementation of this policy should be based on solidarity between Member States and requires the existence of mechanisms to promote a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons. To that end, a European Refugee Fund was established for the period 2000-2004 by Decision 2000/596/EC. This decision was replaced by Council Decision 2004/904/EC of 2 December 2004 establishing the European Refugee Fund for the period 2005 to 2010. This ensured continued solidarity between Member States in the light of recently adopted Community legislation in the field of asylum, taking account of the experience acquired when implementing the Fund for the period 2000-2004. | (3) Implementation of this policy should be based on solidarity between Member States and ***should take place, in full respect of international human rights standards and principles as defined in particular by the Geneva Convention, in cooperation with civil society organisations in Member States and the UN High Commissioner for Refugees. Implementation also*** requires the existence of mechanisms to promote a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons. To that end, a European Refugee Fund was established for the period 2000-2004 by Decision 2000/596/EC. This decision was replaced by Council Decision 2004/904/EC of 2 December 2004 establishing the European Refugee Fund for the period 2005 to 2010. This ensured continued solidarity between Member States in the light of recently adopted Community legislation in the field of asylum, taking account of the experience acquired when implementing the Fund for the period 2000-2004. |

Amendment 3
Recital 7 a (new)

| | |
|---|---|
| | ***(7a) While implementing this Decision, the Commission and Member States will take account of the special needs of the most vulnerable persons such as minors (especially unaccompanied minors), disabled persons, elderly persons, pregnant women, single parents with children, victims of torture or rape or other serious forms of psychological and/or physical violence, victims of trafficking or forms of sexual abuse, and individuals in need of special medical treatment.*** |

Amendment 4
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 ***promote and provide support for*** **the** ***measures taken*** by the Member States in receiving refugees and displaced persons ***and handling the consequences arising therefrom***, ***in the light of the applicable*** Community legislation ***and that of the countries of origin or transit. The*** actions provided for by this Decision ***shall be co-financed***. |

*Justification*

*The objectives of the Fund should be defined taking into account the situation of the refugees and displaced persons in their countries of origin or transit. Use should be made of possibilities for pre-emptive action, before the persons leave the country.*

Amendment 5
Article 3, paragraph -1 (new)

| | |
|---|---|
| | ***-1. Funding of holding centres outside the territory of the European Union may not be provided from the Fund.*** |

Amendment 6
Article 3, paragraph 5

| | |
|---|---|
| 5. Actions provided for ***by paragraph*** 1 to 4 shall***, in particular,*** promote the implementation of the provisions of the relevant Community legislation in the field of the common European asylum system. | 5. Actions provided for ***in paragraphs*** 1 to 4 shall ***be carried out in full respect of international human rights standards and the Geneva Convention. They shall*** promote the implementation of the provisions of the relevant Community legislation in the field of the common European asylum system. |

*Justification*

*The actions financed should be carried out in full respect of international human rights standards and the Geneva Convention relating to the Status of the Refugees.*

Amendment 7
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 ***gender-related issues, the best interests of minors,*** the specific situation of vulnerable persons such as minors***,*** unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, ***victims of torture or rape or other serious forms of psychological and/or physical violence, victims of trafficking or forms of sexual abuse, and individuals in need of special medical treatment***. |

Amendment 8
Article 3, paragraph 6 a (new)

| | |
|---|---|
| | ***6a. The Member States shall seek to involve relevant civil society organisations when carrying out actions provided for in paragraphs 1 to 4.*** |

*Justification*

*The involvement of the civil society is crucial for successful implementation of the Union's common immigration and asylum policy.*

Amendment 9
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 asylum policy and measures applicable to the target groups referred to in Article 6. | 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. |

*Justification*

*A higher percentage of the Fund's available resources is necessary for further Community cooperation in implementing Community law and good practices as well as to support the setting-up of transnational cooperation networks designed improve the quality of return policy and the transnational awareness-raising campaigns.*

Amendment 10
Article 6, paragraph 2

| | |
|---|---|
| 2. Third country national means any person who is not a Union citizen within the meaning of Article 17(1) of the Treaty. | 2. Third country national means any person who is not a Union citizen within the meaning of Article 17(1) of the Treaty ***and is not a stateless person***. |

*Justification*

*For the purposes of this Decision the target groups comprise the following categories mentioned in Article 6, paragraph 1: any third-country national or stateless person enjoying a form of subsidiary protection within the meaning of Council Directive 2004/83/EC[23]; any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC. Therefore for the purposes of this Decision the notion "third country national" may not include the category "stateless person".*

Amendment 11
Article 7, paragraph 2

| | |
|---|---|
| 2. The Commission and the Member States shall ensure that assistance from the Fund and the Member States is consistent with the activities, policies and priorities of the | 2. The Commission and the Member States shall ensure that assistance from the Fund and the Member States is consistent with the activities, policies and priorities of the |

| | |
|---|---|
| Community. ***This consistency shall be indicated in particular in*** the multiannual programme referred to in Article 19. | Community ***and in particular with*** the multiannual programme referred to in Article 19. ***The actions referred to in paragraph 1 of this Article shall be carried out in synergy with the Union's external assistance instruments, in particular with the European Neighbourhood Policy Instrument.*** |

*Justification*

*The new ENPI regulation foresees cooperation in the field of justice and home affairs, including on issues such as asylum and migration and the fight against and prevention of terrorism and organised crime. A new thematic programme to be addressing challenges common to the neighbouring countries and the Member States should be complementary to the Funds, which address the internal policies and create a solidarity mechanism between the Member States.*

Amendment 12
Article 7, paragraph 3 a (new)

***3a. The Member States shall seek to work closely with the UN High Commissioner for Refugees and to achieve synergy in their actions in the field of immigration and asylum policy.***

*Justification*

*A synergy is needed in the planning of efforts in the field of immigration and asylum policy between the Member States, who are daily involved in the policy implementation, and the UNHCR, the UN agency, who is operational in the field and can be of assistance for the Members States.*

Amendment 13
Article 12, paragraph 1, point (b a) (new)

***(ba) the UN High Commissioner for Refugees.***

## PROCEDURE

| | |
|---|---|
| Title | 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' |
| References | (COM(2005)0123 – C6-0124/2005 – 2005/0046(COD)) |
| Committee responsible | LIBE |
| Committee asked for its opinion<br>Date announced in plenary | AFET<br>22.6.2005 |
| Enhanced cooperation | |
| Draftsman<br>Date appointed | Tatjana Ždanoka<br>21.7.2005 |
| Discussed in committee | 23.2.2006 20.3.2006 |
| Date amendments adopted | 21.3.2006 |
| Result of final vote | for: 44<br>against: 2<br>abstentions: 4 |
| Members present for the final vote | Angelika Beer, Panagiotis Beglitis, André Brie, Elmar Brok, Philip Claeys, Véronique De Keyser, Giorgos Dimitrakopoulos, Ana Maria Gomes, Alfred Gomolka, Richard Howitt, Jana Hybášková, Toomas Hendrik Ilves, Michał Tomasz Kamiński, Helmut Kuhne, Vytautas Landsbergis, Emilio Menéndez del Valle, Francisco José Millán Mon, Pasqualina Napoletano, Annemie Neyts-Uyttebroeck, Baroness Nicholson of Winterbourne, Raimon Obiols i Germà, Cem Özdemir, Justas Vincas Paleckis, Alojz Peterle, Tobias Pflüger, João de Deus Pinheiro, Mirosław Mariusz Piotrowski, Hubert Pirker, Paweł Bartłomiej Piskorski, Libor Rouček, José Ignacio Salafranca Sánchez-Neyra, Jacek Emil Saryusz-Wolski, György Schöpflin, Gitte Seeberg, Marek Maciej Siwiec, István Szent-Iványi, Konrad Szymański, Charles Tannock, Inese Vaidere, Ari Vatanen, Karl von Wogau, Luis Yañez-Barnuevo García, Josef Zieleniec |
| Substitutes present for the final vote | Alexandra Dobolyi, Glyn Ford, Patrick Gaubert, Jaromír Kohlíček, Miguel Angel Martínez Martínez, Aloyzas Sakalas, Tatjana Ždanoka |
| Substitutes under Rule 178(2) present for the final vote | |