EUROPEAN PARLIAMENT

2004 *2009*

Committee on Foreign Affairs

2005/0049(COD)

24.3.2006

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 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))

Draftsperson: Tatjana Ždanoka

PA_Leg

SHORT JUSTIFICATION

The main body of the proposal for a decision creating the Return 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 return policy depends on the effectiveness of co-operation with the countries of transit and origin.

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 European Return Fund seeks to support the return actions by the Member States and implement the concept of integrated management.

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
	Amendment 1 Recital 21 b (new)
	(21b) The instrument should not be used in support of any measures related to collective returns, the collective enforcement of return decisions of Member States related to individual cases or returns to countries where the refugees could be

[1] Not yet published in OJ.

	subject to torture or other human rights violations.

Amendment 2
Article 2, paragraph 1

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.	1. The general objective of the Fund shall be to ***promote and provide support for the measures taken*** by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management, ***in the light of the applicable*** Community legislation ***and of the international human rights obligations*** in this field.

Amendment 3
Article 3, paragraph 1, point (c a) (new)

	(ca) Enhancement of cooperation with the neighbouring countries in the framework of return management.

Justification

The European Neighbourhood Policy Instrument countries are the main source countries for immigration to the European Union and a particular attention should be paid to co-operation with these countries and their authorities.

Amendment 4
Article 3, paragraph 2, indent 2

- aim to achieve a wide set of measures encouraging voluntary return schemes of third country nationals illegally residing on its territories, and, where necessary, implementing enforced return operations with respect to these persons, in full compliance with ***humanitarian principles***	- aim to achieve a wide set of measures encouraging voluntary return schemes of third country nationals illegally residing on its territories, and, where necessary, implementing enforced return operations with respect to these persons, in full compliance with ***international human rights standards, the Charter of***

and respect for their dignity; and	***Fundamental Rights*** and respect for their dignity; and

Justification

The actions financed by the Community should be carried out in compliance with international human rights standards, in particular with the Geneva Convention, and the Charter of Fundamental Rights.

Amendment 5
Article 3, paragraph 2, indent 3

- include the choice for a target group based on the relevant caseload; and	- include the choice for a target group based on the relevant caseload***, whilst respecting the European Convention on Human Rights***; and

Justification

Article 4 of the Protocol IV of the European Convention of Human Rights prohibits mass expulsion of aliens.

Amendment 6
Article 3, paragraph 3 a (new)

	3a. The Member States shall seek to involve relevant civil society organisations when carrying out actions provided for in Article 4.

Justification

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

Amendment 7
Article 4, paragraph 1, introductory wording

Actions relating to the objective laid down in Article 3(1), ***point*** a), and in particular the following, shall be eligible for support from the Fund:	Actions relating to the objective laid down in Article 3(1), ***points*** a) ***and d)***, and in particular the following, shall be eligible for support from the Fund:

Justification

Amendment 2 adds a new point (d) to Article 3, paragraph 1.

Amendment 8
Article 4, paragraph 1, point (a)

(a) Establishment or improvement of an effective, stable and lasting operational co-operation of Member States' authorities with consular authorities and immigration services of third countries, with a view to obtaining travel documents for the return of third country nationals and ensuring speedy ***and*** successful ***removal procedures***;	(a) Establishment or improvement of an effective, stable and lasting operational co-operation of Member States' authorities with consular authorities and immigration services of third countries, ***in particular the neighbouring countries,*** with a view to obtaining travel documents for the return of third country nationals and ensuring speedy***,*** successful ***and sustainable return***;

Justification

The European Neighbourhood Policy Instrument countries are the main source countries for immigration to the European Union and a particular attention should be paid to co-operation with these countries and their authorities in order to achieve sustainable return of third country nationals, who do not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territories of the Member States.

Amendment 9
Article 4, paragraph 2, point (b)

(b) Co-operation in developing effective, stable and lasting operational working relationships between Member States' authorities and consular authorities and immigration services of third countries, to facilitate consular assistance in obtaining travel documents for the return of third country nationals and ensuring speedy ***and*** successful ***removal procedures***;	(b) Co-operation in developing effective, stable and lasting operational working relationships between Member States' authorities and immigration services of third countries, ***in particular the neighbouring countries,*** to facilitate consular assistance in obtaining travel documents for the return of third country nationals and ensuring speedy***,*** successful ***and sustainable return***;

Justification

The European Neighbourhood Policy Instrument countries are the main source countries for immigration to the European Union and a particular attention should be paid to co-operation with these countries and their authorities in order to achieve sustainable return of third country nationals, who do not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territories of the Member States.

Amendment 10
Article 4, paragraph 3, point (b)

(b) Enhancement of the capacity of competent administrative authorities to execute/enforce speedily removal decisions in full respect of human dignity and the relevant European security standards regarding such operations;	(b) Enhancement of the capacity of competent administrative authorities to execute/enforce speedily removal decisions ***in compliance with the Charter of Fundamental Rights of the European Union and*** in full respect of human dignity and the relevant European security standards regarding such operations;

Justification

The reference to the Charter of Fundamental rights of the European Union will give more balanced approach in what concerns alternative between "rights" and "security".

Amendment 11
Article 4, paragraph 4

4. Actions provided for ***by*** paragraphs 1 to 3 shall***, in particular,*** promote the implementation of the provisions of the relevant Community legislation in the field of the common European immigration and return policy.	4. Actions provided for ***in*** paragraphs 1 to 3 shall ***be carried out in full respect of international human rights standards, as well as the principle of "non-refoulement" as defined in particular by 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

Article 33 of the Geneva convention forbids expelling or return ("refouler") "a refugee in any

manner whatsoever to the frontiers or territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".

Amendment 12
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, ***victims of*** torture, 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 13
Article 5, indent 1

– In all cases of return pre-return information, procurement of indispensable travel documents, costs of necessary pre-return medical checks, costs of travel and food for returnees and escorts, including medical staff, accommodation for escorts, specific assistance to vulnerable groups such as ***children*** or people with disabilities, costs of transportation to the final destination in the country of return and co-operation with the authorities of the country of origin, former residence or transit;	– In all cases of return pre-return information, procurement of indispensable travel documents, costs of necessary pre-return medical checks, costs of travel and food for returnees and escorts, including medical staff, accommodation for escorts, specific assistance to vulnerable groups such as ***minors (especially unaccompanied minors)*** or people with disabilities, costs of transportation to the final destination in the country of return and co-operation with the authorities of the country of origin, former residence or transit;

Amendment 14
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	1. At the Commission's initiative, up to ***20%*** 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

whole ("Community actions") concerning immigration and integration policy and measures applicable to the target groups referred to in Article 7.	immigration and integration policy and measures applicable to the target groups referred to in Article 7.

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 (p.463), the transnational awareness-raising campaigns and the development of statistical tools, methods and common indicators.

Amendment 15
Article 7, paragraph 2

2. This shall include third country nationals who are not or no longer in need ***for*** international protection because their application for asylum has been rejected by a final decision under the respective national legal systems or because their status has been revoked, ended or not been renewed (by a final decision) in accordance with national and Community law.	2. This shall include third country nationals who are not or no longer in need ***of*** international protection because their application for asylum has been rejected by a final decision under the respective national legal systems or because their status has been revoked, ended or not been renewed (by a final decision) in accordance with national***, international*** and Community law.

Amendment 16
Article 8, 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 Community. ***This consistency shall be indicated in particular in*** the multiannual programme referred to in Article 20.	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 ***and in particular with*** the multiannual programme referred to in Article 20. ***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 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 17
Article 8, paragraph 3 a (new)

3a. The Member States shall seek to work closely with the UN High Commissioner for Refugees and the International Organization for Migration and to achieve synergy in their related actions.

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 and IOM, who are operational in the field and can be of assistance for the Members States in the return actions.

PROCEDURE

Title	Proposal for a decision of the European Parliament and of the Council 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)
Committee responsible	LIBE
Committee asked for its opinion Date announced in plenary	AFET 22.6.2005
Enhanced cooperation	
Draftswoman Date appointed	Tatjana Ždanoka 21.7.2005
Discussed in committee	23.2.2006 20.3.2006
Date amendments adopted	21.3.2006
Result of final vote	for: 43 against: 4 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, Pierre Schapira, Tatjana Ždanoka
Substitutes under Rule 178(2) present for the final vote	