EUROPEAN PARLIAMENT

2004 *2009*

Committee on Civil Liberties, Justice and Home Affairs

18.10.2006

COMPROMISE TEXT

Barbara Kudrycka

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'

Proposal for a decision (COM(2005)0123 – C6-0124/2005 – 2005/0046(COD))

ANNEX

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Amended *proposal* for a DECISION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL establishing the European Refugee Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows's	***Proposal*** for a DECISION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL establishing the European Refugee Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows's
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty establishing the European Community, and in particular Article 63(2)(b) thereof, Having regard to the proposal from the Commission,[1] ***Having regard to the opinion of the European Economic and Social Committee,***[2] ***Having regard to the opinion of the Committee of the Regions,***[3] Acting in accordance with the procedure laid down in Article 251 of the Treaty,[4] Whereas:	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty establishing the European Community, and in particular Article 63(2)(b) thereof, Having regard to the proposal from the Commission,[5] Acting in accordance with the procedure laid down in Article 251 of the Treaty,[6] Whereas:
(1) With a view to the progressive establishment of an area of freedom, security and justice, the Treaty establishing the European Community provides both for the adoption of measures aimed at ensuring the free movement of persons, in conjunction with flanking measures relating to external borders controls, asylum and immigration, and for the adoption of measures relating to asylum, immigration and safeguarding the rights of third country nationals.	(1) With a view to the progressive establishment of an area of freedom, security and justice, the Treaty establishing the European Community provides both for the adoption of measures aimed at ensuring the free movement of persons, in conjunction with flanking measures relating to external borders controls, asylum and immigration, and for the adoption of measures relating to asylum, immigration and safeguarding the rights of third country nationals.
(2) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, reaffirmed its resolve to create an area of freedom, security and justice. For that purpose, a common European policy on asylum and migration should aim both at fair treatment of third country nationals and better management of migration flows. A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the European Union.	(2) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, reaffirmed its resolve to create an area of freedom, security and justice. For that purpose, a common European policy on asylum and migration should aim both at fair treatment of third country nationals and better management of migration flows. A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the European Union.

[1] OJ C …
[2] OJ C …
[3] OJ C …
[4] OJ C…
[5] OJ C …
[6] OJ C…

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	(2A) This Decision respects fundamental rights and observes the principles as reflected in particular by the Charter of Fundamental Rights of the European Union and by the Geneva Convention.
	(2B) With respect to the treatment of persons falling within the scope of this Decision, Member States are bound by obligations under instruments of international law to which they are party and which prohibit discrimination.
	(2C) The «best interests of the child» in compliance with the UN Convention on the Rights of the Child (CRC) should be a primary consideration of Member States when implementing this Decision where applicable.
(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[7]. 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[8]. 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 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[9]. 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[10]. 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.
(4) In the Hague Programme of 4-5 November 2004, the European Council set a series of objectives and priorities with a view to carrying further the development of the Common European Asylum System in its second phase.	***(4) In the Hague Programme of 4-5 November 2004, the European Council set a series of objectives and priorities with a view to carrying further the development of the Common European Asylum System in its second phase.***
(5) In particular, the European Council underlined the need for the European Union to contribute in a spirit of shared responsibility to a more accessible, equitable and effective international protection system and to provide access to protection and durable solutions at the earliest possible stage and called for the development of EU-Regional Protection Programmes, including a joint resettlement programme for Member States willing to participate in such a programme.	***(5) In particular, the European Council underlined the need for the European Union to contribute in a spirit of shared responsibility to a more accessible, equitable and effective international protection system and to provide access to protection and durable solutions at the earliest possible stage and called for the development of EU-Regional Protection Programmes, including a joint resettlement programme for Member States willing to participate in such a programme.***
(6) The European Council also called for the establishment of appropriate structures involving the national asylum services of the Member States with a view to facilitating practical and collaborative cooperation, towards achieving an EU wide Single Procedure, the joint compilation, assessment and application of Country of Origin Information and	***(6) The European Council also called for the establishment of appropriate structures involving the national asylum services of the Member States with a view to facilitating practical and collaborative cooperation, towards achieving an EU wide Single Procedure, the joint compilation, assessment and application of Country of Origin Information and***

[7] OJ L 252, 6.10.2000, p. 12.
[8] OJ L 381, 28.12.2004.
[9] OJ L 252, 6.10.2002, p. 12.
[10] OJ L 381, 28.12.2004.

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addressing particular pressures on asylum systems or reception capacities resulting from factors such as geographic location.	***addressing particular pressures on asylum systems or reception capacities resulting from factors such as geographic location.***
	(6A) In light of the scope and the purpose of the Fund, it cannot, in any event, support actions with respect to areas and centres for holding persons in third countries.
(***7***) In light of the Commission proposals establishing the Fund for the Integration of legally staying third country nationals, the Fund for the return of illegally staying third country nationals (hereafter 'Return Fund') and the external borders Fund for the period 2007-2013, as part of the general programme 'Solidarity and Management of Migration Flows', in particular in view of setting out common management, control and evaluation arrangements, a new European Refugee Fund should be established.	(***7***) In light of the Commission proposals establishing the Fund for the Integration of legally staying third country nationals, the Fund for the return of illegally staying third country nationals (hereafter 'Return Fund') and the external borders Fund for the period 2007-2013, as part of the general programme 'Solidarity and Management of Migration Flows', in particular in view of setting out common management, control and evaluation arrangements, a new European Refugee Fund should be established.
(***8***) It is necessary to adapt the duration of the Fund to the duration of the multiannual financial framework as set out in the Inter-institutional agreement applicable for the period 2008-2013.	(***8***) It is necessary to adapt the duration of the Fund to the duration of the multiannual financial framework as set out in the Inter-institutional agreement applicable for the period 2008-2013.
(***9***) This instrument is designed to form part of a coherent framework ***entitled the General programme 'Solidarity and Management of Migration Flows',*** which aims at addressing the issue of a fair share of responsibilities between Member States as concerns the financial burden arising from the introduction of an integrated management of the Union's external borders and from the implementation of common policies on asylum and immigration, as developed in accordance with Title IV of the Treaty establishing the European Community.	(***9***) This instrument is designed to form part of a coherent framework ***consisting of this Decision, the Decision of the European Parliament and the Council establishing the External Borders Fund for the period 2007-2013, the Decision of the European Parliament and the Council establishing the European Return Fund for the period 2008-2013, and the Council Decision establishing the European Fund for the Integration of Third-country Nationals for the period 2007-2013***, which aims at addressing the issue of a fair share of responsibilities between Member States as concerns the financial burden arising from the introduction of an integrated management of the Union's external borders and from the implementation of common policies on asylum and immigration, as developed in accordance with Title IV of the Treaty establishing the European Community.
(***10***) It is appropriate to support the efforts made by Member States to grant appropriate reception conditions to refugees and displaced persons and to apply fair and effective asylum procedures so as to protect the rights of persons requiring international protection.	(***10***) It is appropriate to support ***and improve*** the efforts made by Member States to grant appropriate reception conditions to refugees***,*** displaced persons and ***beneficiaries of subsidiary protection, in compliance with Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted***[11]***,*** to apply fair and effective asylum procedures ***and to promote good practice in the field of asylum*** so as to protect the rights of persons requiring international protection ***and enable Member States asylum systems to work efficiently***.
(***11***) The integration of refugees into the society of the country in which they are established is one of the objectives of the Geneva Convention of 28 July 1951	(***11***) The integration of refugees into the society of the country in which they are established is one of the objectives of the Geneva Convention of 28 July 1951

11 OJ L 304, 30.9.2004, p. 12.

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relating to the Status of Refugees, as supplemented by the New York Protocol of 31 January 1967. Such persons must be enabled to share the values set out in the Charter of Fundamental Rights of the European Union. To this end, there should be support for action by Member States to promote their social, economic and cultural integration in so far as it contributes to the economic and social cohesion, the maintenance and strengthening of which is one of the Community's fundamental objectives provided for by Articles 2 and 3(1)(k) of the Treaty.	relating to the Status of Refugees, as supplemented by the New York Protocol of 31 January 1967. Such persons must be enabled to share the values set out in the Charter of Fundamental Rights of the European Union. To this end, there should be support for action by Member States to promote their social, economic and cultural integration in so far as it contributes to the economic and social cohesion, the maintenance and strengthening of which is one of the Community's fundamental objectives provided for by Articles 2 and 3(1)(k) of the Treaty.
~~(12) Practical support is needed to create or improve conditions enabling refugees and displaced persons to take an informed decision to leave the territory of the Member States and return home, should they so wish, in complementarity with the provisions of the European Return Fund.~~	*deleted*
(13) In light of the Hague Programme, it is necessary to ensure that the Fund's resources are used in the most efficient way to achieve the aims of EU asylum policy, taking into account the need to support resettlement and practical cooperation between Member States, inter alia as a means of addressing particular pressures on reception capacities and asylum systems.	***(13) In light of the Hague Programme, it is necessary to ensure that the Fund's resources are used in the most efficient way to achieve the aims of EU asylum policy, taking into account the need to support resettlement and practical cooperation between Member States, inter alia as a means of addressing particular pressures on reception capacities and asylum systems.***
(16) The Fund should also support Member States' efforts relating to the enhancement of their capacity to develop, monitor and evaluate their asylum policies in light of their obligations under ~~existing and future~~ Community legislation.	***(14) The Fund should also support Member States' efforts relating to the enhancement of their capacity to develop, monitor and evaluate their asylum policies in light of their obligations under Community legislation, in particular with a view to engaging in practical cooperation between Member States.***
(14) The Fund should support the efforts made by Member States to provide international protection and a durable solution in their territories to refugees and displaced persons identified as eligible for resettlement by the United Nations High Commissioner for Refugees (UNHCR), such as the actions that the Member States implement to assess the resettlement needs and transfer the persons concerned to their territories, with a view to granting them a secure legal status and to promoting their effective integration.	***(15) The Fund should support the voluntary efforts made by Member States to provide international protection and a durable solution in their territories to refugees and displaced persons identified as eligible for resettlement by the United Nations High Commissioner for Refugees (UNHCR), such as the actions that the Member States implement to assess the resettlement needs and transfer the persons concerned to their territories, with a view to granting them a secure legal status and to promoting their effective integration.***
(15) It is in the nature of the Fund that it should be able to provide support to burden-sharing operations consisting in the transfer of beneficiaries of international protection from one Member State to another, which grants them ~~the same~~ protection.	***(16) It is in the nature of the Fund that it should be able to provide support to voluntary burden-sharing operations agreed between Member States and consisting in the transfer of beneficiaries of international protection from one Member State to another, which grants them similar protection, and of applicants for international protection.***
(17) The Fund should also be able to offer adequate support to joint efforts by Member States to identify, share and promote best practices and establish effective cooperation structures in order to enhance the quality of decision-making in the framework of the Common European Asylum System.	***(17) The Fund should also be able to offer adequate support to joint efforts by Member States to identify, share and promote best practices and establish effective cooperation structures in order to enhance the quality of decision-making in the framework of the Common European Asylum System.***
(***18***) A financial reserve should be established for the	(***18***) A financial reserve should be established for the

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implementation of emergency measures to provide temporary protection in the event of a mass influx of refugees pursuant to Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [12].	implementation of emergency measures to provide temporary protection in the event of a mass influx of refugees pursuant to Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [13].
(19) It should be possible to use this financial reserve also to support Member States' efforts to address particular pressures situations resulting from sudden arrivals of large numbers of persons who may be in need of international protection and which place significant and urgent demands on Member States' reception facilities or asylum systems. The conditions and the procedure for granting financial assistance in these situations should be laid down.	***(19) It should be possible to use this financial reserve also to support Member States' efforts to address particular pressures situations resulting from sudden arrivals of large numbers of persons who may be in need of international protection and which place significant and urgent demands on Member States' reception facilities or asylum systems. The conditions and the procedure for granting financial assistance in these situations should be laid down.***
(***20***) The support provided by the Fund will be more efficient and better targeted if co-financing of eligible actions is based on ***two*** multiannual ***programmes*** and on an annual ***work*** programme drawn up by each Member State taking into account its situation and needs.	(***20***) The support provided by the Fund will be more efficient and better targeted if co-financing of eligible actions is based on ***a*** multiannual ***programme, subject to a mid-term review*** and on an annual programme drawn up by each Member State taking into account its situation and needs.
(***21***) ***It is*** fair to allocate resources proportionally to the burden borne by each Member State through its efforts in receiving refugees and displaced persons, including refugees enjoying international protection within the framework of national programmes.	(***21***) ***Whilst it is appropriate to have a fixed amount awarded to each Member State, it remains*** fair to allocate ***a large part of the*** resources proportionally to the burden borne by each Member State through its efforts in receiving refugees and displaced persons, including refugees enjoying international protection within the framework of national programmes.
(22) Persons granted international protection and a durable solution through resettlement should be included in the numbers of beneficiaries of international protection taken into account for the allocation of resources between Member States.	***(22) Persons granted international protection and a durable solution through resettlement should be included in the numbers of beneficiaries of international protection taken into account for the allocation of resources between Member States.***
(23) In order to provide adequate resources for resettlement and in consideration of the declining numbers of asylum seekers in the European Union, the proportion of available resources allocated on the basis of the number of persons granted international protection, including through resettlement, should be increased.	***(23) In order to provide adequate resources for resettlement and in consideration of the declining numbers of asylum seekers in the European Union, the proportion of available resources allocated on the basis of the number of persons granted international protection, including through resettlement, should be increased.*** [14]
(24) Taking into account the importance of the strategic use of resettlement from countries or regions designated for the implementation of Regional Protection Programmes, it is necessary to provide additional financial support for the resettlement of persons from the Western Newly Independent Sates and sub-Saharan Africa, which were so designated in the Commission Communication on Regional Protection Programmes of 1 September 2005 and the Council	***(24) Taking into account the importance of the strategic use of resettlement from countries or regions designated for the implementation of Regional Protection Programmes, it is necessary to provide additional financial support for the resettlement of persons from the Western Newly Independent Sates and sub-Saharan Africa, which were so designated in the Commission Communication on Regional Protection Programmes of 1 September 2005 and the Council***

[12] OJ L 212, 7.8.2001, p. 12.
[13] OJ L 212, 7.8.2001, p. 12.
[14] ***DELETED*** : reservation linked to its reservation to Article 14.

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Conclusions of 12 October 2005, and from any other countries or regions that will be so designated in the future.	***Conclusions of 12 October 2005, and from any other countries or regions that will be so designated in the future.***[15]
(25) It is equally necessary to provide additional financial support to the resettlement actions targeted at certain particularly vulnerable categories of persons, where resettlement is determined to be the most appropriate response to their special needs.	***(25) It is equally necessary to provide additional financial support to the resettlement actions targeted at certain particularly vulnerable categories of persons, where resettlement is determined to be the most appropriate response to their special needs.***[16]
(***26***) In the context of shared management as referred to in Article 53 (1)(b) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities***[17]***, the conditions allowing the Commission to exercise its responsibilities for implementation of the general budget of the European Communities should be specified and the obligations for the cooperation of the Member States clarified. Applying these conditions will enable the Commission to satisfy itself that Member States are using the Fund in a lawful and correct manner and in accordance with the principle of sound financial management within the meaning of Article 27 of the Financial Regulation.	(***26***) In the context of shared management as referred to in Article 53 (1)(b) of the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities***[18]***, the conditions allowing the Commission to exercise its responsibilities for implementation of the general budget of the European Communities should be specified and the obligations for the cooperation of the Member States clarified. Applying these conditions will enable the Commission to satisfy itself that Member States are using the Fund in a lawful and correct manner and in accordance with the principle of sound financial management within the meaning of Article 27 ***and 48 (2)*** of the Financial Regulation.
(***27***) ***The Commission should establish the indicative breakdown of available commitment appropriations using an objective and transparent method.***	***deleted***
(***28***) ***Under technical assistance, the Fund should provide support for evaluations, improvement of administrative capacity linked to the management of the Fund, studies, pilot projects and exchanges of experience intended, in particular, to encourage innovative approaches and practices.***	***deleted***
(***29***) Member States should adopt adequate measures to guarantee the proper functioning of the management and control system. To this end, it is necessary to establish general principles and necessary functions which all programmes shall fulfil.	(***27***) Member States should adopt adequate measures to guarantee the proper functioning of the management and control system ***and the quality of implementation***. To this end, it is necessary to establish general principles and necessary functions which all programmes shall fulfil.
(***30***) ***It is necessary to provide for the designation of a single responsible authority for the management of the Fund's interventions in each Member State and to clarify its responsibilities. Designation and the functions of the audit authority should be also be foreseen. In addition, in order to guarantee uniform quality standards concerning the certification of expenditures before their transmission to the Commission and to clarify the nature and quality of the information on which declarations of expenditure are based it is necessary to provide for the designation of the certification authority.***	***deleted***

[15] ***DELETED*** : reservation linked to its reservation to Article 14.
[16] ***DELETED*** : reservation linked to its reservation to Article 14.
[17] OJ L 248, 16.9.2002, p.1.
[18] OJ L 248, 16.9.2002, p.1.

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(***31***) In accordance with the principles of subsidiarity and proportionality, Member States have the primary responsibility for the implementation and control of the interventions.	(***28***) In accordance with the principles of subsidiarity and proportionality, Member States have the primary responsibility for the implementation and control of the interventions.
(***32***) The obligations on the Member States as regards management and control systems, the certification of expenditure, and the prevention, detection and correction of irregularities and infringements of Community law should be specified to guarantee efficient and correct implementation of their multiannual and annual programmes. In particular, as far as management and control are concerned, it is necessary to establish the modalities by which Member States ensure that the systems are in place and function satisfactorily.	(***29***) The obligations on the Member States as regards management and control systems, the certification of expenditure, and the prevention, detection and correction of irregularities and infringements of Community law should be specified to guarantee efficient and correct implementation of their multiannual and annual programmes. In particular, as far as management and control are concerned, it is necessary to establish the modalities by which Member States ensure that the systems are in place and function satisfactorily.
(***33***) Without prejudice to the Commission's powers as regards financial control, cooperation between the Member States and the Commission in this field should be ***increased and the criteria should be established which allow the Commission to determine, in the context of its strategy of control of national systems, the level of assurance it can obtain from national audit bodies***.	(***30***) Without prejudice to the Commission's powers as regards financial control, cooperation between the Member States and the Commission in this field should be ***encouraged***.
(***34***) The effectiveness and impact of actions supported by the Fund also depend on their evaluation. The responsibilities of the Member States and the Commission in this regard, and arrangements to ensure the reliability of evaluation, should be formalised.	(***31***) The effectiveness and impact of actions supported by the Fund also depend on their evaluation ***and the dissemination of the results***. The responsibilities of the Member States and the Commission in this regard, and arrangements to ensure the reliability of evaluation ***and the quality of the related information***, should be formalised.
	(31A) Bearing in mind the importance of visibility of the Community funding, the Commission should provide guidance to facilitate that any authority, non-governmental organisation, international organisation or other entity receiving a grant by this Fund properly acknowledges the support received, taking into account the practice for other instruments under shared management, such as the Structural Funds.
(***35***) Actions should be evaluated with a view to a mid-term review and impact assessment, and the evaluation process should be incorporated into project monitoring arrangements.	(***32***) Actions should be evaluated with a view to a mid-term review and impact assessment, and the evaluation process should be incorporated into project monitoring arrangements.
(***36***) This Decision establishes a financial framework for the entire duration of the programme, which is to be the ***principal point of*** reference for the budgetary authority within the meaning of point ***33*** of the interinstitutional agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and ***improvement of the budgetary procedure***[19].	(***33***) This Decision establishes a financial framework for the entire duration of the programme, which is to be the ***prime*** reference for the budgetary authority within the meaning of point ***37*** of the interinstitutional agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and ***sound financial management.***[20].
(***37***) Since the objective of this Decision, namely to promote a balance of effort between Member States in receiving refugees and displaced persons, cannot be sufficiently achieved by the Member States and can	(***34***) Since the objective of this Decision, namely to promote a balance of effort between Member States in receiving refugees and displaced persons, cannot be sufficiently achieved by the Member States and can

[19] OJ C 172, 18.6.1999, p. 1.
[20] OJ C 139, 14.6.2006, p. 1.

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therefore by reason of the scale and effects of the action be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary to achieve this objective.	therefore by reason of the scale and effects of the action be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary to achieve this objective.
(***38***) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.[21]	(***35***) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999[22], ~~***as amended by Council Decision 2006/512/EC of 17 July 2006***[23]~~ laying down the procedures for the exercise of implementing powers conferred on the Commission. ~~***The implementing measures will be subject to a management committee procedure, this provision being the more appropriate in certain cases in order to increase efficiency. Concerning the adoption of strategic guidelines, the implementing measures will be subject to a regulatory procedure with scrutiny, given that they may supplement the present Decision by the addition of nonessential elements.***~~
	(35A) In particular, it is necessary to follow the regulatory procedure with scrutiny as regards measures of general scope designed to amend non-essential elements of this Regulation, inter alia by deleting some of those elements or by supplementing this Regulation by addition of new non-essential elements; such measures are referred to in Article18(4) of this Decision. Concerning the adoption of the strategic guidelines, and for reasons of efficiency, the time-limits applicable in the regulatory procedure with scrutiny should be curtailed.
	(36) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland has notified, by letter of 6 September 2005, its wish to take part in the adoption and application of this Decision.
	(37) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom has notified, by letter of 27 October 2005, its wish to take part in the adoption and application of this Decision.
(***39***) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is not bound by it nor	(***38***) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is not bound by it nor

[21] OJ L 184, 17.7.1999, p. 23.

[22] OJ L 184, 17.7.1999, p. 23. Decision amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11)

[23] OJ L 200, 22.7.2006, p. 11.

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subject to its application,	subject to its application.
	(39) In accordance with the second indent of paragraph 2 of Article 67 of the Treaty, Council Decision 2004/927/EC of 22 December 2004, providing for certain areas covered by Title IV of Part Three of the Treaty establishing the European Community to be governed by the procedure laid down in Article 251 of that Treaty,[24] rendered the procedure referred to in Article 251 of the Treaty applicable in the areas covered by Articles 62(1), (2)(a) and (3) and 63(2)(b) and (3)(b) of the Treaty.
	The European Economic and Social Committee has delivered an opinion[25].
	The Committee of the Regions has delivered an opinion[26].

[24] OJ L 396, 31.12.2004, p. 45-46.
[25] OJ C …
[26] OJ C …

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HAS ADOPTED THIS DECISION:	HAS ADOPTED THIS DECISION:
CHAPTER I SUBJECT-MATTER, OBJECTIVES AND ACTIONS	CHAPTER I SUBJECT-MATTER, OBJECTIVES AND ACTIONS
Article 1 Subject matter and scope	Article 1 Subject matter and scope
This decision establishes for the period from 1 January 2008 to 31 December 2013 the European Refugee Fund, hereinafter referred to as « The Fund », as part of ***the General programme "Solidarity and Management of Migration Flows"*** , in order to contribute to the strengthening of the area of Freedom, Security and Justice.	This Decision establishes for the period from 1 January 2008 to 31 December 2013 the European Refugee Fund, hereinafter referred to as « The Fund », as part of ***a coherent framework also including the Decision of the European Parliament and the Council establishing the External Borders Fund for the period 2007-2013, the Decision of the European Parliament and the Council establishing the European Return Fund for the period 2008-2013, and the Council Decision establishing the European Fund for the Integration of Third-country Nationals for the period 2007-2013***, in order to contribute to the strengthening of the area of Freedom, Security and Justice ***and the application of the principle of solidarity between the Member States***.
This decision defines the objectives to which the Fund contributes, its implementation, the available financial resources and the distribution criteria for the allocation of the available financial resources.	This decision defines the objectives to which the Fund contributes, its implementation, the available financial resources and the distribution criteria for the allocation of the available financial resources.
It establishes the Fund's management rules, including financial ones as well as monitoring and control mechanisms based on a share of responsibilities between the Commission and the Member States.	It establishes the Fund's management rules, including financial ones as well as monitoring and control mechanisms based on a share of responsibilities between the Commission and the Member States.
Article 2 General Objective of the Fund	Article 2 General Objective of the Fund
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 by co-financing the actions provided for by this Decision.
2. The Fund shall contribute to the financing of the technical assistance on the initiative of the Member States or the Commission.	2. The Fund shall contribute to the financing of the technical assistance on the initiative of the Member States or the Commission.
Article 3 Eligible actions in the Member States	Article 3 Eligible actions in the Member States
1. The Fund shall support actions in Member States relating to one or more of the following: (a) reception conditions and asylum	1. The Fund shall support actions in Member States relating to one or more of the following: (a) reception conditions and asylum

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procedures;	procedures;
(b) integration of persons referred to in Article 6 whose stay in the Member State is of a lasting and stable nature;	(b) integration of persons referred to in Article 6 whose stay in the Member State is of a lasting and stable nature;
~~(c) voluntary return of persons referred to in Article 6 *(a), (b) and (d)*, provided they have not acquired a new nationality, and of persons referred to in Article 6 *(e)*, provided they have not received a negative decision further to their request for international protection;~~	***deleted***
(f) enhancement of their capacity to develop, monitor and evaluate their asylum policies in light of their obligations under existing and future Community legislation in the field of the common European asylum system.	***(c) enhancement of their capacity to develop, monitor and evaluate their asylum policies in light of their obligations under existing and future Community legislation in the field of the common European asylum system**, in particular with a view to engaging in practical cooperation activities between Member States**.***
(d) resettlement of persons referred to in Article 6~~(1)~~(e);	***(d) resettlement of persons referred to in Article 6(e);***
For the purposes of this Decision, resettlement means the process whereby, on a referral from UNHCR based on their need for international protection, third country nationals or stateless persons are transferred from a third country to a Member State where they are permitted to reside with ~~a~~ refugee status within the meaning of Council Directive 2004/83/EC[27] or ~~with a permanent residence status granted on the basis of their protection needs in accordance with the national legislation~~.	***For the purposes of this Decision, resettlement means the process whereby, on a request from UNHCR based on their need for international protection, third country nationals or stateless persons are transferred from a third country to a Member State where they are permitted to reside with** one of the following statuses* ***- refugee status within the meaning of Council Directive 2004/83/EC[28] or*** ***- a status which offers the same rights and benefits under national and Community law as the refugee status;***
(e) transfer of persons falling under the categories referred to in Article 6(1)(a) and (b) from the Member State which granted them international protection to another Member State where they will be granted ~~the same~~ protection;	***(e) transfer of persons falling under the categories referred to in Article 6(a) and (b) from the Member State which granted them international protection to another Member State where they will be granted** similar **protection** and of persons falling under the category referred to in Article 6(c) to another Member State where their applications for international protection will be examined**;***
2. As regards reception conditions and asylum	2. As regards reception conditions and asylum

[27] OJ L 304, 30.9.2004, p. 12.
[28] OJ L 304, 30.9.2004, p. 12.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
procedures, eligible actions shall include the following: (a) accommodation infrastructure or services;	procedures, eligible actions shall include the following: (a) accommodation infrastructure or services;
	(aa) structures and training to ensure access to asylum procedures for asylum seekers;
(b) provision of material aid and medical or psychological care;	(b) provision of material aid and medical or psychological care;
(c) social assistance, information or help with administrative formalities;	(c) social assistance, information or help with administrative ***and/or judicial*** formalities ***and information or counselling on the possible outcome of the asylum procedure, including on aspects such as voluntary return***;
(d) legal aid and language assistance;	(d) legal aid and language assistance;
(e) education, language training and other initiatives which are consistent with the status of the person;	(e) education, language training and other initiatives which are consistent with the status of the person;
(f) the provision of support services such as translation and training to help improve reception conditions and the efficiency and quality of asylum procedures;	(f) the provision of support services such as translation and training to help improve reception conditions and the efficiency and quality of asylum procedures;
(g) information for local communities who will be interacting with those being received in the host country.	(g) information for local communities ***as well as training for the staff of local authorities,*** who will be interacting with those being received in the host country.
	(h) transfer of persons falling under the category referred to in Article 6(c) from a Member State where they actually are to the Member State responsible for the examination of the asylum application in question.
3. As regards integration into Member States' society of persons referred to in Article 3(1)(b) and members of their family, eligible actions shall include the following: (a) advice and assistance in areas such as housing, means of subsistence, integration into the labour market, medical, psychological and social care;	3. As regards integration into Member States' society of persons referred to in Article 3(1)(b) and members of their family, eligible actions shall include the following: (a) advice and assistance in areas such as housing, means of subsistence, integration into the labour market, medical, psychological and social care;
(b) actions enabling recipients to adapt to the society of the Member State in socio-cultural terms, and to share the values enshrined in the Charter of Fundamental Rights of the European Union;	(b) actions enabling recipients to adapt to the society of the Member State in socio-cultural terms, and to share the values enshrined in the Charter of Fundamental Rights of the European Union;

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
(c) actions to promote durable and sustainable participation in civil and cultural life;	(c) actions to promote durable and sustainable participation in civil and cultural life;
(d) measures focusing on education, vocational training, recognition of qualifications and diplomas;	(d) measures focusing on education, vocational training, recognition of qualifications and diplomas;
(e) actions designed to promote self-empowerment and to enable these persons to provide for themselves;	(e) actions designed to promote self-empowerment and to enable these persons to provide for themselves;
(f) actions that promote meaningful contact and constructive dialogue between these persons and the receiving society, including actions which promote the involvement of key partners such as the general public, local authorities, refugee associations, voluntary groups, social partners and the broader civil society;	(f) actions that promote meaningful contact and constructive dialogue between these persons and the receiving society, including actions which promote the involvement of key partners such as the general public, local authorities, refugee associations, voluntary groups, social partners and the broader civil society;
(g) measures to support the acquisition of skills by these persons, including language training;	(g) measures to support the acquisition of skills by these persons, including language training;
(h) actions that promote both equality of access and equality of outcomes in relation to these persons' dealings with public institutions.	(h) actions that promote both equality of access and equality of outcomes in relation to these persons' dealings with public institutions.
4. As regards actions relating to voluntary return, the following, in particular, shall be eligible for support from the Fund:	***deleted***
(a) information and advisory services concerning voluntary return initiatives or programmes;	
(b) information on the situation in the country or region of origin or former habitual residence;	***deleted***
(c) general or vocational training and help with reintegration;	***deleted***
(d) action by communities of origin resident in the European Union to facilitate the voluntary return of the persons referred to in this Decision;	
(e) actions which facilitate the organisation and implementation of national voluntary return programmes.	
7. As regards actions relating to the enhancement of Member States' capacity to develop, monitor and evaluate their asylum policies, the following, in particular, shall be eligible for support from the Fund:	***4. As regards actions relating to the enhancement of Member States' capacity to develop, monitor and evaluate their asylum policies, the following, in particular, shall be eligible for support from the Fund:***

AMENDED COMMISSION PROPOSAL	COMPROMISE TEXT
(a) actions promoting the collection, compilation, use and dissemination of Country of Origin Information;	***(a) actions promoting the collection, compilation, use and dissemination of Country of Origin Information, including translation;***
(b) actions enhancing the capacity to collect, analyse and disseminate statistics on asylum procedures, reception, integration and beneficiaries of international protection;	***(b) actions enhancing the capacity to collect, analyse and disseminate statistics on asylum procedures, reception, integration and beneficiaries of international protection;***
(c) actions enhancing the capacity ~~of judicial bodies~~ to assess asylum applications appealed;	***(c) actions enhancing the capacity to assess asylum applications, including appeals;***
(d) actions contributing to the evaluation of asylum policies, such as national impact assessments, surveys among target groups, the development of indicators and benchmarking.	***(d) actions contributing to the evaluation of asylum policies, such as national impact assessments, surveys among target groups, the development of indicators and benchmarking.***
5. As regards actions relating to resettlement, the following, in particular, shall be eligible for support from the Fund:	***5. As regards actions relating to resettlement, the following, in particular, shall be eligible for support from the Fund:***
(a) actions relating to the establishment and development of a resettlement programme;	***(a) actions relating to the establishment and development of a resettlement programme;***
(b) actions relating to the assessment of potential resettlement cases by the competent Member States' authorities, such as conducting missions to the host country, interviews, medical and security screening;	***(b) actions relating to the assessment of potential resettlement cases by the competent Member States' authorities, such as conducting missions to the host country, interviews, medical and security screening;***
(c) pre-departure health assessment and medical treatment;	***(c) pre-departure health assessment and medical treatment;***
(d) pre-departure material provisions;	***(d) pre-departure material provisions;***
(e) pre-departure information measures;	***(e) pre-departure information measures;***
(f) travel arrangements, including the provision of medical escort services;	***(f) travel arrangements, including the provision of medical escort services;***
(g) information and assistance immediately upon arrival, including interpretation services.	***(g) information and assistance immediately upon arrival, including interpretation services.***
6. As regards actions relating to the transfer of beneficiaries of international protection between Member States, the following, in particular, shall be eligible for support from the Fund:	***6. As regards actions relating to the transfer of beneficiaries of international protection between Member States, the following, in particular, shall be eligible for support from the Fund:***
(a) pre-departure information measures;	***(a) pre-departure information measures;***
(b) travel arrangements, including the	***(b) travel arrangements, including the***

AMENDED COMMISSION PROPOSAL	COMPROMISE TEXT
provision of medical escort services;	***provision of medical escort services;***
(c) information and assistance immediately upon arrival, including interpretation services.	***(c) information and assistance immediately upon arrival, including interpretation services.***
8. The actions referred to in paragraphs 2, 3 and 4 shall also be eligible for support from the Fund where they are targeted at the persons referred to in Article 6(1)(e).	***7. The actions referred to in paragraphs 2, 3 and 4 shall also be eligible for support from the Fund where they are targeted at the persons referred to in Article 6(e).***
9. 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.	***8.*** Actions provided for by paragraphs 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.
10. 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.	***9.*** Actions shall take account of ***gender-related issues, the best interest of children,*** the specific situation of vulnerable persons such as ***children***, unaccompanied ***children***, disabled people, elderly people, pregnant women, single parents with minor children, and ***victims of*** torture, ***or*** rape or other serious forms of psychological, physical or sexual violence ***victims of trafficking or forms of sexual abuse, individuals in need of emergency care and essential treatment of illness***.
	10. The Fund shall only support actions with respect to accommodation of persons referred to in article 6(c) which is separate from areas or centres solely destined for persons whose entry is refused and for persons who are intercepted after having crossed the border illegally or when approaching the external borders with a view to illegal entry into the territory of the Member States.
Article 4 Actions of interest to the Community	Article 4 Actions of interest to the Community
1. At the Commission's initiative, up to ***10%*** 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 ***10%*** 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.
2. To be eligible for funding, Community actions shall in particular:	2. To be eligible for funding, Community actions shall in particular:
(a) further Community cooperation in implementing Community law and good practices;	(a) further Community cooperation in implementing Community law and good practices***, including interpretation and translation services supporting such cooperation***;
(b) support the setting-up of transnational cooperation networks and pilot projects based on transnational partnerships	(b) support the setting-up of transnational cooperation networks and pilot projects based on transnational partnerships

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between bodies located in two or more Member States designed to stimulate innovation, facilitate exchanges of experience and good practice and improve the quality of asylum policy;	between bodies located in two or more Member States designed to stimulate innovation, facilitate exchanges of experience and good practice and improve the quality of asylum policy;
(c) support transnational awareness-raising campaigns;	(c) support transnational awareness-raising campaigns;
(d) support studies, dissemination and exchange of information on best practices and all other aspects of ***the Fund***, including on the use of state of the art technology;	(d) support studies, dissemination and exchange of information on best practices and all other aspects of ***asylum policies***, including on the use of state of the art technology ***and on cooperation at national level between key partners, such as local and regional authorities, refugee associations and voluntary groups***;

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(e) support pilot projects and studies exploring the possibility of new forms of Community cooperation and Community law in this area;	(e) support pilot projects***, including innovative projects*** and studies exploring the possibility of new forms of Community cooperation and Community law in this area;
(f) support development of statistical tools, methods and ***common*** indicators.	(f) support development ***and application by Member States*** of ***common*** statistical tools, methods and indicators ***for measuring policy developments in the field of asylum***;
	(fa) offer to networks linking non-governmental organisations which assist refugees and asylum-seekers and which are present in at least 10 Member States structural support intended to facilitate exchanges of experience and sound practice and to ensure that the development of Community asylum policy and practice takes into account the experience gained by non-governmental organisations and the interests of refugees and asylum seekers;
	(g) provide supporting services to Member States in case of duly substantiated emergency situations requiring urgent action.
3. The annual work programme laying down the priorities for Community actions shall be adopted in accordance with the procedure referred to in Article 52(2).	3. The annual work programme laying down the priorities for Community actions shall be adopted in accordance with the procedure referred to in Article 52(2).
Article 5 Emergency Measures	Article 5 Emergency Measures
1. In the event of temporary protection mechanisms within the meaning of Directive 2001/55/EC being implemented, the Fund shall also finance measures to help the Member States, such measures being separate from, and in addition to, the actions referred to in Article 3.	1. In the event of temporary protection mechanisms within the meaning of Directive 2001/55/EC being implemented, the Fund shall also finance measures to help the Member States, such measures being separate from, and in addition to, the actions referred to in Article 3.
2. Without prejudice to paragraph 1, the Fund shall also provide assistance to Member States for the implementation of emergency measures aimed at addressing situations of particular pressures. Such situations are characterised by sudden arrivals at particular points on the ~~external~~ borders of large numbers of third country nationals who may be in need of international protection, which place exceptionally heavy and urgent demands on the reception facilities, the asylum system or infrastructure of the Member States concerned and may create risk	***2. Without prejudice to paragraph 1, the Fund shall also provide assistance to Member States for the implementation of emergency measures aimed at addressing situations of particular pressures. Such situations are characterised by sudden arrivals at particular points on the borders of large numbers of third country nationals who may be in need of international protection, which place exceptionally heavy and urgent demands on the reception facilities, the asylum system or infrastructure of the Member States concerned and may create risk to human life, well-being or access to protection provided***

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to human life, well-being or access to ~~rights~~ provided under Community legislation.	***under Community legislation.***

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
3. The actions implemented in order to address the situations of particular pressures referred to in paragraph 2 shall be eligible for support from the Fund if:	***3. The actions implemented in order to address the situations of particular pressures referred to in paragraph 2 shall be eligible for support from the Fund if:***
(a) they are intended to be implemented immediately and cannot be practicably included in the relevant annual programme, and	***(a) they are intended to be implemented immediately and cannot be practicably included in the relevant annual programme, and***
(b) their duration does not exceed six months.	***(b) their duration does not exceed six months.***
4. Eligible emergency measures shall concern the following types of action:	***4***. Eligible emergency measures shall concern the following types of action:
(a) reception and accommodation;	(a) reception and accommodation;
(b) provision of means of subsistence, including food and clothing;	(b) provision of means of subsistence, including food and clothing;
(c) medical, psychological ***and social*** assistance;	(c) medical, psychological or other assistance;
(d) staff and administration costs linked to the reception of persons concerned and implementation of measures;	(d) staff and administration costs linked to the reception of persons concerned and implementation of measures;
(e) logistical and transport costs;	(e) logistical and transport costs.
(f) legal aid and language assistance;	***(f) legal aid and language assistance;***

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
(g) provision of translation and interpretation services, COI expertise and other measures contributing to the rapid identification of persons who may be in need of international protection and to a fair and efficient processing of asylum applications.	***(g) provision of translation and interpretation services, COI expertise and other measures contributing to the rapid identification of persons who may be in need of international protection and to a fair and efficient processing of asylum applications.***
	5. Measures under paragraph 4 may be supported by expert teams.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 6 Target Groups	Article 6 Target Groups
1. For the purposes of this Decision the target groups shall comprise the following categories:	For the purposes of this Decision the target groups shall comprise the following categories:
(a) any third-country national or stateless person having the status defined by the Geneva Convention of 28 July 1951 relating to the Status of Refugees and the 1967 protocol thereto and who is permitted to reside as refugee in one of the Member States;	(a) any third-country national or stateless person having the status defined by the Geneva Convention of 28 July 1951 relating to the Status of Refugees and the 1967 protocol thereto and who is permitted to reside as refugee in one of the Member States;
(***b***) any third-country national or stateless person enjoying a form of subsidiary protection within the meaning of Council Directive 2004/83/EC[29];	(b) any third-country national or stateless person enjoying a form of subsidiary protection within the meaning of Council Directive 2004/83/EC[30];
(***c***) any third-country national or stateless person who has applied for one of the forms of protection described in points ~~1 and 2~~ ***(a) and (b)***;	(c) any third-country national or stateless person who has applied for one of the forms of protection described in ***(a) and (b)***;
(***d***) any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC.	(d) any third-country national or stateless person enjoying temporary protection within the meaning of Directive 2001/55/EC.
(e) any third country nationals or stateless persons who are resettled in a Member State.	***(e) any third country nationals or stateless persons who are resettled in a Member State.***

[29] OJ L 304, 30.9.2004, p. 12.
[30] OJ L 304, 30.9.2004, p. 12.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
2. Third country national means any person who is not a Union citizen within the meaning of Article 17(1) of the Treaty.	***deleted***

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
CHAPTER II PRINCIPLES OF ASSISTANCE	CHAPTER II PRINCIPLES OF ASSISTANCE
Article 7 Complementarity, consistency and compliance	Article 7 Complementarity, consistency and compliance
1. The Fund shall provide assistance which complements national, regional and local actions, integrating into them the priorities of the Community.	1. The Fund shall provide assistance which complements national, regional and local actions, integrating into them the priorities of the Community.
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.	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.
3. Operations financed by the Fund shall comply with the provisions of the Treaty and of acts adopted under them.	3. Operations financed by the Fund shall comply with the provisions of the Treaty and of acts adopted under them.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 8 Programming	Article 8 Programming
1. The objectives of the Fund shall be pursued in the framework of ***two*** multiannual programming periods ***(2008-2010 and 2011-2013)***. The multiannual programming system shall include the priorities and a process of management, decision making, auditing and certification.	1. The objectives of the Fund shall be pursued in the framework of ***a*** multiannual programming period (***2008-2013***), ***subject to a mid-term review in accordance with Article 22A***. The multiannual programming system shall include the priorities and a process of management, decision making, auditing and certification.
2. The multiannual programmes ***adopted*** by the Commission shall be implemented by means of annual programmes.	2. The multiannual programmes ***approved*** by the Commission shall be implemented by means of annual programmes.
Article 9 Subsidiary and proportional intervention	Article 9 Subsidiary and proportional intervention
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 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.
2. The means employed by the Commission and the Member States shall vary according to the size of the Community contribution in relation to audit provisions. Differentiation shall also apply to provisions on evaluation and to the reports on multiannual and annual programmes.	2. The means employed by the Commission and the Member States shall vary according to the size of the Community contribution in relation to audit provisions. Differentiation shall also apply to provisions on evaluation and to the reports on multiannual and annual programmes.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 10 Implementation methods	Article 10 Implementation methods
1. The Community budget allocated to the Fund shall be implemented in accordance with Article 53 (1) (b) of Council Regulation (EC, Euratom) No 1605/2002, with the exception of the Community Actions referred to in Article 4 and the technical assistance referred to in Article 16. ***The Member States and the Commission shall ensure compliance with the principle of sound financial management.***	1. The Community budget allocated to the Fund shall be implemented in accordance with Article 53(1)(b) of Council Regulation (EC, Euratom) No 1605/2002, with the exception of the Community Actions referred to in Article 4 and the technical assistance referred to in Article 16.
2. The Commission exercises its responsibility for implementing the general budget of the European Communities by: (a) checking the existence and proper functioning of management and control systems in the Member States in accordance with the procedures described in Article 32;	2. The Commission exercises its responsibility for implementing the general budget of the European Communities by: (a) checking the existence and proper functioning of management and control systems in the Member States in accordance with the procedures described in Article 32;
(b) interrupting or suspending all or part of payments in accordance with Articles 41 and 42 if the national management and control systems fail, and by applying any other financial correction required, in accordance with the procedures described in Articles 45 and 46.	(b) interrupting or suspending all or part of payments in accordance with Articles 41 and 42 if the national management and control systems fail, and by applying any other financial correction required, in accordance with the procedures described in Articles 45 and 46.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 11 Additionality	Article 11 Additionality
1. Contributions from the Fund shall not replace public or equivalent expenditure by a Member State.	***deleted***
2. The Commission shall, in cooperation with each Member State, verify additionality mid-term by 31 December 2012 and ex-post by 31 December 2015.	
Article 12 Partnership	Article 12 Partnership
1. Each Member State shall organise, in accordance with current national rules and practices, a partnership with the authorities and bodies ***which it designates, namely:*** ***(a)*** the competent regional, local, urban and other public authorities***;***	1. Each Member State shall organise, in accordance with current national rules and practices, a partnership with the authorities and bodies which ***are involved in the implementation of the multiannual programme or able to provide a useful contribution to its development according to the Member State concerned.*** ***Such authorities and bodies may include*** the competent regional, local, urban and other public authorities***,***

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
(b) ***any other appropriate body*** representing civil society***,*** non-governmental organisations***, including the*** social partners. ***Each Member State shall ensure broad and effective involvement of all the appropriate bodies, in accordance with national rules and practices.***	***international organisations and bodies, in particular UNHCR,*** representing civil society ***such as*** non-governmental organisations ***or*** social partners.
2. The partnership shall be conducted in full compliance with the respective institutional, legal and financial jurisdiction of each partner category. ***The partnership shall cover preparation, implementation, monitoring and evaluation of the multiannual programmes.***	2. The partnership shall be conducted in full compliance with the respective institutional, legal and financial jurisdiction of each partner category.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
CHAPTER III FINANCIAL FRAMEWORK	CHAPTER III FINANCIAL FRAMEWORK
Article 13 Global resources	Article 13 Global resources
1. The financial ***reference amount*** for the implementation of the Fund from 1 January 2008 to 31 December 2013 shall be EUR ***628*** million.	1. The financial ***envelope*** for the implementation of the Fund from 1 January 2008 to 31 December 2013 shall be EUR [***628***] million.
2. The annual appropriations for the Fund shall be authorised by the budgetary authority within the limits of the financial ***framework***.	2. The annual appropriations for the Fund shall be authorised by the budgetary authority within the limits of the financial ***framework***.
3. The Commission shall make indicative annual breakdowns by Member States in accordance with the criteria established in Article 14.	3. The Commission shall make indicative annual breakdowns by Member States in accordance with the criteria established in Article 14.
Article 14 Annual distribution of resources for eligible actions in the Member States	Article 14 Annual distribution of resources for eligible actions in the Member States
1. Each Member State shall receive a fixed amount of EUR 300.000 from the Fund's annual allocation. This amount shall be fixed at EUR 500.000 per annum for the period 2008-2013 for the states which acceded to the European Union on 1 May 2004. 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.	1. Each Member State shall receive a fixed amount of EUR 300.000 from the Fund's annual allocation. This amount shall be fixed at EUR 500.000 per annum for the period 2008-2013 for the states which acceded to the European Union on 1 May 2004. 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.
2. The remainder of the available annual resources shall be broken down between the Member States as follows:	2. The remainder of the available annual resources shall be broken down between the Member States as follows:
(a) ***40%*** in proportion to the number of persons admitted in one of the categories referred to in ***Articles*** 6 ***(1) and (2)*** ***(a), (b) and (e)*** over the previous three years;	(a) ***30%*** in proportion to the number of persons admitted in one of the categories referred to in ***Article*** 6 ***(a), (b) and (e)*** over the previous three years;
(b) ***60%*** in proportion to the number of persons referred to in Article 6 ***(3) and (4)*** ***(1) (c) and (d)*** registered over the previous three years.	(b) ***70%*** in proportion to the number of persons referred to in Article 6***(c) and (d)*** registered over the previous three years.
	For the purposes of this breakdown, persons referred to in Article 6(e) shall not be taken into account under the category referred to in Article 6(a).

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3. ~~***Where a Member State resettles persons from a country or region designated for the implementation of a Regional Protection Programme, it***~~ ***shall receive a fixed amount of EUR 4 000 for each resettled person***~~.~~	***3.*** ***[…]*** *Member States* ***shall receive a fixed amount of EUR 4 000***[31] ***for each resettled person*** *falling under one of the following categories:* ***(a) persons from a country or region designated for the implementation of a Regional Protection Programme;*** ***(b) unaccompanied minors;*** ***(c) minors and women who are at risk, particularly from psychological, physical or sexual violence and exploitation;*** ***(d) persons with serious medical needs that can only be addressed through resettlement.***
~~***4. Where a Member State implements the actions referred to in Article 3(5) it shall receive***~~ ~~***(a) a fixed amount of EUR 3 000 for each resettled person falling under one of the following categories of vulnerable persons:***~~ ~~***– unaccompanied minors;***~~ ~~***– minors and women who are at risk, particularly from psychological, physical or sexual violence and exploitation;***~~ ~~***where the persons falling under one of the above mentioned categories are resettled from a country or region designated for the implementation of a Regional Protection Programme, the Member State concerned shall receive a fixed amount of EUR 4 000 for each resettled person;***~~	***4. Where a Member State*** *resettles a person falling under more than one of the categories referred to in paragraph 3, it shall receive the fixed amount for this person only once.*
~~***(b) a fixed amount of EUR 5 000 for each resettled person with serious medical needs that can only be addressed through resettlement;***~~ ~~***where the persons falling under the above mentioned category are resettled from a country or region designated for the implementation of a Regional Protection Programme, the Member State concerned shall receive a fixed amount of EUR 5 000 for each resettled person.***~~	
5. The reference figures shall be the latest statistics produced by the Statistical Office of the European Communities in accordance with Community law ***on the collection and analysis of asylum data***.	***5***. The reference figures shall be the latest statistics produced by the Statistical Office of the European Communities ***on the basis of data provided by Member States*** in accordance with Community law. ***Where Member States have not supplied to the Commission (Eurostat) the statistics concerned, they shall provide provisional data as soon as possible.***

[31] ***DELETED*** reservation due to the fact that resettlement is financed by the total amount of the Fund and not only by the annual allocation from the Fund to each Member State, based on Article 14.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
6. ***Where the statistics referred to in paragraph 5 are not available,*** Member States shall provide ***[…]*** figures.	***Before accepting these data as reference figures, the Commission (Eurostat) shall evaluate the quality, comparability and completeness of the statistical information in accordance with normal operational procedures. At the request of the Commission (Eurostat),*** Member States shall provide ***it with all*** the necessary ***information to do so.***[32]
7. No later than 1 May each year, Member States shall provide the Commission with an estimate of the number of persons referred to in paragraphs 3 and 4 that they will resettle the following year, including a breakdown by the different categories referred to in paragraph 4. The Commission shall communicate this information to the Committee.	***6. No later than 1 May each year, Member States shall provide the Commission with an estimate of the number of persons referred to in paragraph 3 that they will resettle the following year, including a breakdown by the different categories referred to in this paragraph. The Commission shall communicate this information to the Committee.***
Article 15 Financing structure	Article 15 Financing structure
1. The Fund's financial contribution shall take the form of grants.	1. The Fund's financial contribution shall take the form of grants.
2. Actions supported by the Fund shall be co-financed by public or private sources, shall be of a non-profit nature and shall not be eligible for funding from other sources covered by the general budget of the European Communities.	2. Actions supported by the Fund shall be co-financed by public or private sources, shall be of a non-profit nature and shall not be eligible for funding from other sources covered by the general budget of the European Communities.
3. Fund appropriations shall be complementary to public or equivalent expenditure allocated by Member States to the measures covered by this Decision.	3. Fund appropriations shall be complementary to public or equivalent expenditure allocated by Member States to the measures covered by this Decision.
4. The Community contribution to supported projects, as regards actions implemented in the Member States under Article 3 shall not exceed 50% of the total cost of a specific action. This may be increased to ***60%*** for projects addressing specific priorities identified in the ***Commission multiannual*** guidelines as defined in Article 18. This shall be increased to 75% in the Member States covered by the Cohesion Fund.	4. The Community contribution to supported projects, as regards actions implemented in the Member States under Article 3 shall not exceed 50% of the total cost of a specific action. This may be increased to ***75%*** for projects addressing specific priorities identified in the ***strategic*** guidelines as defined in Article 18. This shall be increased to 75% in the Member States covered by the Cohesion Fund.
	5. ***In the framework of the implementation of national programming as set out in Chapter IV,***

[32] The revised wording reflects both the current situation (arrangements between MS and Eurostat, with Eurostat being bound by general rules laid down in Council Regulation (EC) 322/97 of 17 February 1997 on Community statistics) and the future situation (specific Regulation on Community statistics on migration and international protection). The data for the Funds should be treated the same as other data (reference to normal operational procedures).

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
	Member States shall select projects for financing on the basis of the following minimum criteria: ***(a) the situation and requirements in the Member State;*** ***(b) the cost-effectiveness of the expenditure, inter alia in view of the number of persons concerned by the project;*** ***(c) the experience, expertise, reliability and financial contribution of the organisation applying for funding and any partner organisation;*** ***(d) the extent to which the projects complement other action funded by the general budget of the European Union or as part of national programmes.***
5. As a general rule, Community financial aid granted for actions supported by the Fund shall be given for a period of no more than three years, subject to periodic progress reports.	***6.*** As a general rule, Community financial aid granted for actions supported by the Fund shall be given for a period of no more than three years, subject to periodic progress reports.
6. The Community contribution to support actions implemented under Article 3~~(7)~~ cannot exceed 15% of the total of the annual resources allocated to each Member State in accordance with Article 14.	***6. The Community contribution to support actions implemented under Article 3~~(4)~~ cannot exceed 15% of the total of the annual resources allocated to each Member State in accordance with Article 14.***
Article 16 Technical assistance at the initiative of the Commission 1. At the initiative of and/or on behalf of the Commission, the Fund may finance the preparatory measures, monitoring, administrative and technical support measures, as well as evaluation, audit and inspection measures necessary for implementing this Decision***, within the limits of 0,20% of the Fund's annual allocation***.	Article 16 Technical assistance at the initiative of the Commission 1. At the initiative of and/or on behalf of the Commission, ***subject to a ceiling of EUR 500.000 of the Fund's annual allocation***, the Fund may finance the preparatory measures, monitoring, administrative and technical support measures, as well as evaluation, audit and inspection measures necessary for implementing this Decision.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
2. Those actions shall include:	2. Those actions shall include:
(a) studies, evaluations, expert reports and statistics, including those of a general nature concerning the operation of the Fund;	(a) studies, evaluations, expert reports and statistics, including those of a general nature concerning the operation of the Fund;
(b) measures ***aimed at the partners, the*** beneficiaries ***of assistance from the Fund*** and the general public***, in particular information measures***;	(b) ***information*** measures ***for the Member States, the final*** beneficiaries and the general public, ***including awareness raising campaigns and a common database on the projects financed under the Fund;***
(c) the installation, operation and interconnection of computerised systems for management, monitoring, inspection and evaluation;	(c) the installation, operation and interconnection of computerised systems for management, monitoring, inspection and evaluation;
	(d) the design of a common framework for evaluation and monitoring as well as a systems of indicators, taking into account, where appropriate, national indicators;
(d) improvements in evaluation methods and the exchange of information on practices in this field.	***(e)*** improvements of evaluation methods and the exchange of information on practices in this field.
	(f) information and training measures for the authorities designated by Member States in accordance with Chapter V, complementary to the efforts of the Member States to provide guidance to their authorities in accordance with Article 31, paragraph 2.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 17 Technical assistance of the Member states	Article 17 Technical assistance of the Member states
1. At the initiative of the Member State in question, for each annual programme, the Fund may finance preparatory measures, management, monitoring, evaluation, information and control measures, as well as measures for the reinforcement of the administrative capacity for the implementation of the Fund.	1. At the initiative of the Member State in question, for each annual programme, the Fund may finance preparatory measures, management, monitoring, evaluation, information and control measures, as well as measures for the reinforcement of the administrative capacity for the implementation of the Fund.
2. The annual amount set aside for technical assistance may not exceed	2. The annual amount set aside for technical assistance may not exceed***:***
	a) 7% of the total annual amount of co-financing allocated to the Member State plus EUR 30.000 for 2008-2010 and
4 % of the total annual amount of co-financing allocated to the Member State, plus EUR 30 000.	***b) 4% of the total annual amount of co-financing allocated to the Member State plus EUR 30. 000*** for 2011-2013.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
CHAPTER IV PROGRAMMING	CHAPTER IV PROGRAMMING
Article 18 Adoption of strategic guidelines	Article 18 Adoption of strategic guidelines
1. ***For each multiannual programming period, the*** Commission shall adopt strategic guidelines setting out a framework for the intervention of the Fund, taking into account the progress in development and implementation of Community legislation in the area of asylum policy as well as the indicative distribution of the financial resources of the Fund for the period concerned.	1. ***The*** Commission shall adopt strategic guidelines setting out a framework for the intervention of the Fund, taking into account the progress in development and implementation of Community legislation in the area of asylum policy as well as the indicative distribution of the financial resources of the Fund for the period concerned.
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.
3. The Commission shall adopt the strategic guidelines relating to the ***first*** multiannual programming period ***(2008-2010)*** on 31 March 2007 at the latest***, and those relating to the second multiannual programming period (2011-2013) on 31 March 2010 at the latest***.	3. The Commission shall adopt the strategic guidelines relating to the multiannual programming period on 31 ~~March~~ ***May*** 2007 at the latest.
4. The strategic guidelines shall be adopted in accordance with the procedure referred to in Article 52***(2)***.	4. The strategic guidelines shall be adopted in accordance with the ***regulatory*** procedure ***with scrutiny*** referred to in Article 52***(3). These strategic guidelines, once they are adopted, shall be added to the present Decision as an annex.***
Article 19 Preparation and approval of national multiannual programmes	Article 19 Preparation and approval of national multiannual programmes
1. Each Member State shall ***for each programming period and*** on the basis of the strategic guidelines referred to in Article 18 ***propose*** a draft multiannual programme which shall ***include*** the following elements: (a) description of the current situation in the Member State as regards arrangements for reception, asylum procedures, integration ~~and~~ voluntary return ***resettlement and transfer from another Member State*** of the persons covered by Article 6***, as well as the development, monitoring and evaluation of asylum policies***;	1. Each Member State shall ***propose,*** on the basis of the strategic guidelines referred to in Article 18***,*** a draft multiannual programme which shall ***consist of*** the following elements: (a) ***a*** description of the current situation in the Member State as regards arrangements for reception, asylum procedures, ***counselling of voluntary return,*** integration ***and resettlement and transfer from another Member State*** of the persons covered by Article 6***, as well as the development, monitoring and evaluation of asylum policies***;

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
(b) an analysis of requirements in the Member State in question in terms of reception, asylum procedures, integration and ***voluntary return resettlement and transfer from another Member State of the persons covered by Article 6, as well as the development, monitoring and evaluation of asylum policies***;	(b) an analysis of requirements in the Member State in question in terms of reception, asylum procedures, ***counselling of voluntary return,*** integration, ***and resettlement and transfer from another Member State of the persons covered by Article 6, as well as the development, monitoring and evaluation of asylum policies***;
(c) and an indication of operational objectives designed to meet these requirements during the period covered by the multiannual programme;	***deleted***
(***d***) presentation of an appropriate strategy to achieve these objectives and the priorities attached to their attainment, and a description of the actions envisaged to implement these priorities;	(c) ***the*** presentation of an appropriate strategy to achieve these objectives and the priorities attached to their attainment, and a description of the actions envisaged to implement these priorities;
(***e***) indication of whether this strategy is compatible with other regional, national and Community instruments;	(d) ***an*** indication of whether this strategy is compatible with other regional, national and Community instruments;
(***f***) information on the priorities and their specific targets. Those targets shall be quantified using a limited number of indicators ***for implementation, results and impact,*** taking into account the proportionality principle. The indicators must make it possible to measure the progress in relation to the baseline situation and the effectiveness of the targets implementing the priorities;	(e) information on the priorities and their specific targets. Those targets shall be quantified using a limited number of indicators taking into account the proportionality principle. The indicators must make it possible to measure the progress in relation to the baseline situation and the effectiveness of the targets implementing the priorities;

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
	(f) ***a description of the approach chosen for the implementation of the principle of partnership laid down in Article 12;***
(***g***) a draft financing plan which sets out, for each priority and each year, the Fund's proposed financial contribution and the overall amount of public or private co-financing;	(g) a draft financing plan which sets out, for each priority and each year, the Fund's proposed financial contribution and the overall amount of public or private co-financing;
(***h***) implementing provisions for the multiannual programme, ***including***: - designation by the Member State of all the entities stipulated in Article 25; - a description of the implementation, monitoring, control and evaluation systems; - a definition of the procedures for the mobilisation and circulation of financial flows in order to ensure their transparency; - the provisions laid down to ensure that the multiannual programme is publicised;	(h) implementing provisions for the multiannual programme, ***consisting of*** • ***the*** designation by the Member State of all the entities stipulated in Article 25; • a description of the implementation, monitoring, control and evaluation systems; • a definition of the procedures for the mobilisation and circulation of financial flows in order to ensure their transparency; • the provisions laid down to ensure that the multiannual programme is publicised.
2. ***The Member States shall establish each multiannual programme in close cooperation with the partners referred to in Article 12.***	***deleted***
3. Member States shall submit their draft multiannual programme no later than four months after the Commission has provided the strategic guidelines for the period in question.	***2.*** Member States shall submit their draft multiannual programme no later than four months after the Commission has provided the strategic guidelines for the period in question.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
4. ***The Commission shall appraise the proposed*** multiannual programme ***in light of:***	***3.*** ***In order to approve*** the ***draft*** multiannual programme, ***the Commission shall examine:***
(a) its consistency with the objectives of the Fund and the strategic guidelines defined in Article 18,	(a) its consistency with the objectives of the Fund and the strategic guidelines defined in Article 18;
(b) the relevance***, appropriateness and expected results of the strategy and operational priority themes proposed by the Member State;***	(b) the relevance ***of the actions envisaged in the draft in light of the strategy which is proposed;***
(c) the compliance of the management and control arrangements set up by the Member State for the implementation of the Fund's interventions with the provisions set out in this Decision;	(c) the compliance of the management and control arrangements set up by the Member State for the implementation of the Fund's interventions with the provisions set out in this Decision;
(d) its compliance with Community law and in particular with Community law aiming at ensuring the free movement of persons in conjunction with the directly related flanking measures with respect to external borders controls, asylum and immigration.	(d) its compliance with Community law and in particular with Community law aiming at ensuring the free movement of persons in conjunction with the directly related flanking measures with respect to external borders controls, asylum and immigration.
5. Where the Commission considers that a multiannual programme is inconsistent with the strategic guidelines or does not comply with the provisions of this decision setting out management and control systems, it shall ***request*** the Member State to revise the proposed programme accordingly.	***4.*** Where the Commission considers that a ***draft*** multiannual programme is inconsistent with the strategic guidelines ***and/***or does not comply with the provisions of this decision setting out management and control systems ***or with Community law***, it shall ***invite*** the Member State to ***provide all necessary additional information and, where appropriate,*** to revise the proposed programme accordingly.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
6. The Commission shall approve each multiannual programme within ***four*** months following its formal submission, in accordance with the procedure referred to in Article 52(2).	***5.*** The Commission shall approve each multiannual programme within ***three*** months following its formal submission, in accordance with the procedure referred to in Article 52(2).
Article 20 Revision of multiannual programmes	Article 20 Revision of multiannual programmes
1. At the initiative of the Member State in question or the Commission, multiannual programme shall be re-examined and, if necessary, revised for the rest of the programming period in order to take greater or different account of the Community priorities***, particularly in the light of Council conclusions***. Multiannual programmes may be re-examined in the light of evaluations and / or following implementation difficulties.	1. At the initiative of the Member State in question or the Commission, ***the*** multiannual programme shall be re-examined and, if necessary, revised for the rest of the programming period in order to take greater or different account of the Community priorities ***[…].*** Multiannual programmes may be re-examined in the light of evaluations and/or following implementation difficulties.
2. The Commission shall adopt a decision approving the revision of the multiannual programme as soon as possible after the formal submission of a request by the Member State concerned.	2. The Commission shall adopt a decision approving the revision of the multiannual programme as soon as possible after the formal submission of a request by the Member State concerned. ***The revision of the multiannual programme shall be done in accordance with the procedure referred to in Article 52(2).***
Article 21 Annual programmes	Article 21 Annual programmes
1. The multiannual programmes approved by the Commission shall be implemented by means of annual ***work*** programmes.	1. The multiannual programme approved by the Commission shall be implemented by means of annual programmes.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
2. The Commission shall provide the Member States, no later than 1 July of each year, with an estimate of the amounts to be allocated to them for the following year from the total appropriations allocated under the annual budgetary procedure, calculated as provided by Article 14.	2. The Commission shall provide the Member States, no later than 1 July of each year, with an estimate of the amounts to be allocated to them for the following year from the total appropriations allocated under the annual budgetary procedure, calculated as provided by Article 14.
3. The Member States shall submit to the Commission, no later than 1 November of each year, a draft annual programme for the following year, established in accordance with the multiannual programme ***and including*** : (a) the general rules for selection of projects to be financed under the annual programme;	3. The Member States shall submit to the Commission, no later than 1 November of each year, a draft annual programme for the following year, established in accordance with the multi-annual programme, ***consisting of the following elements***: (a) the general rules for selection of projects to be financed under the annual programme;
(b) a description of the ***tasks to be carried out by the responsible authority when implementing*** the annual programme;	(b) a description of the ***actions to be supported under*** the annual programme;
(c) the proposed financial breakdown of the Fund's contribution between the programme's various actions and an indication of the amount requested to cover technical assistance under Article 17 for the purpose of implementing the annual programme.	(c) the proposed financial breakdown of the Fund's contribution between the programme's various actions; and an indication of the amount requested to cover technical assistance under Article 17 for the purpose of implementing the annual programme.
4. When examining the ***Member State's proposal***, the Commission shall take account of the final amount of the appropriations allocated to the Fund under the budgetary procedure ***and shall adopt the decision on co-financing from the Fund***	4. When examining the ***draft annual programme of a Member State***, the Commission shall take account of the final amount of the appropriations allocated to the Fund under the budgetary procedure***.***
	Within one month of the formal submission of this draft, the Commission shall inform the Member State whether it can approve it or not. If the draft annual programme is inconsistent with the multiannual programme, the Commission shall invite the Member State to provide all necessary information and, where appropriate, to revise the proposed programme accordingly.
no later than 1 March of the year in question. The decision shall indicate the amount allocated to the Member State and the period for which the expenditure is eligible.	***The Commission shall adopt the financing decision, approving the annual programme,*** no later than 1 March of the year in question. The decision shall indicate the amount allocated to the Member State and the period for which the expenditure is eligible.
	5. To take into account duly substantiated emergency situations which were not foreseen at the time of the approval of the annual programme and requiring urgent action, a Member State may revise up to 10% of the financial breakdown of the Funds' contribution

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
	between the various actions listed in the annual programme or allocate up to 10% of the break down to other actions in accordance with this Decision. The Commission shall be informed of the revised annual programme.
Article 22 Special provisions concerning emergency measures 1. Member States shall provide the Commission with a statement of requirements and an implementation plan for the emergency measures provided for by Article 5, including a description of the planned measures and the bodies responsible for implementing them.	Article 22 Special provisions concerning emergency measures 1. Member States shall provide the Commission with a statement of requirements and an implementation plan for the emergency measures provided for by Article 5, including a description of the planned measures and the bodies responsible for implementing them.

AMENDED COMMISSION PROPOSAL	COMPROMISE TEXT
2. ***A Member State requesting assistance from the Fund in order to address a situation of particular pressure described in Article 5(2) shall submit to the Commission an application providing all available relevant information, including:***	2. ***A Member State requesting assistance from the Fund in order to address a situation of particular pressure described in Article 5(2) shall submit to the Commission an application providing all available relevant information, including:***
(a) a detailed description of the current situation, in particular concerning the number of arrivals, the effects on the reception capacities and the asylum system or infrastructure and the urgent needs, as well as a substantiated forecast of possible developments of the situation in the short-term;	***(a) a detailed description of the current situation, in particular concerning the number of arrivals, the effects on the reception capacities and the asylum system or infrastructure and the urgent needs, as well as a substantiated forecast of possible developments of the situation in the short-term;***
(b) a substantiated indication of the exceptional character of the situation, demonstrated by elements which may include recent statistical and other data regarding the inflow of persons at the particular point of the border concerned;	***(b) a substantiated indication of the exceptional character of the situation, demonstrated by elements which may include recent statistical and other data regarding the inflow of persons at the particular point of the border concerned;***
(c) a detailed description of the emergency actions envisaged, their scale, their nature and the partners concerned;	***(c) a detailed description of the emergency actions envisaged, their scale, their nature and the partners concerned;***
(d) a breakdown of the estimated costs of the actions envisaged.	***(d) a breakdown of the estimated costs of the actions envisaged.***
The Commission shall decide whether the conditions for granting financial assistance for emergency measures from the Fund are fulfilled and on the amount of the financial assistance to be granted on the basis of the information referred to above and any additional relevant information at its disposal.	***The Commission shall decide whether the conditions for granting financial assistance for emergency measures from the Fund are fulfilled and on the amount of the financial assistance to be granted on the basis of the information referred to above and any additional relevant information at its disposal. The Commission shall inform Member States on the above-mentioned Decision.***
3. Financial assistance from the Fund for the emergency measures provided for by Article 5 shall be limited to a period of six months and shall not exceed 80 % of the cost of each measure.	***3.*** Financial assistance from the Fund for the emergency measures provided for by Article 5 shall be limited to a period of six months and shall not exceed 80% of the cost of each measure.
4. ***In the event of temporary protection mechanism as referred to in Article 5(1),*** available resources shall be distributed among the Member States on the basis of the number of persons benefiting from temporary protection in each Member State as referred to in Article 5(1).	***4.*** ***In the event of temporary protection mechanism as referred to in Article 5(1),*** available resources shall be distributed among the Member States on the basis of the number of persons benefiting from temporary protection in each Member State as referred to in Article 5(1).
	Article 22A ***Mid-term review of the multiannual programme*** ***1. The Commission shall review the strategic***

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
	guidelines and where necessary, adopt, on 31 March 2010 at the latest, new strategic guidelines for the period 2011- 2013
	2. If such strategic guidelines are adopted, each Member States shall re-examine its multi-annual programme and where appropriate, revise it.
	3. The rules in Article 19 on the preparation and approval of national multi-annual programmes shall apply mutatis mutandis for the preparation and approval of these revised multi-annual programmes.
	4. The revised strategic guidelines shall be adopted in accordance with the procedure referred to in Article 52(3).

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
CHAPTER V MANAGEMENT AND CONTROL SYSTEM	CHAPTER V MANAGEMENT AND CONTROL SYSTEMS
Article 23 Implementation The Commission shall be responsible for implementing this Decision and shall adopt such implementing rules as may be necessary.	Article 23 Implementation The Commission shall be responsible for implementing this Decision and shall adopt such implementing rules as may be necessary.
Article 24 General Principles in the management and control systems	Article 24 General Principles in the management and control systems
The management and control systems of multiannual programmes set up by Member States shall provide for:	The management and control systems of multiannual programmes set up by Member States shall provide for:
(a) ***a clear*** definition of the functions of the bodies ***and/or departments*** concerned in management and control and ***a clear*** allocation of functions within each body ***and/or department***;	(a) ***the*** definition of the functions of the bodies concerned in management and control and ***the*** allocation of functions within each body;
(b) ***a clear*** separation of functions between bodies ***and/or departments concerned in management, certification of expenditure and control and between those functions within each body and/or department***;	(b) ***the respect of the principle of*** separation of functions between ***and within such*** bodies;
(c) adequate resources for each body ***or department*** to carry out the functions which have been allocated to it throughout the period of implementation of actions financed by the Fund;	(c) adequate resources for each body to carry out the functions which have been allocated to it throughout the period of implementation of actions financed by the Fund;
(d) ***effective internal control arrangements of the responsible authority and any delegated authority***;	(d) ***procedures for ensuring the correctness and regularity of the expenditure declared under the multiannual programmes;***

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
(e) reliable accounting, monitoring and financial reporting systems in computerised form;	(e) reliable accounting, monitoring and financial reporting systems in computerised form;
(f) ***effective*** system of reporting and monitoring where ***the performance*** of tasks ***is delegated***;	(f) ***a*** system of reporting and monitoring where the ***responsible body entrusts the execution*** of tasks ***to another body;***
(g) ***detailed*** manuals of procedures in relation to the functions to be performed;	(g) manuals of procedures in relation to the functions to be performed;
(h) ***effective*** arrangements for the audit of the functioning of the system;	(h) arrangements for ***auditing*** the functioning of the system;
(i) systems and procedures to ensure ***a sufficient*** audit trail;	(i) systems and procedures to ensure ***an adequate*** audit trail;
(j) ***procedures concerning the*** reporting and the monitoring ***of*** irregularities and the recovery of amounts unduly paid.	(j) reporting and monitoring ***procedures for*** irregularities and ***for*** the recovery of amounts unduly paid.
Article 25 Designation of authorities	Article 25 Designation of authorities
1. For ***each*** multiannual programme the Member State shall designate the following :	1. For ***implementing its*** multiannual programme ***and annual programmes*** the Member State shall designate the following:
(a) a responsible authority : a functional body of the Member State or national public authority or body designated by the Member State, which shall be responsible for the management of multi-annual and annual programmes supported by the Fund and shall handle all communication with the Commission;	(a) a responsible authority: a functional body of the Member State, national public authority or body designated by the Member State ***or a body governed by the private law of the Member State and which has a public-service mission***, which shall be responsible for the management of multi-annual and annual programmes supported by the Fund and shall handle all communication with the Commission ;
(b) a certifying authority: national public authority or body ***operationally independent of any authorising department of the responsible authority,*** designated by the Member State to certify declarations of expenditure and applications for payment before they are sent to the Commission;	(b) a certifying authority: national public authority or body ***or individual acting as such body or authority*** designated by the Member State to certify declarations of expenditure and applications for payment before they are sent to the Commission;
(c) an audit authority: national public authority or body ***operationally*** independent of ***any authorising department of*** the responsible authority designated by the Member State and responsible for verifying the ***sound operation*** of the management and control system;	(c) an audit authority: national public authority or body, ***provided that it is functionally*** independent of the responsible authority ***and the certifying authority,*** designated by the Member State and responsible for verifying the ***effective functioning*** of the management and control system;
(d) where appropriate, a delegated authority;	(d) where appropriate, a delegated authority.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
(e) a compliance assessment body which shall be designated at the time of submission to the Commission of each draft multiannual programme. The Commission may accept the designated audit authority as the compliance assessment body where it has the necessary capacity and operational independence. It must carry out its work according to the international audit standards.	***deleted***
2. The Member State shall lay down rules governing its relations with ***those*** authorities ***and bodies*** and their relations with the Commission..	2. The Member State shall lay down rules governing its relations with ***the*** authorities ***referred to in paragraph 1*** and their relations with the Commission.
3. Subject to Article 24 (b), ***control and certification functions may be carried out by*** the same body ***or department***.	3. Subject to Article 24(b), ***some or all of the authorities referred to in paragraph 1 may be located within*** the same body.
4. The rules for implementing Articles 26 to 30 shall be adopted by the Commission in accordance with the procedure referred to in Article 52(2).	4. The rules for implementing Articles 26 to 30 shall be adopted by the Commission in accordance with the procedure referred to in Article 52(2).
Article 26 Responsible authority	Article 26 Responsible authority
1. The responsible authority may be a body of the Member State itself, a national public authority, as well as a body governed by the private law of the Member State and which has a public-service mission. Where the Member State designates a responsible authority which is not a body of the Member State itself, it shall lay down all the arrangements governing its relations with the said authority and the latter's relations with the Commission.	***deleted***
2. The responsible authority shall meet the following minimum conditions. It shall: (a) have legal personality, except where it is a functional body of the Member State;	***1.*** The responsible authority shall meet the following minimum conditions. It shall: (a) have legal personality, except where it is a functional body of the Member State;
(b) have the infrastructure required for easy communication with a wide range of users and with the responsible bodies in the other Member States and the Commission;	(b) have the infrastructure required for easy communication with a wide range of users and with the responsible bodies in the other Member States and the Commission;
(c) work in an administrative context allowing it to carry out its tasks correctly and avoiding any conflict of interest;	(c) work in an administrative context allowing it to carry out its tasks correctly and avoiding any conflict of interest;
(d) be in a position to apply Community fund	(d) be in a position to apply Community fund

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
management rules;	management rules;
(e) have financial and management capacities proportionate to the volume of Community funds which it will be called upon to manage;	(e) have financial and management capacities proportionate to the volume of Community funds which it will be called upon to manage;
(f) have at its disposal personnel with appropriate professional qualifications and language skills for administrative work in an international environment.	(f) have at its disposal personnel with appropriate professional qualifications ***[…]*** for administrative work in an international environment.
3. The Member State shall provide the responsible authority with adequate funding so that it can carry out its tasks properly and uninterruptedly throughout the period 2008-2013.	***2.*** The Member State shall provide the responsible authority with adequate funding so that it can ***continue to*** carry out its tasks properly throughout the period 2008-2013.
	3. The Commission may assist the Member States in the training of staff, in particular as regards the correct application of Chapters V to IX of this Decision.
Article 27 Tasks of the responsible authority	Article 27 Tasks of the responsible authority
1. The responsible authority shall ***have responsibility for efficient, effective and correct*** managing ***and implementation of the multiannual programme***. It shall in particular:	1. The responsible authority shall ***be responsible for*** managing ***and implementing the multi-annual programme in accordance with the principle of sound financial management***. It shall in particular:
(a) consult ***relevant partners (non-governmental organisations, local authorities, competent international organisations, social partners etc.) through the partnership established pursuant to*** Article 12;	(a) consult ***partners in accordance with*** Article 12;
(b) submit to the Commission proposals for multiannual and annual programmes defined in Articles 19 and 21;	(b) submit to the Commission proposals for multiannual and annual programmes defined in Articles 19 and 21;
(c) organise and advertise calls for tenders and proposals;	(c) organise and advertise calls for tenders and proposals ***if appropriate***;
(d) organise selection and award procedures for ***Fund*** co-financing in accordance with the principles ***of transparency, equal treatment and non-combination of grants***;	(d) organise selection and award procedures for ***co-financing actions under the*** Fund in accordance with the principles ***set out in Article 15, paragraph 5***;
(e) receive payments made by the Commission, and make payments to the beneficiaries;	(e) receive payments made by the Commission, and make payments to the ***final*** beneficiaries;
(g) ***verify*** the delivery of the co-financed products and services and that the expenditure declared for actions has actually been incurred and complies with	(g) ***monitor*** the delivery of the co-financed products and services and that the expenditure declared for actions has actually been incurred and complies with

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Community and national rules;	Community and national rules;
(h) ensure that there is a system for recording and storing in computerised form ***detailed*** accounting records of each action under the annual programmes and that the data on implementation necessary for financial management, monitoring, control and evaluation is collected;	(h) ensure that there is a system for recording and storing in computerised form accounting records of each action under the annual programmes and that the data on implementation necessary for financial management, monitoring, control and evaluation is collected;
(i) ensure that beneficiaries and other bodies involved in the implementation of actions cofinanced by the Fund maintain either a separate accounting system or an adequate accounting code for all transactions relating to the ***operation***;	(i) ensure that ***final*** beneficiaries and other bodies involved in the implementation of actions co-financed by the Fund maintain either a separate accounting system or an adequate accounting code for all transactions relating to the ***action without prejudice to national accounting rules***;
(j) ensure that the evaluations of multiannual programmes referred to in Article 49 are carried out within the time limits laid down in this Decision and meet the quality standards agreed between the Commission and the Member State;	(j) ensure that the evaluations of multi-annual programmes referred to in Article 49 are carried out within the time limits laid down in this Decision and meet the quality standards agreed between the Commission and the Member State;
(k) set up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held in accordance with the requirements referred to in Article 43;	(k) set up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held in accordance with the requirements referred to in Article 43;
(l) ensure that the audit authority receives, for the purposes of carrying out the audits defined in Article 30(1) all necessary information on management procedures operated and the projects co-financed by the Fund;	(l) ensure that the audit authority receives for the purposes of carrying out the audits defined in Article 30(1) all necessary information on management procedures operated and the projects co-financed by the Fund;
(m) ensure that the certifying authority receives all necessary information on the procedures and ***audits*** carried out in relation to expenditure for the purpose of certification;	(m) ensure that the certifying authority receives all necessary information on the procedures and ***verifications*** carried out in relation to expenditure for the purpose of certification;

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
(n) draw up and submit to the Commission reports***, statements*** of expenditure certified by the certifying authority and applications ***for payment*** ;	(n) draw up and submit to the Commission ***progress and final*** reports ***on the implementation of the annual programmes, declarations*** of expenditure certified by the certifying authority and ***requests*** for payment ***or, where appropriate, declaration of reimbursement***;
(o) carry out information and advisory activities; and disseminate results of supported actions;	(o) carry out information and advisory activities; and disseminate results of supported actions;
(p) cooperate with the Commission and the responsible authorities in the other Member States.	(p) cooperate with the Commission and the responsible authorities in the other Member States.
	(q) verify the implementation by the final beneficiaries of the guidelines referred to in Article 33(6).
2. The responsible authority's management activities for projects implemented in the Member States can be financed under the technical assistance arrangements referred to in Article 17.	2. The responsible authority's management activities for projects implemented in the Member States can be financed under the technical assistance arrangements referred to in Article 17.
Article 28 Delegation of tasks by the responsible authority	Article 28 Delegation of tasks by the responsible authority
1. Where all or some of the responsible authority's tasks are delegated to a delegated authority, the responsible authority shall define the scope of the tasks delegated, and set out detailed procedures for the implementation of the delegated tasks, which shall comply with the conditions laid down in Article 26.	1. Where all or some of the responsible authority's tasks are delegated to a delegated authority, the responsible authority shall define the scope of the tasks delegated, and set out detailed procedures for the implementation of the delegated tasks, which shall comply with the conditions laid down in Article 26.

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2. These procedures shall include supplying the responsible authority with regular information on the effective performance of the delegated tasks and a description of the means employed.	2. These procedures shall include supplying the responsible authority with regular information on the effective performance of the delegated tasks and a description of the means employed.
Article 29 Certifying authority	Article 29 Certifying authority
1. The certifying authority ***of a multiannual programme*** shall: (a) certify that: – the ***statement*** of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents, – the expenditure declared complies with applicable Community and national rules and has been incurred in respect of actions selected in accordance with the criteria applicable to the programme and complying with Community and national rules;	1. The certifying authority ***[…]*** shall: (a) certify that: - the ***declaration*** of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents, - the expenditure declared complies with applicable Community and national rules and has been incurred in respect of actions selected in accordance with the criteria applicable to the programme and complying with Community and national rules;
(b) ensure for the purposes of certification that it has received adequate information from the Responsible Authority on the procedures and ***audits*** carried out in relation to expenditure included in ***statements*** of expenditure;	(b) ensure for the purposes of certification that it has received adequate information from the responsible authority on the procedures and ***verifications*** carried out in relation to expenditure included in ***declarations*** of expenditure;
(c) take account for the purposes of certification of the results of all audits carried out by or under the responsibility of the audit authority;	(c) take account for the purposes of certification of the results of all audits carried out by or under the responsibility of the audit authority;
(d) maintain accounting records in computerised form of expenditure declared to the Commission;	(d) maintain accounting records in computerised form of expenditure declared to the Commission;
(e) ensure the recovery of any Community financing found to have been unduly paid as a result of irregularities detected, together with interest where appropriate, keeping an account of amounts recoverable and repaying amounts recovered to the ***Commission***, where possible by deducting them from the next statement of expenditure.	(e) ensure the recovery of any Community financing found to have been unduly paid as a result of irregularities detected, together with interest where appropriate, keeping an account of amounts recoverable and repaying amounts recovered to the ***general budget of the European Communities***, where possible by deducting them from the next ***declaration*** of expenditure.
2. The certifying authority's activities relating to projects implemented in the Member States can be financed under the technical assistance arrangements	2. The certifying authority's activities relating to projects implemented in the Member States can be financed under the technical assistance arrangements referred to in

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
referred to in Article 17, provided that the prerogatives of this authority as described in Article 25 are respected.	Article 17, provided that the prerogatives of this authority as described in Article 25 are respected.
Article 30 Audit authority	Article 30 Audit authority
1. The audit authority ***of a multiannual programme*** shall:	1. The audit authority shall:
(a) ensure that audits are carried out ***in accordance with international audit standards*** to verify the effective ***operation*** of the management and control system ***of the multiannual programme***;	(a) ensure that audits are carried out to verify the effective ***functioning*** of the management and control system;
(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 10% of the total eligible expenditure for each annual programme;
(c) present to the Commission within six months of the approval of the multiannual programme an audit strategy covering the bodies which will perform the audits referred to under ***points*** (a) and (b), ***the method to be used, the sampling method for audits on actions supported by the Fund and the indicative planning of audits to ensure*** that the main beneficiaries of co-financing by the Fund are audited and that audits are spread evenly throughout the programming period.	(c) present to the Commission within six months of the approval of the multi-annual programme an audit strategy covering the bodies which will perform the audits referred to under ***subparagraphs*** (a) and (b), ***ensuring*** that the main beneficiaries of co-financing by the Fund are audited and that audits are spread evenly throughout the programming period.
2. Where the designated audit authority under this decision is also the designated audit authority under Decisions….., …… and …… [33], or where common systems apply to two or more of these Funds, a single combined audit strategy may be submitted under paragraph 1 (c).	2. Where the designated audit authority under this decision is also the designated audit authority under Decisions….., …… and ……, or where common systems apply to two or more of these Funds, a single combined audit strategy may be submitted under paragraph 1(c).
3. ***The*** audit authority shall draft a ***final*** report *on the implementation of the annual programmes as defined in Article 50(2),* which shall comprise:	3. ***For each annual programme, the*** audit authority shall draft a report which shall comprise:
(a) an annual audit report setting out the findings of the audits carried out in accordance with the audit strategy in respect of the annual programme reporting any shortcomings found in the systems for the management and	(a) an annual audit report setting out the findings of the audits carried out in accordance with the audit strategy in respect of the annual programme ***and*** reporting any shortcomings found in the systems for the management and control of

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control of the programme.	the programme.
(b) an opinion as to whether the management and control system ***has functioned effectively to give a*** reasonable assurance ***on the correctness of the statements*** of expenditure presented to the Commission ***and the legality and regularity of*** the underlying transactions.	(b) an opinion, ***on the basis of the controls and audits that have been carried out under the responsibility of the audit authority,*** as to whether the ***functioning of the*** management and control system ***provides*** reasonable assurance ***that declarations*** of expenditure presented to the Commission ***are correct and that*** the underlying transactions ***are legal and regular***.
(c) a declaration assessing the validity of the ***application*** for payment of the final balance and the legality and regularity of the ***underlying transactions covered by the final statement of*** expenditure.	(c) a declaration assessing the validity of the ***request*** for payment of the final balance and the legality and regularity of the expenditure ***concerned***.
4. ***Where the audits referred to in paragraph 1 are carried out by a body other than the audit authority, the*** audit authority shall ensure that ***such bodies have the necessary operational independence and that the work is performed according to*** internationally accepted audit standards.	4. ***The*** audit authority shall ensure that ***the audit work takes account of*** internationally accepted audit standards.
5. The ***activities of the audit authority or of the body referred to in paragraph 4*** relating to projects implemented in the Member States can be financed under the technical assistance arrangements referred to in Article 17, provided that the prerogatives of this authority as described in Article 25 are respected.	5. The ***audit*** relating to projects implemented in the Member States can be financed under the technical assistance arrangements referred to in Article 17, provided that the prerogatives of this authority as described in Article 25 are respected.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
CHAPTER VI CONTROLS	CHAPTER VI RESPONSIBILITIES AND CONTROLS
Article 31 Responsibilities of the Member States	Article 31 Responsibilities of the Member States
1. Member States shall be responsible for ensuring sound financial management of multiannual and annual programmes and the legality and regularity of underlying transactions.	1. Member States shall be responsible for ensuring sound financial management of multi-annual and annual programmes and the legality and regularity of underlying transactions.
2. They shall ensure that responsible authorities and any delegated authority, certifying authorities, audit authorities and any other bodies concerned receive adequate guidance on setting up the management and control systems referred to in Articles 24 to 30 to ensure that Community financing is used efficiently and correctly.	2. They shall ensure that responsible authorities and any delegated authority, certifying authorities, audit authorities and any other bodies concerned receive adequate guidance on setting up the management and control systems referred to in Articles 24 to 30 to ensure that Community financing is used efficiently and correctly.
3. The Member States shall prevent, detect and correct irregularities. They shall notify these to the Commission, and keep the Commission informed of the progress in the administrative and legal proceedings.	3. The Member States shall prevent, detect and correct irregularities. They shall notify these to the Commission, and keep the Commission informed of the progress in the administrative and legal proceedings.
When amounts unduly paid to a beneficiary cannot be recovered, the Member State is responsible for reimbursing the amounts lost to the budget of the European Communities.	When amounts unduly paid to a ***final*** beneficiary cannot be recovered, the Member State is responsible for reimbursing the amounts lost to the ***general*** budget of the European Communities ***when it is established that the loss has been incurred as a result of its fault or negligence***.
4. Member States shall be primarily responsible for the financial control of actions and shall ensure that management systems and audits are implemented in such a way as to guarantee that Community funds are used properly and effectively. They shall provide the Commission with a description of these systems.	4. Member States shall be primarily responsible for the financial control of actions and shall ensure that management systems and audits are implemented in such a way as to guarantee that Community funds are used properly and effectively. They shall provide the Commission with a description of these systems.
5. Member States shall cooperate with the Commission for the collection of the statistics needed for the implementation of Article 14.	***deleted***
6. The detailed rules for implementing paragraphs 1 to ***5*** shall be adopted in accordance with the procedure referred to in Article 52(2).	***5.*** The detailed rules for implementing paragraphs 1 to ***4*** shall be adopted in accordance with the procedure referred to in Article 52(2).
Article 32 Management and control systems	Article 32 Management and control systems
1. Prior to the ***adoption of a*** multiannual programme, the Member States shall ensure that management and control systems have been set up in accordance with Articles 24 to 30. They shall be responsible for ensuring that	1. Prior to the ***approval of the*** multi-annual programme ***by the Commission***, ***in accordance with the procedure referred to in Article 52(2),*** the Member States shall ensure that management and control systems have been set up in accordance with Articles 24 to 30. They shall be

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
the systems function effectively throughout the programming period.	responsible for ensuring that the systems function effectively throughout the programming period.
2. Member States shall submit to the Commission, together with ***each*** draft multiannual programme, a description of the organisation and procedures of the responsible authorities, delegated authorities and certifying authorities, and the internal audit systems operating in ***those*** authorities and bodies, the audit authority, and any other bodies carrying out audits under its responsibility.	2. Member States shall submit to the Commission, together with ***their*** draft multiannual programme, a description of the organisation and procedures of the responsible authorities, delegated authorities and certifying authorities, and the internal audit systems operating in ***these*** authorities and bodies, the audit authority, and any other bodies carrying out audits under its responsibility.
3. Within three months of the submission to the Commission of each draft multiannual programme, Member States shall submit a report established by the compliance assessment body setting out the results of an assessment of the systems and giving an opinion on their compliance with Articles 24 to 30. In the event that the opinion contains reservations, the report shall indicate the shortcomings and their seriousness. Member States shall draw up, in agreement with the Commission, a plan setting out the corrective measures to be taken and the timetable for their implementation.	***deleted***
4. The detailed rules for implementing paragraphs 1 to 3 shall be adopted in accordance with the procedure referred to in Article 52(2).	***3. The Commission shall review the application of this provision in the context of the preparation of the report set out in Article 50(3).***
Article 33 Responsibilities of the Commission	Article 33 Responsibilities of the Commission
1. The Commission shall satisfy itself in accordance with the procedure laid down in Article 31 that Member States have set up management and control systems that comply with Articles 24 to 30, and on the basis of the annual audit reports and its own audits that the systems function effectively during the period ***of implementation of the multiannual programmes***.	1. The Commission shall satisfy itself in accordance with the procedure laid down in Article 3***2*** that Member States have set up management and control systems that comply with Articles 24 to 30, and on the basis of the annual audit reports and its own audits***,*** that the systems function effectively during the ***programming*** period.
2. Without prejudice to audits carried out by Member States, Commission officials or authorised Commission representatives may carry out on-the-spot audits to verify the effective ***operation*** of the management and control systems, which may include audits on actions included in the annual programmes, with a minimum of ***one*** working day's notice. Officials or authorised representatives of the Member State concerned may take part in such audits.	2. Without prejudice to audits carried out by Member States, Commission officials or authorised Commission representatives may carry out on-the-spot audits to verify the effective ***functioning*** of the management and control systems, which may include audits on actions included in the annual programmes, with a minimum of ***three*** working days' notice. Officials or authorised representatives of the Member State concerned may take part in such audits.
3. The Commission may require ***Member States*** to carry out on-the-spot checks to verify the	3. The Commission may require ***a Member State*** to carry out on-the-spot checks to verify the correct

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correct functioning of the systems or the correctness of one or more transactions. Commission officials or authorised Commission representatives may take part in such audits.	functioning of the systems or the correctness of one or more transactions. Commission officials or authorised Commission representatives may take part in such audits.
4. The Commission shall, in cooperation with the Member States, ensure that appropriate information, publicity and follow-up are provided for actions supported by the Fund.	4. The Commission shall, in cooperation with the Member States, ensure that appropriate information, publicity and follow-up are provided for actions supported by the Fund.
5. The Commission shall, in cooperation with the Member States, ensure that actions are consistent with, and complementary to, other relevant Community policies, instruments and initiatives.	5. The Commission shall, in cooperation with the Member States, ensure that actions are consistent with, and complementary to, other relevant Community policies, instruments and initiatives.
	6. The Commission shall lay down guidelines to ensure the visibility of the funding granted under this Decision.
Article 34 Cooperation with the control bodies of the Member States	Article 34 Cooperation with the control bodies of the Member States
1. The Commission shall cooperate with the audit authorities ***of multiannual programmes*** to coordinate their respective control plans and audit methods and shall immediately exchange the results of audits carried out on management and control systems in order to make the best possible use of control resources and to avoid unjustified duplication of work. The Commission shall provide its comments on the audit strategy presented under Article 30 not later than three months ***or at the first meeting following its reception***.	1. The Commission shall cooperate with the audit authorities to coordinate their respective control plans and audit methods and shall immediately exchange the results of audits carried out on management and control systems in order to make the best possible use of control resources and to avoid unjustified duplication of work. The Commission shall provide its comments on the audit strategy presented under Article 30 not later than three months.
2. In determining its own audit strategy, the Commission shall identify those ***multiannual*** programmes ***(a) which comply with the system established under Article 32 without reservations or for which reservations have been withdrawn following corrective measures; and***	2. In determining its own audit strategy, the Commission shall identify those ***annual*** programmes
(b) for which the audit strategy of the audit authority under Article 29 is satisfactory and where reasonable assurance has been obtained that the management and control systems ***function effectively on the basis of the results of audits by the Commission and the Member State***.	***which it considers satisfactory on the basis of its existing knowledge of*** the management and control systems.

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CHAPTER VII FINANCIAL MANAGEMENT	CHAPTER VII FINANCIAL MANAGEMENT
Article 35 Eligibility – declarations of expenditure	Article 35 Eligibility – declarations of expenditure
1. All declarations of expenditure shall include the amount of expenditure incurred by beneficiaries in implementing the actions and the corresponding contribution from public or private funds.	1. All declarations of expenditure shall include the amount of expenditure incurred by ***final*** beneficiaries in implementing the actions and the corresponding contribution from public or private funds.
2. Expenditure shall correspond to the payments effected by the beneficiaries. It shall be justified by receipted invoices or accounting documents of equivalent evidential value.	2. Expenditure shall correspond to the payments effected by the beneficiaries. It shall be justified by receipted invoices or accounting documents of equivalent evidential value.
3. Expenditure may be considered eligible for support from the Fund only if it is actually paid no earlier than 1 January of the year referred to in the ***Commission*** decision ***on co-financing*** indicated in Article 21(4). The co-financed actions must not have been completed before the starting date for eligibility.	3. Expenditure may be considered eligible for support from the Fund only if it is actually paid no earlier than 1 January of the year referred to in the ***financing*** decision ***approving the annual programme*** indicated in Article 21(4). The co-financed actions must not have been completed before the starting date for eligibility.
4. The following expenditure shall not be eligible for a contribution from the Fund: – ***VAT;*** – ***interest on debt;*** – ***the purchase of land for an amount exceeding 10% of the total eligible expenditure for the operation concerned;*** – ***housing.***	***deleted***
5. The rules governing eligibility of expenditure within the framework of actions implemented co-financed by the Fund in the Member States under Article 3 shall be adopted in accordance with the procedure provided for by Article 52(2).	***4.*** The rules governing eligibility of expenditure within the framework of actions implemented co-financed by the Fund in the Member States under Article 3 shall be adopted in accordance with the procedure provided for by Article 52(2).
Article 36 Wholeness of payment to beneficiaries	Article 36 Completeness of payment to beneficiaries
Member States shall satisfy themselves that the responsible authority ensures that the beneficiaries receive the total amount of the contribution from public funds as quickly as possible. No amounts shall be deducted or withheld, nor any further specific charge or other charge with equivalent effect shall be levied that would reduce these amounts for the beneficiaries.	Member States shall satisfy themselves that the responsible authority ensures that the ***final*** beneficiaries receive the total amount of the contribution from public funds as quickly as possible. No amounts shall be deducted or withheld, nor any further specific charge or other charge with equivalent effect shall be levied that would reduce these amounts for the ***final*** beneficiaries***, provided that the final beneficiaries meet all the requirements regarding the eligibility of actions and expenses***.

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Article 37 Use of the euro ***All amounts mentioned in the*** financing decisions ***by the Commission, in the*** commitments and payments ***made by the Commission as well as the amounts of certified expenditure and requests for payment from the Member States shall be expressed*** and carried out in euro.	Article 37 Use of the euro ***1. Amounts set out in the draft multi-annual and annual programmes of the Member States referred to in respectively Articles 19 and 21, certified declarations of expenditure, requests for payments referred to in Article 27(1)(n) and expenditure mentioned in the progress report on the implementation of the annual programme referred to in Article 39(4) and the final report on the implementation of the annual programme referred to in Article 51 shall be denominated in euro.*** ***2. Commission*** financing decisions, ***approving the annual programmes of Member States referred to in Article 21(4)***, commitments and payments ***shall be denominated*** and carried out in euro. ***3. Member States which have not adopted the euro as their currency on the date of the request for payment shall convert into euro the amounts of expenditure incurred in national currency. This amount shall be converted in euro using the monthly accounting exchange rate of the Commission in the month during which the expenditure was registered in the accounts of the responsible authority of the programme concerned. This rate shall be published electronically by the Commission each month.*** ***4. When the euro becomes the currency of a Member State, the conversion procedure set out in the preceding paragraph shall continue to apply to all expenditure recorded in the accounts by the certifying authority before the date of entry into force of the fixed conversion rate between the national currency and the euro.***
Article 38 Commitments Community budgetary commitments shall be made annually on the basis of the Commission decision ***on co-financing*** referred to in Article 21(4).	Article 38 Commitments Community budgetary commitments shall be made annually on the basis of the Commission ***financing*** decision***, approving the annual programme*** referred to in Article 21(4).
Article 39 Payments - Prefinancing 1. Payments by the Commission of the contribution from the Funds shall be made in accordance with the budget commitments.	Article 39 Payments - Prefinancing 1. Payments by the Commission of the contribution from the Funds shall be made in accordance with the budget commitments.
2. Payments shall take the form of pre-financing and payment of the balance. They shall be made to the responsible authority designated by the Member State.	2. Payments shall take the form of pre-financing and payment of the balance. They shall be made to the responsible authority designated by the Member State.

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3. A pre-financing payment representing 50% of the amount allocated in the ***Commission's annual*** decision ***on co-financing by the Fund*** shall be made to the Member State within sixty days following the adoption of ***the co-financing*** decision.	3. A pre-financing payment representing 50% of the amount allocated in the ***financing*** decision**,** ***approving the annual programme*** shall be made to the Member State within sixty days following the adoption of ***that*** decision.
4. A second pre-financing payment shall be made no more than three months after the Commission has approved a progress report on implementation of the annual programme and a certified declaration of expenditure drawn up in accordance with Articles 29(1)(a) and 35 accounting for at least ***70***% of the amount of the initial payment. The amount of the second pre-financing payment made by the Commission shall not exceed 50% of the total amount allocated by the co-financing decision ***or***, in any event, the balance of the amount of Community funds actually committed by the Member State for selected projects under the annual programme minus the first pre-financing payment.	4. A second pre-financing payment shall be made no more than three months after the Commission has approved, ***within two months of the formal submission,*** a progress report on ***the*** implementation of the annual programme and a certified declaration of expenditure drawn up in accordance with Articles 29(1)(a) and 35 accounting for at least ***60***% of the amount of the initial payment. The amount of the second pre-financing payment made by the Commission shall not exceed 50% of the total amount allocated by the financing decision, ***approving the annual programme and***, in any event, ***where a Member State has committed nationally an amount less than the amount indicated in the financing decision, approving the annual programme,*** the balance of the amount of Community funds actually committed by the Member State for selected projects under the annual programme minus the first pre-financing payment.
5. ***Interests*** generated by pre-financing payments shall be ***assigned*** to the programme concerned ***and must be deducted from the amount*** of ***public expenditure declared in the*** final statement of expenditure.	5. ***Any interest*** generated by pre-financing payments shall be ***posted*** to the programme concerned***, being regarded as a resource for the Member State as national public contribution and shall be declared to the Commission at the time of the*** final ***declaration*** of expenditure ***of the programme concerned***.
6. The amounts paid as pre-financing shall be cleared from the accounts when the annual programme is closed.	6. The amounts paid as pre-financing shall be cleared from the accounts when the annual programme is closed.
Article 40 Balance payments	Article 40 Payment of balance
1. The Commission shall pay the balance provided it has received the following documents ***within*** nine months ***from the end date of*** eligibility ***of costs defined*** in the ***annual*** decision ***on co-financing by the Fund***:	1. The Commission shall pay the balance provided it has received the following documents ***no later than*** nine months ***after the*** eligibility ***deadline for expenditure laid down*** in the ***financing*** decision**,** ***approving the annual programme***:
(a) a certified declaration of expenditure and a request for payment of the balance or declaration of reimbursement duly drawn up in accordance with Articles 29(1)(a) and 35;	(a) a certified declaration of expenditure**,** duly drawn up in accordance with Articles 29(1)(a) and 35 and a request for payment of the balance or declaration of reimbursement;
(b) the final ***implementation*** report for the annual programme**,** ***including the information*** set out in Article 51;	(b) the final report ***on the implementation of*** the annual programme ***as*** set out in Article 51;

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(c) the audit report, opinion and declaration provided for in Article 30(3) ;	(c) the ***annual*** audit report, opinion and declaration provided for in Article 30(3).
The payment of the balance is subject to the acceptance of the final implementation ***report*** and of the ***statement of*** validity ***for*** the request for payment of the balance.	The payment of the balance is subject to the acceptance of the final ***report on the*** implementation ***of the annual programme*** and of the ***declaration assessing the*** validity ***of*** the request for payment of the balance.
2. If the responsible authority fails to provide the documents required in paragraph 1 by the due date and in an acceptable format, the Commission shall decommit any part of the budget commitment of the corresponding annual programme that has not been used for payment of the pre-financing.	2. If the responsible authority fails to provide the documents required in paragraph 1 by the due date and in an acceptable format, the Commission shall decommit any part of the budget commitment of the corresponding annual programme that has not been used for payment of the pre-financing.
3. The automatic cancellation procedure defined in paragraph 2 shall be suspended, for the amount of the projects concerned, where legal proceedings or administrative appeal having ***suspensory*** effects are ongoing at Member State level at the time of submission of the documents defined in paragraph 1. The Member State shall, in the partial final report submitted, give detailed information on such projects, and send reports on progress made with regard to these projects every ***six*** months. Within ***three*** months of the conclusion of the legal proceedings or administrative appeal procedure, the Member State shall present the documents required in paragraph 1 for the projects concerned.	3. The automatic cancellation procedure defined in paragraph 2 shall be suspended, for the amount of the projects concerned, where legal proceedings or administrative appeal having ***suspensive*** effects are ongoing at Member State level at the time of submission of the documents defined in paragraph 1. The Member State shall, in the partial final report submitted, give detailed information on such projects, and send reports on progress made with regard to these projects every 6 months. Within three months of the conclusion of the legal proceedings or administrative appeal procedure, the Member State shall present the documents required in paragraph 1 for the projects concerned.
4. The nine months period referred to in paragraph 1 shall be interrupted if the Commission has adopted a decision suspending payments of the co-financing for the relevant annual programme in accordance with the provisions of Article 41. The period shall start to run again from the date when the Commission decision referred to in Article 42(3) has been notified to the Member State.	4. The nine months period referred to in paragraph 1 shall be interrupted if the Commission has adopted a decision suspending payments of the co-financing for the relevant annual programme in accordance with the provisions of Article 4***2***. The period shall start to run again from the date when the Commission decision referred to in Article 42(3) has been notified to the Member State.
5. Without prejudice to the provisions of Article 41, the Commission shall, within six months of receiving the documents referred to in paragraph 1, inform the Member State of the amount of expenditure recognised by the Commission as chargeable to the Fund, and of any financial corrections deriving from the difference between declared expenditure and the expenditure recognised. The Member State shall have three months to present its comments.	5. Without prejudice to the provisions of Article 41, the Commission shall, within six months of receiving the documents referred to in paragraph 1, inform the Member State of the amount of expenditure recognised by the Commission as chargeable to the Fund, and of any financial corrections deriving from the difference between declared expenditure and the expenditure recognised. The Member State shall have three months to present its comments.
6. Within three months of receiving the Member State's comments, the Commission shall decide on the amount of expenditure recognised as chargeable to the Fund, and recover the balance	6. Within three months of receiving the Member State's comments, the Commission shall decide on the amount of expenditure recognised as chargeable to the Fund, and recover the balance

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arising from the difference between final recognised expenditure and the sums already paid to the Member States.	arising from the difference between final recognised expenditure and the sums already paid to the Member States.
7. Subject to available funding, the Commission shall pay the balance within no more than sixty days from the date on which it accepts the documents referred to in paragraph one above. The balance of the budgetary commitment shall be decommitted within six months following the payment.	7. Subject to available funding, the Commission shall pay the balance within no more than sixty days from the date on which it accepts the documents referred to in paragraph one above. The balance of the budgetary commitment shall be decommitted within six months following the payment.[34]
Article 41 Interruption	Article 41 Interruption
1. The payment deadline shall be interrupted by the authorising officer by delegation within the meaning of Regulation (EC, Euratom) No 1605/2002 for a maximum period of six months if ***there are doubts as to the proper***	1. The payment deadline shall be interrupted by the authorising officer by delegation within the meaning of Regulation (EC, Euratom) No 1605/2002 for a maximum period of six months if
functioning of the management and control systems	***a) in a report of a national or Community audit body there is evidence to suggest a significant deficiency in the*** functioning of the management and control systems,
or if the authorising officer ***requires additional information from the national authorities in the process of monitoring the observations made under the annual review, or if s/he suspects that serious irregularities, detected or presumed, are present in the expenditure declared.***	***b) that*** officer ***has to carry out additional verifications following information coming to his notice which alerted him that expenditure in a certified declaration of expenditure is linked to a serious irregularity which has not been corrected***.
2. The ***Commission shall inform the*** Member State ***concerned*** and the ***responsible*** authority immediately of the reasons for the interruption. ***The Member State shall take the necessary steps to correct the situation*** as soon as ***possible***.	2. The Member State and the ***certifying*** authority ***shall be informed*** immediately of the reasons for the interruption. The ***interruption shall be ended*** as soon as ***the necessary measures have been taken by the Member State***.
3. The maximum period of six months shall be extended for another maximum period of six months if it proves necessary to adopt a decision in accordance with Articles 42 and 45.	***deleted***
Article 42 Suspension	Article 42 Suspension
1. All or part of the pre-financing and balance payments may be suspended by the Commission when:	1. All or part of the pre-financing and balance payments may be suspended by the Commission when:

[34] ***DELETED*** suggested adding the following new paragraph:
"Any delay in effecting the payment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be the rate applied by the European Central Bank to its principle refinancing operation, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date fall, increased by 3,5 %."

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(a) there is a serious deficiency in the management and control system of the programme which affects the reliability of the procedure for certification of payments and for which corrective measures have not been taken; or	(a) there is a serious deficiency in the management and control system of the programme which affects the reliability of the procedure for certification of payments and for which corrective measures have not been taken; or
(b) expenditure in a certified ***statement*** of expenditure is linked to a serious irregularity which has not been corrected; or	(b) expenditure in a certified ***declaration*** of expenditure is linked to a serious irregularity which has not been corrected; or
(c) a Member State has not complied with its obligations under Article***s*** 31 and 32.	(c) a Member State has not complied with its obligations under Articles 31 and 32.
2. The Commission may decide to suspend pre-financing and balance payments after having given the Member State the opportunity to present its observations within a period of three months.	2. The Commission may decide to suspend pre-financing and balance payments after having given the Member State the opportunity to present its observations within a period of three months.
3. The Commission shall end suspension of pre-financing and balance payments when it considers that the Member State has taken the necessary measures to enable the suspension to be lifted.	3. The Commission shall end suspension of pre-financing and balance payments when it considers that the Member State has taken the necessary measures to enable the suspension to be lifted.
4. If the required measures are not taken by the Member State, the Commission may adopt a decision to ***reduce the net amount or*** cancel the Community contribution to the annual programme in accordance with Article 46.	4. If the required measures are not taken by the Member State, the Commission may adopt a decision to cancel ***all or part of*** the Community contribution to the annual programme in accordance with Article 46.
Article 43 Conservation of documents ***In each Member State*** the responsible ***authority*** shall ensure that all the supporting documents regarding expenditure and audits on the ***annual programme*** concerned are kept available for the Commission and the Court of Auditors.	Article 43 Conservation of documents ***Without prejudice to the rules governing State aid under Article 87 of the Treaty,*** the responsible ***Authority*** shall ensure that all the supporting documents regarding expenditure and audits on the ***programmes*** concerned are kept available for the Commission and the Court of Auditors ***for a period of five years following the closure of the programmes as defined in Article 40(1)***.
The documents shall be kept available at least for a period three years following the closure of an annual programme, without prejudice to the rules governing State aid. This period shall be interrupted either in the case of legal proceedings or at the request of the Commission ***stating the reasons***.	This period shall be interrupted either in the case of legal proceedings or at the ***duly motivated*** request of the Commission.
The documents shall be kept either in the form of the originals or in versions certified to be in conformity with the originals on commonly accepted data carriers.	The documents shall be kept either in the form of the originals or in versions certified to be in conformity with the originals on commonly accepted data carriers.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
CHAPTER VIII FINANCIAL CORRECTION	CHAPTER VIII FINANCIAL CORRECTIONS
Article 44 Financial corrections established by the Member States	Article 44 Financial corrections established by the Member States
1. ***Without prejudice to the Commission's responsibilities for implementing the general budget of the European Communities, the*** Member States shall ***be primarily responsible*** for investigating irregularities***. They shall act*** upon evidence of any major change affecting the nature or the conditions for the implementation or control of ***assistance*** and make the required financial corrections.	1. ***The*** Member States shall ***in the first instance bear the responsibility*** for investigating irregularities***, acting*** upon evidence of any major change affecting the nature or the conditions for the implementation or control of ***programmes*** and ***making*** the required financial corrections.
2. The Member States shall make the financial corrections required in connection with the individual or systemic irregularities detected in actions or annual programmes. The corrections made by the Member States shall consist in recovering all or part of the Community contribution. The Member State shall take into account the nature and gravity of the irregularities and the financial loss to the Fund. Member States shall include in the ***annual*** report ***sent to the Commission under Article 50(2)*** a list of cancellation proceedings initiated for the annual programme concerned. The corrections made by the Member State shall consist in cancelling all or part of the Community contribution, and, where the amount is not repaid in the time allowed by the relevant Member State, default interest shall be due at the rate provided for by Article 47(2).	2. The Member States shall make the financial corrections required in connection with the individual or systemic irregularities detected in actions or annual programmes. The corrections made by the Member States shall consist in recovering all or part of the Community contribution. The Member State shall take into account the nature and gravity of the irregularities and the financial loss to the Fund. Member States shall include in the ***final*** report ***on the implementation of the annual programme referred to in Article 51*** a list of cancellation proceedings initiated for the annual programme concerned. The corrections made by the Member State shall consist in cancelling all or part of the Community contribution, and, where the amount is not repaid in the time allowed by the relevant Member State, default interest shall be due at the rate provided for by Article 47(2).
3. In the case of systemic irregularities the Member State shall extend its enquiries to cover all operations liable to be affected.	3. In the case of systemic irregularities the Member State shall extend its enquiries to cover all operations liable to be affected.
Article 45 Audit of accounts and financial corrections by the Commission	Article 45 Audit of accounts and financial corrections by the Commission
1. Without prejudice to the powers of the Court of Auditors or the checks carried out by the Member States in accordance with national laws, regulations and administrative provisions, Commission officials or authorised Commission representatives may carry out on-the-spot checks, including sample checks, on the operations financed by the Fund and on management and control systems with a minimum of ***one working day's*** notice. The Commission shall give notice to the Member State concerned with a view to obtaining all the	1. Without prejudice to the powers of the Court of Auditors or the checks carried out by the Member States in accordance with national laws, regulations and administrative provisions, Commission officials or authorised Commission representatives may carry out on-the-spot checks, including sample checks, on the operations financed by the Fund and on management and control systems with a minimum of ***three working days'*** notice. The Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. Officials or

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assistance necessary. Officials or authorised representatives of the Member State concerned may take part in such checks. The Commission may require the Member State concerned to carry out an on-the-spot check to verify the correctness of one or more transactions. Commission officials or authorised Commission representatives may take part in such checks.	authorised representatives of the Member State concerned may take part in such checks. The Commission may require the Member State concerned to carry out an on-the-spot check to verify the correctness of one or more transactions. Commission officials or authorised Commission representatives may take part in such checks.
2. If, after completing the necessary verifications, the Commission concludes that a Member State is not complying with its obligations under Article 31, it shall suspend the pre-financing or final payment in accordance with Article 42.	2. If, after completing the necessary verifications, the Commission concludes that a Member State is not complying with its obligations under Article 31, it shall suspend the pre-financing or final payment in accordance with Article 42.

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Article 46 Criteria for the corrections	Article 46 Criteria for the corrections
1. ***If the Member State has not made the corrections within the period as provided for in Article 42(2) and if no agreement has been reached, the Commission may decide within three months to cancel*** all or part of the Community contribution to an annual programme ***when*** it concludes that:	1. ***The Commission may make financial corrections by cancelling*** all or part of the Community contribution to an annual programme ***where, after carrying out the necessary examination,*** it concludes that:
(a) there is a serious deficiency in the management and control system of the programme which has put at risk the Community contribution already paid to the programme;	(a) there is a serious deficiency in the management and control system of the programme which has put at risk the Community contribution already paid to the programme;
(b) expenditure contained in a certified ***statement*** of expenditure is irregular and has not been corrected by the Member State prior to the opening of the correction procedure under this paragraph; ***and***	(b) expenditure contained in a certified ***declaration*** of expenditure is irregular and has not been corrected by the Member State prior to the opening of the correction procedure under this paragraph;
(c) a Member State has not complied with its obligations under Article 31 prior to the opening of the correction procedure under this paragraph.	(c) a Member State has not complied with its obligations under Article 31 prior to the opening of the correction procedure under this paragraph.
The Commission shall decide after having taken into account any comments made by the Member State.	The Commission shall decide after having taken into account any comments made by the Member State.
2. The Commission shall base its financial corrections on individual cases of irregularity identified, taking account of the systemic nature of the irregularity to determine whether a flat-rate or extrapolated correction should be applied. Where the case of irregularity relates to a ***statement*** of expenditure for which a positive assurance had previously been given in accordance with Article 30(3)(b) in an annual report, there will be a presumption of a systemic problem giving rise to the application of a flat-rate or extrapolated correction, unless the Member State can provide proof within three months to rebut this presumption.	2. The Commission shall base its financial corrections on individual cases of irregularity identified, taking account of the systemic nature of the irregularity to determine whether a flat-rate or extrapolated correction should be applied. Where the case of irregularity relates to a ***declaration*** of expenditure for which a positive assurance had previously been given in accordance with Article 30(3)(b) in an annual report, there will be a presumption of a systemic problem giving rise to the application of a flat-rate or extrapolated correction, unless the Member State can provide proof within three months to rebut this presumption.
3. The Commission shall, when deciding the amount of a correction, take account of the importance of the irregularity and the extent and financial implications of the deficiencies found in the annual programme concerned.	3. The Commission shall, when deciding the amount of a correction, take account of the importance of the irregularity and the extent and financial implications of the deficiencies found in the annual programme concerned.
4. Where the Commission bases its position on the facts established by auditors other than those of its own services, it shall draw its own conclusions regarding the financial consequences, after examining the measures taken by the Member State concerned under	4. Where the Commission bases its position on the facts established by auditors other than those of its own services, it shall draw its own conclusions regarding the financial consequences, after examining the measures taken by the Member State concerned under Article 32, the reports of

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 32, the reports of notified irregularities and any replies from the Member State.	notified irregularities and any replies from the Member State.
Article 47 Repayment	Article 47 Repayment
1. Any repayment due to be made to the ***Commission*** shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 72 of Council Regulation (EC, Euratom) No 1605/2002[35]. This due date shall be the last day of the second month following the issuing of the order.	1. Any repayment due to be made to the ***general budget of the European Communities*** shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 72 of the Council Regulation (EC, Euratom) No 1605/2002.[36] This due date shall be the last day of the second month following the issuing of the order.
2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date falls, increased by three and a half percentage points.	2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date falls, increased by three and a half percentage points.
Article 48 Obligations of Member States	Article 48 Obligations of Member States
A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under Article 46.	A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under Article 46.

[35] OJ L 248, 16.9.2002, p. 1.
[36] OJ L 248, 16.9.2002.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
CHAPTER IX MONITORING, EVALUATION AND REPORT	CHAPTER IX MONITORING, EVALUATION AND REPORTS
Article 49 Monitoring and evaluation	Article 49 Monitoring and evaluation
1. The Commission shall carry out regular monitoring on the Fund in cooperation with the Member States.	1. The Commission shall carry out regular monitoring on the Fund in cooperation with the Member States.
2. The Fund shall be evaluated ***regularly*** by the Commission in partnership with the Member States to assess the relevance, effectiveness and impact of actions in the light of the general objective referred to in Article 2.	2. The Fund shall be evaluated by the Commission in partnership with the Member States to assess the relevance, effectiveness and impact of actions in the light of the general objective referred to in Article 2 ***in the context of the preparation for the report set out in Article 50(3)***.
3. The Commission shall also look at the complementarity between the actions implemented under the Fund and those pursued under other relevant Community policies, instruments and initiatives.	3. The Commission shall also look at the complementarity between the actions implemented under the Fund and those pursued under other relevant Community policies, instruments and initiatives.
Article 50 ***Reports***	Article 50 ***Reporting obligations***
1. In each Member State the responsible authority shall take the necessary measures to ensure project monitoring and evaluation To that end, the agreements and contracts it concludes with the organisations responsible for the implementation of the actions shall include clauses laying down an obligation to submit regular and detailed reports on the state of progress of implementation and completion of the assigned objectives.	1. In each Member State the responsible authority shall take the necessary measures to ensure project monitoring and evaluation. To that end, the agreements and contracts it concludes with the organisations responsible for the implementation of the actions shall include clauses laying down an obligation to submit regular and detailed reports on the state of progress of implementation and completion of the assigned objectives***, which shall be the basis for respectively, the progress and final reports on the implementation of the annual programme***.
2. No later than nine months after the eligibility deadline for expenditure laid down in the co-financing decision for each annual programme, the responsible authority shall submit a final implementation report and a final declaration of expenditure to the Commission as provided by Article 35.	***deleted***
3. The Member States shall submit to the Commission no later than 30 June 2012 for the period 2008-2010 and 30 June 2015 for the period 2011-2013 respectively, an evaluation report on the results and impact of actions co-financed by the Fund.	***2.*** The Member States shall submit to the Commission no later than 30 June 2012 for the period 2008-2010 and 30 June 2015 for the period 2011-2013 respectively, an evaluation report on the results and impact of actions co-financed by the Fund.
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	***3.*** 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-

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
the period 2008-2010 and 31 December 2015 for the period 2011-2013 respectively, an ex post evaluation report.	2010 and 31 December 2015 for the period 2011-2013 respectively, an ex post evaluation report.
Article 51 Final ***annual*** report	Article 51 Final report ***on the implementation of the annual programme***
1. The ***reports referred to in Article 50(2)*** shall include the following information in order to obtain a clear view of the implementation of the ***annual and multiannual programmes***:	1. The ***report*** shall include the following information in order to obtain a clear view of the implementation of the ***programme***:
(a) the financial and operational implementation of the annual programme;	(a) the financial and operational implementation of the annual programme;
(b) the progress made in implementing the multiannual programme and its priorities in relation to their specific, verifiable targets, with a quantification, ***wherever and whenever they lend themselves to quantification,*** of the ***physical*** indicators ***and the indicators of implementation, results and impact for each priority concerned***;	(b) the progress made implementing the multiannual programme and its priorities in relation to their specific, verifiable targets, with a quantification, wherever and whenever they lend themselves to quantification, of the indicators;
(c) the steps taken by the responsible authority to ensure the quality and effectiveness of implementation, in particular: – monitoring and evaluation measures, including data collection arrangements; – summary of any significant problems encountered in implementing the operational programme and any measures taken; the use made of technical assistance.	(c) the steps taken by the responsible authority to ensure the quality and effectiveness of implementation, in particular: - monitoring and evaluation measures, including data collection arrangements; - a summary of any significant problems encountered in implementing the operational programme and any measures taken; - the use made of technical assistance.
(d) the measures taken to provide information on and make public the annual and multiannual programmes.	(d) the measures taken to provide information on and make public the annual and multiannual programmes.
2. The reports shall be judged acceptable where they contain all the information listed 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.	2. The reports shall be judged acceptable where ***it*** contains all the information listed in paragraph 1. The Commission shall reach a decision on the content of the report submitted by the responsible authority within two months ***of having received all the information referred to in paragraph 1, which shall be acknowledged to the Member States***. If the Commission does not respond within the time limit laid down, the report shall be deemed to be accepted.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
CHAPTER X FINAL PROVISION	CHAPTER X FINAL PROVISIONS
Article 52 Committee	Article 52 Committee
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' ../… (this Decision and the decisions ….., … and …)[37] ("the "***C***ommittee").	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' ../… (this Decision and the decisions ….., …… and …..) [38] ("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.	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.

[37] ***OJ L …***

[38] (References will be inserted to decisions establishing the Return Fund, the External Borders Fund and the Integration Fund).

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	3. ***Where reference is made to this paragraph****, the regulatory procedure with scrutiny laid down in* ***Article 5a****(1) to (4) and 5 (b) and Article 7 of Council* ~~*of*~~ ***Decision 1999/468/EC****,* ~~*as amended by Decision 2006/512/EC*~~ ***shall apply, having regard to the provisions of Article 8 thereof.*** *The time-limits laid down in Article 5a (3c), (4b) and 4(e) of Council Decision 1999/468/EC shall be set at six weeks.*
3. The Committee shall adopt its Rules of Procedure.	***4.*** The Committee shall adopt its Rules of Procedure.
Article 53 Review 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.	Article 53 Review 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.
Article 54 Transitional provisions 1 This Decision shall not affect the continuation or modification, including the total or partial cancellation, of assistance approved by the Commission on the basis of Decision 2004/904/EC, or any other legislation which applies to that assistance on 31 December 2007.	Article 54 Transitional provisions 1 This Decision shall not affect the continuation or modification, including the total or partial cancellation, of assistance approved by the Commission on the basis of Decision 2004/904/EC, or any other legislation which applies to that assistance on 31 December 2007.
2. When adopting decisions on cofinancing under this Fund, the Commission shall take account of measures adopted on the basis of Decision 2004/904/EC before the entry into force of this Decision which have financial repercussions during the period covered by that cofinancing.	2. When adopting decisions on cofinancing under this Fund, the Commission shall take account of measures adopted on the basis of Decision 2004/904/EC before the entry into force of this Decision which have financial repercussions during the period covered by that cofinancing.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
3. Sums committed for cofinancing approved by the Commission between 1 January 2005 and 31 December 2007 for which the documents required for closure of the programmes have not been sent to the Commission by the deadline for submitting the final report shall be automatically decommitted by the Commission no later than 31 December 2010, giving rise to the repayment of amounts unduly paid. Amounts relating to operations or programmes which have been suspended due to legal proceedings or administrative appeals having suspensory effect shall be disregarded in calculating the amount to be automatically decommitted.	3. Sums committed for cofinancing approved by the Commission between 1 January 2005 and 31 December 2007 for which the documents required for closure of the programmes have not been sent to the Commission by the deadline for submitting the final report shall be automatically decommitted by the Commission no later than 31 December 2010, giving rise to the repayment of amounts unduly paid. Amounts relating to operations or programmes which have been suspended due to legal proceedings or administrative appeals having suspensory effect shall be disregarded in calculating the amount to be automatically decommitted.
4. Member States shall submit to the Commission no later that 30 June 2009 an evaluation report on the results and impacts of actions cofinanced by the Fund concerning the period 2005-2007.	4. Member States shall submit to the Commission no later that 30 June 2009 an evaluation report on the results and impacts of actions cofinanced by the Fund concerning the period 2005-2007.
5. 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 2009, an intermediate report on the results achieved and on qualitative and quantitative aspects of implementation of the Fund for the period 2005-2007.	5. 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 2009, an intermediate report on the results achieved and on qualitative and quantitative aspects of implementation of the Fund for the period 2005-2007.

AMENDED COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 55 Repeal Decision 2004/904/EC is hereby repealed with effect from 1 January 2008.	Article 55 Repeal Decision 2004/904/EC is hereby repealed with effect from 1 January 2008.
	Article 55A ***Entry into force*** ***This Decision shall enter into force on the day ~~... (or "twenty days~~ following its publication in the Official Journal~~")~~ of the European Union.***
Article 56 Application This Decision shall apply from 1 January 2008.	Article 56 Application This Decision shall apply from 1 January 2008***, with the exception of Articles 14, 18, 19, 21, 23, 25, 31(2), 31(5), 32, 35(4) and 52 that shall apply at the date when the present Decision shall enter into force.***.
Article 57 Addressees This Decision is addressed to the Member States.	Article 57 Addressees This Decision is addressed to the Member States.