PARLEMENT EUROPEAN

2004 *2009*

Committee on Civil Liberties, Justice and Home Affairs

18.10.2006

COMPROMISE TEXT

Barbara Kudrycka

on the proposal for a decision of the European Parliament and of the Council establishing the European Return Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows'

Proposal for a decision (COM(2005)0123 – C6-0126/2005 – 2005/0049(COD))

COMMISSION PROPOSAL	*COMPROMISE TEXT*
DECISION OF THE EUROPEAN PARLIAMENT AND COUNCIL establishing the European Return Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows'	DECISION OF THE EUROPEAN PARLIAMENT AND COUNCIL establishing the European Return Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows'
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty establishing the European Community, and in particular ***Article*** 63(3)(b) thereof,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty establishing the European Community, and in particular ***Articles 63(2)(b) and*** 63(3)(b) thereof,

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Having regard to the proposal from the Commission[1],	Having regard to the proposal from the Commission,
Having regard to the opinion of the 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],	Acting in accordance with the procedure laid down in Article 251 of the Treaty,
Whereas***:***	Whereas:
Recital 1 (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.	Recital 1 (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.
Recital 2 (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.	Recital 2 (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.
Recital 3 (3) An effective Community return policy is a necessary complement to a credible legal immigration and asylum policy as well as an important component in the fight against illegal immigration. Considerable budgets are earmarked by Member States in view of implementing return programmes and forced return operations. Common action of the European Union in this field, backed with appropriate financial means from the Community, could support Member States, underline the necessity of the return of illegal residents and contribute to enhanced solidarity among Member States.	Recital 3 (3) An effective Community return policy is a necessary complement to a credible legal immigration and asylum policy as well as an important component in the fight against illegal immigration. Considerable budgets are earmarked by Member States in view of implementing return programmes and forced return operations. Common action of the European Union in this field, backed with appropriate financial means from the Community, could support Member States, underline the necessity of the return of illegal residents and contribute to enhanced solidarity among Member States.

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

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 4 (4) The Council on 28 February 2002 adopted the Comprehensive Plan to combat illegal immigration and trafficking of Human beings in the European Union[5] in which it stressed that a readmission and return policies constitute an integral and vital component in the fight against illegal immigration and identified two elements on which a Community return policy should be based, namely common principles and common measures, within the framework of improving the administrative co-operation between Member States.	Recital 4 (4) The Council on 28 February 2002 adopted the Comprehensive Plan to combat illegal immigration and trafficking of Human beings in the European Union[6] in which it stressed that a readmission and return policies constitute an integral and vital component in the fight against illegal immigration and identified two elements on which a Community return policy should be based, namely common principles and common measures, within the framework of improving the administrative co-operation between Member States.
Recital 5 (5) The Return Action Programme of the Council on 28 November 2002, based on the Commission's Communication of 14 October 2002 on a Community return policy on illegal residents, addresses the entire chain of action with respect to return management in Member States, covering both forced and voluntary return of third country nationals as well as the central stages of return, including preparation and follow-up.	Recital 5 (5) The Return Action Programme of the Council on 28 November 2002, based on the Commission's Communication of 14 October 2002 on a Community return policy on illegal residents, addresses the entire chain of action with respect to return management in Member States, covering both forced and voluntary return of third country nationals as well as the central stages of return, including preparation and follow-up.
Recital 6 (6) The European Council, at its meeting in Thessaloniki on 19 and 20 June 2003, called on the Commission to examine all aspects relating to a separate Community instrument on return in order to support, in particular the priorities as set out in the Return Action Programme.	Recital 6 (6) The European Council, at its meeting in Thessaloniki on 19 and 20 June 2003, called on the Commission to examine all aspects relating to a separate Community instrument on return in order to support, in particular the priorities as set out in the Return Action Programme.

[5] OJ C 142, 14.6.2002, p. 23.
[6] OJ C 142, 14.6.2002, p. 23.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	Recital 6 a (new) ***(6a) Recalling also that in its Conclusions on the priorities in the successful development of a common readmission policy of 2 November 2004 the Council underlined that Community readmission agreements make an important contribution to an effective joint migration management and play a valuable role in the fight against illegal immigration. They are an important element in the framework of the dialogue and cooperation between the European Union and the countries of origin, former residence and transit of illegal migrants.***
Recital 7 (7) Following the Conclusions of 8 June 2004 in which the Council called on the budgetary authority to make preparatory actions available and invited the Commission to take into account its view on the development of integrated return plans in close co-operation with Member States, preparatory actions were initiated for the period 2005 and 2006.	Recital 7 (7) Following the Conclusions of 8 June 2004 in which the Council called on the budgetary authority to make preparatory actions available and invited the Commission to take into account its view on the development of integrated return plans in close co-operation with Member States, preparatory actions were initiated for the period 2005 and 2006.
Recital 8 (8) The European Council, at its meeting in Brussels on 4 and 5 November 2004, called in "The Hague Programme" for launching the preparatory phase of a European Return Fund (hereafter the Fund) and the establishment of the Fund by 2007, taking into account the evaluation of the preparatory phase.	Recital 8 (8) The European Council, at its meeting in Brussels on 4 and 5 November 2004, called in "The Hague Programme" for launching the preparatory phase of a European Return Fund (hereafter the Fund) and the establishment of the Fund by 2007, taking into account the evaluation of the preparatory phase.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 9 (9) In November 2004 the Council took note of the Presidency's report on an analysis of reported best practices of return to specific countries. The report stated ample possibilities and a need for more practical co-operation between Member States in the practice of return. The report indicated possibilities for a more integrated approach, on both national and community level, of return policy as well as general policies. Also, the report identified best practices by Member States regarding the voluntary or forced return of third country nationals to their country of origin or transit, such as the promotion of Assisted Voluntary Return Programmes for sustainable return, return counselling, and the organisation of joint return operations, including charter flights.	Recital 9 (9) In November 2004 the Council took note of the Presidency's report on an analysis of reported best practices of return to specific countries. The report stated ample possibilities and a need for more practical co-operation between Member States in the practice of return. The report indicated possibilities for a more integrated approach, on both national and community level, of return policy as well as general policies. Also, the report identified best practices by Member States regarding the voluntary or forced return of third country nationals to their country of origin or transit, such as the promotion of Assisted Voluntary Return Programmes for sustainable return, return counselling, and the organisation of joint return operations, including charter flights.
Recital 10 (10) It is necessary to endow the Community with an instrument designed to support and encourage the efforts made by the Member States to improve the management of return in all its dimensions, on the basis of the principle of integrated return management, and with a view to supporting a fair and effective implementation of common standards on return, as established under ***existing and future*** Community ***instruments relating to*** return.	Recital 10 (10) It is necessary to endow the Community with an instrument designed to support and encourage the efforts made by the Member States to improve the management of return in all its dimensions, on the basis of the principle of integrated return management, and with a view to supporting a fair and effective implementation of common standards on return, as established under Community ***legislation on*** return.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 11 (11) No funding should be foreseen for 2007 under this instrument, in order to be able to take into account the results of preparatory actions on return (2005-2006), on the basis of a report by the Commission on the evaluation of the preparatory actions;	Recital 11 (11) No funding should be foreseen for 2007 under this instrument, in order to be able to take into account the results of preparatory actions on return (2005-2006), on the basis of a report by the Commission on the evaluation of the preparatory actions;
Recital 12 (12) The common standards concerned are in particular Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on expulsion of third country nationals[7] and its corollary, Council Decision 2004/191/EC of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of the Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on expulsion of third country nationals[8] and Council Decision 2004/573/EC on the organisation of joint flights for removals from the territory of tow or more Member States, of third country nationals who are subjects of individual removal orders[9];	Recital 12 (12) The common standards concerned are in particular Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on expulsion of third country nationals[10] and its corollary, Council Decision 2004/191/EC of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of the Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on expulsion of third country nationals[11] and Council Decision 2004/573/EC on the organisation of joint flights for removals from the territory of tow or more Member States, of third country nationals who are subjects of individual removal orders[12];
Recital 13 (13) This concerns also future Community instruments, such as an instrument on common standards on procedures in Member States for returning illegally staying third country nationals, which should create a level playing field in the European Union on return procedures and would therefore define conditions for and the margin within which Member States take return measures.	Recital 13 (13) This concerns also future Community instruments, such as an instrument on common standards on procedures in Member States for returning illegally staying third country nationals, which should create a level playing field in the European Union on return procedures and would therefore define conditions for and the margin within which Member States take return measures.

[7] OJ L 149, 2.6.2001, p. 34.
[8] OJ L 60, 27.2.2004, p. 55.
[9] OJ L 261, 6.8.2004, p. 28.
[10] OJ L 149, 2.6.2001, p. 34.
[11] OJ L 60, 27.2.2004, p. 55.
[12] OJ L 261, 6.8.2004, p. 28.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	Recital 13 a (new) ***(13a) Member States should ensure that actions under the Return Fund respect the obligations derived from fundamental rights, as reflected, in particular in the European Convention on Human Rights, the Charter of Fundamental Rights of the European Union, the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, and other relevant international instruments, such as 1989 United Nations Convention on the Rights of the Child, where applicable.***
	Recital 13 b (new) ***Bearing in mind that collective expulsion is prohibited under Protocol 4 of the European Convention on Human Rights, only persons who are the subject of individual removal orders may be returned via joint return operations eligible for funding under this Decision.***
	Recital 13 c (new) ***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.***
	Recital 13 d (new) ***As stated in the Return Action Programme, approved by the Council in November 2002, and constantly reaffirmed in the EU instruments in this area, such as in particular the Council Conclusions on voluntary return, adopted by the Council in November 2005, voluntary return is an important component of a balanced, effective and sustainable approach to the return. Member states should be encouraged to give preference, as far as possible, to voluntary return.***
Recital 14 (14) ***To ensure the consistency of the Community's response to the return of illegally residing third country nationals, actions financed under this instrument should be specific and complementary to actions financed under the European Refugee Fund and the programming aimed at supporting development cooperation and economic cooperation with partner countries and regions which are not Member States or Overseas countries and Territories.***	Recital 14 (14) ***Eligible actions within the scope of the integrated management of return should take account of the specific situation of vulnerable persons***.
Recital 15 (15) ***In particular, this would mean that rejected asylum seekers should only be included under the actions of this instrument where they are no longer included under the return strand in the European Refugee Fund. Once the first multiannual cycle of the European Refugee Fund (2005 – 2007) has been completed, this instrument should also cover the rejected asylum seekers.***	Recital 15 (15) ***To enhance efficiency in return management at national level, the Fund should also cover actions relating to voluntary return of persons who are not under an obligation to leave the territory, such as applicants for asylum who have not yet received a negative decision or persons enjoying a form of international protection within the meaning of Council Directive 2004/83/EC of 29 April 2004 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***[13] ***or temporary protection within the meaning of Council Directive 2001/55/EC of 20 July 2001 in the event of a mass influx***

[13] OJ L 304, 30.9.2004. p. 12.

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	of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof[14].
Recital 16 (16) 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.	Recital 16 (16) 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 European Refugee Fund for the period 2008-2013, the Decision of the European Parliament and the Council establishing the External Borders Fund for the period 2007-2013, 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.

[14] OJ L 212, 7.8.2001, p. 12.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 17 (17) A primary objective of this instrument should be the promotion of integrated return management at national level. Member States are encouraged to implement return operations in the light of integrated return action plans, which analyse the situation in the Member State with respect to the targeted population, set targets with respect to the operations envisaged and, in cooperation with relevant stakeholders, such as UNHCR and IOM, offer return schemes focusing on effective and sustainable returns through various measures. Where appropriate, integrated return plans should be regularly assessed and adjusted.	Recital 17 (17) A primary objective of this instrument should be the promotion of integrated return management at national level. Member States are encouraged to implement return operations in the light of integrated return action plans, which analyse the situation in the Member State with respect to the targeted population, set targets with respect to the operations envisaged and, in cooperation with relevant stakeholders, such as UNHCR and IOM, offer return schemes focusing on effective and sustainable returns through various measures. Where appropriate, integrated return plans should be regularly assessed and adjusted.
Recital 18 (18) To promote the voluntary return of persons ***complying with an obligation to leave***, incentives for such returnees, such as preferential treatment by providing enhanced return assistance should be foreseen. This kind of voluntary return is both in the interest of a dignified return of returnees, as well as of the authorities in terms of the cost-effectiveness.	Recital 18 (18) To promote the voluntary return of persons***, in particular persons who are under no obligation to leave the territory***, incentives for such returnees, such as preferential treatment by providing enhanced return assistance should be foreseen. This kind of voluntary return is both in the interest of a dignified return of returnees, as well as of the authorities in terms of the cost-effectiveness. ***Member states should be encouraged to give preference to voluntary return.***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 19 (19) However, from a policy point of view voluntary and enforced return are ***indissociable*** and Member States should be encouraged in their return management to reinforce the complementarity of the two forms. There is an obvious need to carry out forced returns in order to safeguard the integrity of the immigration and asylum policy of the European Union and the immigration and asylum systems of the Member States. Thus the possibility of forced return is a prerequisite for ensuring that this policy is not undermined and for enforcing the rule of law, which itself is essential to the creation of an area of freedom, security and justice. The instrument should therefore support actions of Member States to facilitate enforced return.	Recital 19 (19) However, from a policy point of view voluntary and enforced return are ***interlinked and have a mutually reinforcing effect*** and Member States should be encouraged in their return management to reinforce the complementarity of the two forms. There is an obvious need to carry out forced returns in order to safeguard the integrity of the immigration and asylum policy of the European Union and the immigration and asylum systems of the Member States. Thus the possibility of forced return is a prerequisite for ensuring that this policy is not undermined and for enforcing the rule of law, which itself is essential to the creation of an area of freedom, security and justice. The instrument should therefore support actions of Member States to facilitate enforced return.
Recital 20 (20) Moreover, the major obstacles experienced by Member States in the field of return occur in relation to forced returns. One important obstacle is uncertainty concerning the identity of the person concerned and/or his or her lack of necessary travel documents. ***Countries of origin often delay or deny the issuing of return travel documents because of missing information on nationality or identity. In order to avoid removal, illegal residents may therefore hide or destroy their travel documents and not infrequently claim a completely false identity and/or nationality. As a consequence, lengthy and expensive procedures have often been conducted, which include presentation of the returnee at several embassies or conducting a language or dialect analysis.*** Member States should be encouraged to improve the co-operation with consular services of third countries and to increase the exchange of information and operational cooperation among themselves as regards the cooperation with such services.	Recital 20 (20) Moreover, the major obstacles experienced by Member States in the field of return ***often*** occur in relation to forced returns. One important obstacle is uncertainty concerning the identity of the person concerned and/or his or her lack of necessary travel documents. ***In order to overcome such problems,*** Member States should be encouraged to improve the co-operation with consular services of third countries and to increase the exchange of information and operational cooperation among themselves as regards the cooperation with such services.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 21 (21) Lastly, it is imperative for this instrument to support in Member States, which consider it appropriate, specific measures for returnees in the country of return in order first to ensure effective return to their town or region of origin in good conditions and second to enhance their durable reintegration in their community. Such measures should not consist of assistance to the third country as such and are only eligible for funding when and insofar as there is a necessary continuation with activities initiated and in the main carried out in the territory of the Member States under an integrated return plan.	Recital 21 (21) Lastly, it is imperative for this instrument to support in Member States, which consider it appropriate, specific measures for returnees in the country of return in order first to ensure effective return to their town or region of origin in good conditions and second to enhance their durable reintegration in their community. Such measures should not consist of assistance to the third country as such and are only eligible for funding when and insofar as there is a necessary continuation with activities initiated and in the main carried out in the territory of the Member States under an integrated return plan.
	Recital 21a (new) ***(21a) Moreover, those measures should be in synergy with the actions supported by the Community instruments on external assistance, in particular the thematic programme on asylum and migration.***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 22 (22) The Agency, established in accordance with Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (hereafter "the Agency"), has as one of its tasks to provide the necessary assistance for organising joint return operations of Member States and identify best practices on the acquisition of travel documents and the removal of third country nationals illegally present in the territories of the Member States. Accordingly, the Agency should ensure that the conditions for an effective co-ordinated return effort between Member States are met, whilst leaving the implementation and organisation of the joint return operations to the competent national services. Therefore, the Agency should be able to use resources made available by Community actions in this instrument.	Recital 22 (22) The Agency, established in accordance with Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (hereafter "the Agency"), has as one of its tasks to provide the necessary assistance for organising joint return operations of Member States and identify best practices on the acquisition of travel documents and the removal of third country nationals illegally present in the territories of the Member States. Accordingly, the Agency should ensure that the conditions for an effective co-ordinated return effort between Member States are met, whilst leaving the implementation and organisation of the joint return operations to the competent national services. Therefore, the Agency should be able to use resources made available by Community actions in this instrument.
Recital 23 (23) The support provided by the Fund will be more efficient and better targeted if the co-financing of eligible actions is based on strategic multi-annual ***programmes and on related annual work programmes*** drawn up by each Member State in ***cooperation*** with the Commission.	Recital 23 (23) The support provided by the Fund will be more efficient and better targeted if the co-financing of eligible actions is based on strategic multi-annual ***programming,*** drawn up by each Member State in ***dialogue*** with the Commission.
Recital 24 (24) On the basis of the strategic guidelines adopted by the Commission, each Member State should prepare a multi-annual programming document taking into account its situation and needs and setting out its development strategy***, which is negotiated with the Commission and decided by the Commission, and constitutes the framework for preparing the*** annual programmes.	Recital 24 (24) On the basis of the strategic guidelines adopted by the Commission, each Member State should prepare a multi-annual programming document taking into account its ***specific*** situation and needs and setting out its development strategy ***that should constitute the framework for the implementation of the actions listed under the*** annual programmes.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 25 ***(25) Multiannual programming should be directed towards achieving the Funds' objectives by ensuring the availability of the necessary financial resources and the consistency and continuity of joint action by the Community and the Member States.***	Recital 25 ***deleted***
Recital 26 ***(26) Multiannual programming should ensure coordination of this instrument with other existing financial instruments.***	Recital 26 ***deleted***
Recital 27 (27) In the context of shared management as referred to in Article 53(1), point 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[15], 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 on the Member States clarified. Applying these conditions will enable the Commission to satisfy itself that Member States are utilising 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.	Recital 27 (27) In the context of shared management as referred to in Article 53(1), point 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[16], 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 on the Member States clarified. Applying these conditions will enable the Commission to satisfy itself that Member States are utilising the Fund in a lawful and correct manner and in accordance with the principle of sound financial management within the meaning of Articles 27 ***and 48(2***) of the Financial Regulation.
Recital 28 (28) The Commission should establish the indicative breakdown of available commitment appropriations using an objective and transparent method.	Recital 28 (28) The Commission should establish the indicative breakdown of available commitment appropriations using an objective and transparent method.

[15] OJ L 248,16.9.2002, p. 1.
[16] OJ L 248,16.9.2002, p. 1.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 29 ***(29) Under technical assistance, this instrument 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.***	Recital 29 ***deleted***
Recital 30 (30) Member States should adopt adequate measures to guarantee the proper functioning of management and control system. To this end, it is necessary to establish the general principles and the necessary functions which all programmes shall fulfil.	Recital 30 (30) Member States should adopt adequate measures to guarantee the proper functioning of management and control system. To this end, it is necessary to establish the general principles and the necessary functions which all programmes shall fulfil.
Recital 31 ***(31) It is necessary to provide for the designation of a single responsible authority in each Member State for the management of the Fund's interventions and to clarify its responsibilities. Designation and functions of the audit authority should be also 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.***	Recital 31 ***deleted***
Recital 32 (32) In accordance with the principles of subsidiarity and proportionality, Member States have the primary responsibility for the implementation and control of the interventions.	Recital 32 (32) In accordance with the principles of subsidiarity and proportionality, Member States have the primary responsibility for the implementation and control of the interventions.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 33 (33) 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 the efficient and correct implementation of their multi-annual and annual programmes. In particular, as far as the 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.	Recital 33 (33) 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 the efficient and correct implementation of their multi-annual and annual programmes. In particular, as far as the 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.
Recital 34 (34) 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***.	Recital 34 (34) 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.***
Recital 35 (35) The effectiveness and impact of actions supported by this instrument 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.	Recital 35 (35) The effectiveness and impact of actions supported by this instrument 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.
	Recital 35 A (new) ***(35A) 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 Fund.***
Recital 36 (36) 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.	Recital 36 (36) 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 37 (37) 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 ***6 May 1999*** between the European Parliament, the Council and the Commission on budgetary discipline and ***improvement of the budgetary procedure***[17].	Recital 37 (37) 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***[18].
Recital 38 (38) Since the objectives of the proposed action, namely to promote the return of illegally staying third country nationals within the framework of common standards and the principle of integrated return management, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved by the Community, 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 in order to achieve those objectives.	Recital 38 (38) Since the objectives of the proposed action, namely to promote the return of illegally staying third country nationals within the framework of common standards and the principle of integrated return management, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved by the Community, 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 in order to achieve those objectives.

[17] OJ C 172, 18.6.1999, p. 1.
[18] OJ C 139, 14.6.2006, p. 1.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Recital 39 (39) 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.[19]	Recital 39 (39) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999[20]~~, as amended by Council Decision 2006/512/EC of 17 July 2006~~ [21] 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 procedure being the most 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.~~

~~19~~ OJ L 184, 17.7.1999, p. 23.
~~20~~ OJ L 184, 17.7.1999, p. 23. Decision amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11)
21 OJ L 200, 22.7.2006, p. 11

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	(39A) 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 Article19(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.
Recital 40 (40) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is, therefore, not bound by it or subject to its application.	Recital 40 (40) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark does not take part in the adoption of this Decision and is, therefore, not bound by it or subject to its application.
	Recital 41 (new) ***(41) 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.***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	Recital 42 (new) ***(42) 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.***
	Recital 43 (new) ***(43) In accordance with the second indent of paragraph 2 of Article 67 of the Treaty, Council Decision 2004/928/EC rendered the procedure referred to in Article 251 of the Treaty applicable in the areas covered by Article 62(1), (2) (a) and (3) and Articles 63(2)(b) and (3)(b) of the Treaty.***
	Recital 44 (new) ***(44) The European and Social Committee has delivered an opinion.***
	Recital 45 (new) ***(45) The Committee of the Regions has delivered an opinion.***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	TITLE I OBJECTIVES AND GENERAL RULES 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 Return 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 Return 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 European Refugee Fund for the period 2008-2013, the Decision of the European Parliament and the Council establishing the External Borders Fund for the period 2007-2013, 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 2 General Objectives of the Fund 1. The general objective of the Fund shall be to support the efforts made by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management, taking account of Community legislation in this field.	Article 2 General Objectives of the Fund The general objective of the Fund shall be to support the efforts made by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management ***and by providing for joint actions to be implemented by Member States or national actions that pursue Community objectives under the principle of solidarity***, taking account of Community legislation in this field ***and in full compliance with fundamental rights***.
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 Specific objectives 1. The Fund shall contribute to the following specific objectives:	Article 3 Specific objectives 1. The Fund shall contribute to the following specific objectives:
(a) The introduction and improvement of the organisation and implementation of integrated return management by Member States;	(a) The introduction and improvement of the organisation and implementation of integrated return management by Member States;
(b) The enhancement of the co-operation between Member States in the framework of integrated return management and its implementation;	(b) The enhancement of the co-operation between Member States in the framework of integrated return management and its implementation;
(c) The promotion of an effective and uniform application of common standards on return according to the policy development in the field.	(c) The promotion of an effective and uniform application of common standards on return according to the policy development in the field.
2. Integrated return management shall include in particular the development and implementation by the competent authorities of a Member State of integrated return plans which	2. Integrated return management shall include in particular the development and implementation by the competent authorities of a Member State of integrated return plans which

COMMISSION PROPOSAL	*COMPROMISE TEXT*
– are based on a comprehensive assessment of the situation in the Member State with respect to the targeted population and the challenges with respect to the operations envisaged (such as those related to obtaining travel documents and other practical obstacles to return). The comprehensive assessment shall be drawn up in co-operation with all relevant authorities and partners; and	– are based on a comprehensive assessment of the situation in the Member State with respect to the targeted population ***or a targeted specific issue concerning return*** and the challenges with respect to the operations envisaged (such as those related to obtaining travel documents and other practical obstacles to return), ***taking into account, where appropriate, the relevant caseload***. The comprehensive assessment shall be drawn up in co-operation with all relevant authorities and partners; and
– aim to achieve a wide set of measures encouraging voluntary return schemes of third country nationals illegally residing on its territories, and, where necessary, implementing enforced return operations with respect to these persons, in full compliance with humanitarian principles and respect for their dignity; and	– aim to achieve a wide set of measures encouraging voluntary return schemes of third country nationals, ***in particular for those who do not or no longer fulfil the conditions for entry and stay on its territories,*** and, where necessary, implementing enforced return operations with respect to these persons, in full compliance with humanitarian principles and respect for their dignity; and
– ***include the choice for a target group based on the relevant caseload; and***	***deleted***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
– include a planning and/or time table and, where appropriate, foresee a periodic evaluation mechanism allowing for adjustment of the planning and assessment of the impact of the plan in practice.	– include a planning and/or time table and, where appropriate, foresee a periodic evaluation mechanism allowing for adjustment of the planning and assessment of the impact of the plan in practice.
	– ***include, where Member States consider it appropriate, measures to facilitate cooperation between the competent administrative, law enforcement and judicial bodies, where appropriate at different levels of government.***
3. Integrated Return Plans shall focus in particular on effective and sustainable returns through such actions as efficient information at pre-departure stage, travel arrangements, transit in the country of return for both voluntary and enforced return. As far as possible, incentives for voluntary returnees, such as enhanced return assistance, may be foreseen in order to promote voluntary return. Where Member States consider it appropriate, they may include the provision of reception and reintegration support.	3. Integrated Return Plans shall focus in particular on effective and sustainable returns through such actions as efficient information at pre-departure stage, travel arrangements, transit in the country of return for both voluntary and enforced return. As far as possible, incentives for voluntary returnees, such as return assistance, may be foreseen in order to promote voluntary return. Where Member States consider it appropriate, they may include the provision of reception and reintegration support.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 4 Eligible actions in the Member States 1. Actions relating to the objective laid down in Article 3(1), point a), and in particular the following, shall be eligible for support from the Fund:	Article 4 Eligible actions in the Member States 1. Actions relating to the objective laid down in Article 3(1), point a), and in particular the following, shall be eligible for support from the Fund:
(a) Establishment or improvement of an effective, stable and lasting operational co-operation of Member States' authorities with consular authorities and immigration services of third countries, with a view to obtaining travel documents for the return of third country nationals and ensuring speedy and successful ***removal procedures***;	(a) Establishment or improvement of an effective, stable and lasting operational co-operation of Member States' authorities with consular authorities and immigration services of third countries, with a view to obtaining travel documents for the return of third country nationals and ensuring speedy and successful ***removals***;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(b) Promotion and facilitation of voluntary returns of illegally staying third country nationals, in particular through assisted voluntary return programmes, with a view to ensuring the sustainability of returns;	***(b) Promotion of ways and means to provide information on return as early as possible in asylum and immigration procedures and to encourage individually third country nationals to make use of the possibility of voluntary return***;
	(c) Facilitation of voluntary returns of third country nationals, in particular through assisted voluntary return programmes, with a view to ensuring the effectiveness and sustainability of returns;
	(c a) develop modes of cooperation between different levels of national, regional, local, urban and other public authorities enabling officials to swiftly gain information about experiences and practices elsewhere and, when possible, to pool resources.
(c) Simplification and implementation of enforced returns of ***illegally staying*** third country nationals, with a view to enhancing the credibility and integrity of immigration policies and reducing the period of custody of persons waiting for forced removal.	***(d)*** Simplification and implementation of enforced returns of third country nationals ***who do not or no longer fulfil the conditions for entry and stay***, with a view to enhancing the credibility and integrity of immigration policies and reducing the period of custody of persons waiting for forced removal. ***[similar to point c) of the Cion proposal]***
2. Actions relating to the objective laid down in Article 3(1), point b), and in particular the following, shall be eligible for support from the Fund:	2. Actions relating to the objective laid down in Article 3(1), point b), and in particular the following, shall be eligible for support from the Fund:

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(a) Co-operation in the gathering and provision to potential returnees of information on the country of origin;	(a) Co-operation in the gathering and provision to potential returnees of information on the country of origin, ***former residence or transit***;
(b) Co-operation in developing effective, stable and lasting operational working relationships between Member States' authorities and consular authorities and immigration services of third countries, to facilitate consular assistance in obtaining travel documents for the return of third country nationals and ensuring speedy and successful ***removal procedures***;	(b) Co-operation in developing effective, stable and lasting operational working relationships between Member States' authorities and consular authorities and immigration services of third countries, to facilitate consular assistance in obtaining travel documents for the return of third country nationals and ensuring speedy and successful ***removals***;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(c) Design of joint integrated return plans and their implementation, including joint voluntary return programmes on specific countries or regions of origin, former residence or transit;	(c) Design of joint integrated return plans and their implementation, including joint voluntary return programmes on specific countries or regions of origin, former residence or transit;
(d) Studies on the current situation and possibilities for enhancing administrative co-operation among Member States in the field of return as well as on the role of international and non-governmental organisations to be played in this context;	(d) Studies on the current situation and possibilities for enhancing administrative co-operation among Member States in the field of return as well as on the role of international and non-governmental organisations to be played in this context;
(e) Exchange of information, support and advice in dealing with the return of particularly vulnerable groups;	(e) Exchange of information ***and best practice***, support and advice in dealing with the return of particularly vulnerable groups;
(f) Organization of seminars for practitioners on best practices focusing on specific third countries and/or regions;	(f) Organization of seminars for practitioners on best practices focusing on specific third countries and/or regions;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(g) Joint measures enabling the reception of readmitted persons in countries of origin, former residence or transit;	(g) Joint measures enabling the reception of readmitted persons in countries of origin, former residence or transit;
(h) Joint development of actions to ensure the durable reintegration of persons in the country of origin or former residence;	(h) Joint development of actions to ensure sustainable return of persons to the country of origin or former residence;
(i) Joint measures to monitor the situation of returnees and sustainability of their situation after return.	***deleted***
3. Actions relating to the objective laid down in Article 3(1), point c), and in particular the following, shall be eligible for support from the Fund:	3. Actions relating to the objective laid down in Article 3(1), point c), and in particular the following, shall be eligible for support from the Fund:

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(a) Enhancement of the capacity of competent authorities to take high quality return decisions as quickly as possible;	(a) Enhancement of the capacity of competent authorities to take high quality return decisions as quickly as possible;
(b) Enhancement of the capacity of competent administrative authorities to execute/enforce speedily removal decisions in full respect of human dignity and the relevant European security standards regarding such operations;	(b) Enhancement of the capacity of competent administrative authorities to execute/enforce speedily removal decisions in full respect of human dignity and the relevant European security standards regarding such operations;
(c) Enhancement of the capacity of judicial bodies to more quickly assess return decisions appealed;	(c) Enhancement of the capacity of judicial bodies to more quickly assess return decisions appealed;
(d) Organization of seminars and joint training for the staff of the competent administrative, law enforcement and judicial bodies concerning legal and practical aspects of return operations;	(d) Organization of seminars and joint training for the staff of the competent ***national, regional, local, urban and other competent*** administrative, law enforcement and judicial bodies concerning legal and practical aspects of return operations;
(e) Enhancement of the capacity of competent administrative authorities to effectively implement common arrangements on mutual recognition and joint return operations, including the recommendations, operational standards and best practices defined by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union in the area of return.	(e) Enhancement of the capacity of competent administrative authorities to effectively implement common arrangements on mutual recognition and joint return operations, including the recommendations, operational standards and best practices defined by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union in the area of return.
4. Actions provided for by paragraphs 1 to 3 shall, in particular, promote the implementation of the provisions of the relevant Community legislation in the field of the common European immigration and return policy.	4. Actions provided for by paragraphs 1 to 3 shall, in particular, promote the implementation of the provisions of the relevant Community legislation in the field of the common European immigration and return policy.
5. Actions shall take account of the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.	***deleted***[22]
Article 5 Eligible measures in the Member States Actions supported may include the following measures:	Article 5 Eligible measures in the Member States Actions supported may include the following measures:
– In all cases of return ***pre-return*** information, ***procurement of indispensable travel documents,*** costs of necessary pre-return medical checks, costs of travel and food for returnees and escorts, including medical staff, ***accommodation for*** escorts, specific assistance to vulnerable groups such as children or people with disabilities, costs of transportation ***to the final destination*** in the country of return and co-operation with the authorities of the country of origin, former residence or transit;	***(a)*** In all cases of return***, information to third country nationals on return in general, counselling to individuals on the possibilities for voluntary return, translation costs, procurement of indispensable travel documents,*** costs of necessary pre-return medical checks, costs of travel and food for returnees and escorts, including medical staff ***and interpreters, accommodation for escorts including medical staff and interpreters,*** ~~specific assistance to vulnerable groups such as children or people with disabilities,~~ costs of transportation ***in the Member State and up to*** the country of return and co-operation with the authorities of the country of origin, former residence or transit;

[22] Part of the content of former paragraph 5 has been moved to the Preamble (recital 14).

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	(aa) in all cases of return, specific assistance for 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;
– Additionally, in the case of forced return of ***illegally residing*** third country nationals, costs for temporary accommodation of returnees and their escorts from the participating Member State in the organising Member State prior the departure in case of joint return operations;	***(b)*** Additionally, in the case of forced return of third country nationals ***who do not or no longer fulfil the conditions for entry and stay***, costs for ***travel, food and*** temporary accommodation of returnees and their escorts from the participating Member State in the organising Member State prior the departure in case of joint return operations;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
– Additionally, in the case of voluntary return of illegally residing third country nationals, ***comprehensive pre-return information,*** assistance and counselling as well as essential expenses before return;	***(c)*** Additionally, in the case of voluntary return of third country nationals ***who do not or no longer fulfil the conditions for entry and stay, assistance to returnees in preparing the return***, as well as essential expenses before return;
– Additionally, ***and*** where considered appropriate by Member States, initial expenses after return, transport of the returnee's personal belongings, adequate temporary accommodation for the first days after arrival in the country of return in a reception centre or a hotel if necessary, training and employment assistance and limited start-up support for economic activities where appropriate;	***(d)*** Additionally, ***in the case of voluntary return of third country nationals who are not under an obligation to leave the territory of the Member States and in other cases,*** where considered appropriate by Member States, ***limited financial contribution for*** initial expenses after return, transport of the returnee's personal belongings, adequate temporary accommodation for the first days after arrival in the country of return in a reception centre or a hotel if necessary, training and employment assistance and limited start-up support for economic activities where appropriate;
– Education and training of staff of the competent administrative, law enforcement and judicial bodies, secondments of these categories of staff from other Member States in order to ensure an effective and uniform application of common standards on return and enhance cooperation, as well as missions to assess the results of return policies in third countries;	***(e)*** Education and training of staff of the competent administrative, law enforcement and judicial bodies, secondments of these categories of staff from other Member States, in order to ensure an effective and uniform application of common standards on return ***and the respect of obligations under international instruments affecting the treatment of returnees,*** and enhance cooperation, as well as missions to assess the results of return policies in third countries;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
– In the case of operational co-operation with consular authorities and immigration services of third countries with a view to obtaining travel documents and ensuring speedy removal procedures, cost of travel and accommodation in the Member States for the staff of the authorities and services responsible for the identification of third country nationals and the verification of their travel documents;	***(f)*** In the case of operational co-operation with consular authorities and immigration services of third countries with a view to obtaining travel documents and ensuring speedy removal procedures, cost of travel and accommodation in the Member States for the staff of the authorities and services responsible for the identification of third country nationals and the verification of their travel documents;
– In the case of reintegration measures ***to enhance the sustainability of return pursuant to the notion of integrated return management and, where Member State consider it appropriate***, cash incentives and other short term measures necessary to launch the progress of reintegration for the returnee's personal development such as training, placement and employment assistance, start up support for economic activities and post-return assistance and counselling***, as well as measures enabling Member States to offer appropriate arrangements for welcoming returnees in third countries upon their arrival.***	***(g)*** In the case of reintegration measures ***for third country nationals who are not under an obligation to leave the territory of the Member States***, cash incentives and other short term measures necessary to launch the progress of reintegration for the returnee's personal development such as training, placement and employment assistance, start up support for economic activities and post-return assistance and counselling;
	(h) In the case of reintegration measures for third country nationals who do not or no longer fulfil the conditions for entry and stay, where Member State consider it appropriate, cash incentives and other short term measures necessary to launch the progress of reintegration for the returnee's personal development such as training, placement and employment assistance, start up support for economic activities and post-return assistance and counselling, as well as measures enabling Member States to offer appropriate arrangements for welcoming returnees in third countries upon their arrival.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 6 Actions of interest to the Community 1. At the Commission's initiative, up to 7% of the Fund's available resources may be used to finance transnational actions or actions of interest to the Community as a whole ("Community actions") concerning ***immigration and integration*** policy and measures applicable to the target group as referred to in Article 7.	Article 6 Actions of interest to the Community 1. At the Commission's initiative, up to 7% of the Fund's available resources may be used to finance transnational actions or actions of interest to the Community as a whole ("Community actions") concerning ***return*** policy and measures applicable to the target group as referred to in Article 7.
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;
(b) support the setting-up of transnational cooperation networks and pilot projects based on transnational partnerships 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 return policy;	(b) support the setting-up of transnational cooperation networks and pilot projects based on transnational partnerships 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 return policy;
(c) support transnational awareness-raising campaigns;	(c) support transnational awareness-raising campaigns;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(d) support ***studying, disseminating*** and ***exchanging*** information, including on the use of state of the art technology, ***on best practices and all other aspects of the Fund***;	(d) support ***studies, dissemination*** and ***exchange of*** information on best practices and all other aspects ***of return policies,*** including on the use of state of the art technology, ***in particular to encourage more comparative research relating to the impact of past and present return programmes***;
(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 and studies exploring the possibility of new forms of Community cooperation and Community law in this area;
(f) support the development of statistical tools, methods and common indicators.	(f) support the development ***and application by*** Member States of ***common*** statistical tools, methods and indicators ***for measuring policy developments in the field of return, in particular with a view to the dissemination of statistics disaggregated according to voluntary and forced returns***.
	(f a) support the development and regular updating, in cooperation with the European Agency for the Management of Operational Cooperation at the External Borders, of a common Handbook on best practices in the field of return, including on escorts.
	(g) Provide supporting service to Member States in case of duly substantiated emergency situations requiring urgent actions;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
3. The annual work programme laying down the priorities for Community actions shall be adopted in accordance with the procedure referred to in Article 50(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 7 Target Groups 1. For the purposes of this Decision the target groups shall comprise ***all third country nationals illegally residing in a Member State.***	Article 7 Target Groups 1. For the purposes of this Decision the target groups shall comprise:
	a) all third country nationals who have not yet received a final negative decision to their request for international protection in a Member State and who may choose to make use of voluntary return, provided they have not acquired a new nationality and have not left the territory of the Member State;
	b) all third country nationals enjoying a form of international protection within the meaning of Council Directive 2004/83/EC or temporary protection within the meaning of Council Directive 2001/55/EC in a Member State and who choose to make use of voluntary return, provided they have not acquired a new nationality and have not left the territory of the Member State;
	c) All third country nationals who do not or no longer fulfil the conditions for entry and/or stay in a Member State and who, in accordance with the obligation to leave the territory of the Member State, make use of voluntary return;
	d) All other third county nationals who do not or no longer fulfil the conditions for entry and/or stay in a Member State.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
2. This shall include third country nationals who are not or no longer in need for international protection because their application for asylum has been rejected by a final decision under the respective national legal systems or because their status has been revoked, ended or not been renewed (by a final decision) in accordance with national and Community law.	***deleted***
3. Third country national means any person who is not a Union citizen within the meaning of Article 17(1) of the Treaty.	3. Third country national means any person who is not a Union citizen within the meaning of Article 17(1) of the Treaty.
	CHAPTER II PRINCIPLES OF ASSISTANCE
Article 8 Complementarity, consistency and compliance	Article 8 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 multi-annual programme referred to in Article 20.	2. The Commission and the Member States shall ensure that assistance from the Fund and the Member States is consistent with the activities, policies and priorities of the Community. This consistency shall be indicated in particular in the multi-annual programme referred to in Article 20.
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.
Article 9 Programming	Article 9 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*** multi-annual programming ***period*** (***2008-2013***), ***subject to a mid-term review in accordance with Article 22A***. The multi-annual 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 multi-annual programmes ***approved*** by the Commission shall be implemented by means of annual programmes.
Article 10 Subsidiary and proportional intervention	Article 10 Subsidiary and proportional intervention
1. Implementation of multiannual and annual programmes referred to in Articles 20 and 22 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 multi-annual and annual programmes referred to in Articles 20 and 22 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 multi-annual and annual programmes.
Article 11 Implementation methods	Article 11 Implementation methods
1. The Community budget allocated to the Fund shall be implemented in accordance with Article 53 (1), point (b) of Council Regulation (EC, Euratom) No 1605/2002, with the exception of the Community Actions referred to in Article 6 and the technical assistance referred to in Article 17.	1. The Community budget allocated to the Fund shall be implemented in accordance with Article 53 (1), point (b) of Council Regulation (EC, Euratom) No 1605/2002, with the exception of the Community Actions referred to in Article 6 and the technical assistance referred to in Article 17.
The Member States and the Commission shall ensure compliance with the principle of sound financial management.	***deleted***
2. The Commission exercises its responsibility for implementing the general budget of the European Communities by:	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;	(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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 12 Additionality ***1. Contributions from the Fund shall not replace public or equivalent expenditure by a Member State.***	Article 12 Additionality ***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.	***deleted***
Article 13 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:***	Article 13 Partnership 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 multi-annual 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, international organisations and bodies representing civil society such as non-governmental organisations or social partners.***
(a) the competent regional, local, urban and other public authorities;	***deleted***
(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.***	***deleted***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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. ***deleted***
	CHAPTER III FINANCIAL FRAMEWORK
Article 14 Global resources 1. The financial ***reference amount*** for the implementation of the Fund from 1 January 2008 to 31 December 2013 shall be EUR 676 million.	Article 14 Global resources 1. The financial ***envelope*** for the implementation of the Fund from 1 January 2008 to 31 December 2013 shall be EUR 676 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 15.	3. The Commission shall make indicative annual breakdowns by Member States in accordance with the criteria established in Article 15.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 15 Annual distribution of resources for eligible actions in the Member States	Article 15 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 following the year of 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 following the year of 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) ***70*** % in proportion to the total number of third country nationals ***illegally residing or having resided illegally*** in the territory of the Member State and who are subject to a return decision under national and Community law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return, over the previous three years;	(a) ***50*** % in proportion to the total number of third country nationals ***who do not or no longer fulfil the conditions for entry and stay*** in the territory of the Member State and who are subject to a return decision under national and/or Community law, i.e. an administrative or judicial decision or act, stating or declaring the illegality of stay and imposing an obligation to return, over the previous three years;
(b) ***30*** % in proportion to the number of third country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion over the previous three years.	(b) ***50*** % in proportion to the number of third country nationals who have actually left the territory of the Member State following an administrative or judicial order to leave, whether undertaken voluntarily or under coercion over the previous three years.
3. The third country nationals referred to in paragraph 2 shall not include	3. The third country nationals referred to in paragraph 2 shall not include
(a) third country nationals who ***are refused entry in a transit zone by a*** Member State;	(a) third country nationals who***, being present in a transit zone of a*** Member State***, were refused entry***;
(b) third country nationals who are to be returned by a Member State to another Member State, in particular pursuant to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national.	(b) third country nationals who are to be returned by a Member State to another Member State, in particular pursuant to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
4. The reference figures ***are*** the latest statistics produced by the Statistical Office of the European Communities in accordance with Community law.	4. 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.*** ***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 the necessary information to do so.***
5. Where the statistics referred to in paragraph 4 are not available, Member States shall provide the necessary figures.	***deleted***
Article 16 Financing structure 1. The Fund's financial contribution shall take the form of grants.	Article 16 Financing structure 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 4 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 ***75%*** of the total cost of a specific action. This may be increased to 60% for projects addressing specific priorities identified in the strategic guidelines as defined in Article ***19***. This shall be increased to 75% in the Member States covered by the Cohesion Fund.
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.***	5. ***In the framework of the implementation of national programming as set out in Chapter IV, 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	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. ***[same as par. 5 of the Cion proposal]***
Article 17 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 17 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.***
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***.*** ***[same as point d) of the Cion proposal]***
	(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.
Article 18 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.	Article 18 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.
2. The annual amount set aside for technical assistance may not exceed ***4 % of the total annual amount of co-financing allocated to the Member State, plus EUR 30 000.***	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
	(b) 4% of the total annual amount of co-financing allocated to the Member State plus EUR 30. 000 for 2011-2013.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	CHAPTER IV PROGRAMMING
Article 19 Adoption of strategic guidelines 1. ***For each multiannual programme, the*** Commission shall adopt strategic guidelines setting out a framework for the intervention of the Fund, taking into account the progress in the development and implementation of Community legislation in the area of return and measures taken by the Community in the area of illegal immigration as well as the indicative distribution of the financial resources of the Fund for the period of the multiannual programme;	Article 19 Adoption of strategic guidelines 1. ***The*** Commission shall adopt strategic guidelines setting out a framework for the intervention of the Fund, taking into account the progress in the development and implementation of Community legislation in the area of return and measures taken by the Community in the area of illegal immigration as well as the indicative distribution of the financial resources of the Fund for the period of the multi-annual programme;
2. For the objectives of the Fund referred to in Article 3, paragraph 1, point (a) and (b), those guidelines shall in particular give effect to the priorities of the Community to promote	2. For the objectives of the Fund referred to in Article 3, paragraph 1, point (a) and (b), those guidelines shall in particular give effect to the priorities of the Community to promote
– the return of third country nationals who are not in the possession of passports or other identity documents;	– the return of third country nationals who are not in the possession of passports or other identity documents;
– the return of third country nationals not covered under Community readmission agreements or national bilateral readmission agreements, in view of strengthening the obligation under international law to readmit own nationals;	– the return of third country nationals not covered under Community readmission agreements or national bilateral readmission agreements, in view of strengthening the obligation under international law to readmit own nationals;
– the return to a particular country of third country nationals and stateless persons who have come from or have resided in this country not as its own nationals;	– the return to a particular country of third country nationals and stateless persons who have come from or have resided in this country not as its own nationals;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
– ***the return of particularly vulnerable groups***;	– ***the return of persons who are under no obligation to leave the territory of the Member States, such as applicants for asylum who have not yet received a negative decision and persons enjoying a form of international protection within the meaning of Council Directive 2004/83/EC or temporary protection within the meaning of Council Directive 2001/55/EC***;
	– ***the return of particularly vulnerable group [same as previous indent in the Cion proposal]***
For the objective of the Fund referred to in Article 3, paragraph 1, point c), those guidelines shall in particular give effect to the priorities of the Community to promote the knowledge of the common standards across the EU and the integration of these standards into daily return management processes in the administrative authorities of Member States.	For the objective of the Fund referred to in Article 3, paragraph 1, point c), those guidelines shall in particular give effect to the priorities of the Community to promote the knowledge of the common standards across the EU and the integration of these standards into daily return management processes in the administrative authorities of Member States.
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***.	3. The Commission shall adopt the strategic guidelines relating to the multi-annual 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 20 Preparation and approval of national multiannual programmes	Article 20 Preparation and approval of national multi-annual programmes
1. Each Member State shall ***for each programming period and*** on the basis of the strategic guidelines referred to in Article 19 ***propose*** a draft multiannual programme which shall ***include*** the following elements:	1. Each Member State shall ***propose,*** on the basis of the strategic guidelines referred to in Article 19***,*** a draft multi-annual programme which shall ***consist of*** the following elements:

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(a) a description of the current situation in the Member State as regards the principle of integrated return management, the cooperation with consular authorities and immigration services of third countries, the measures and policies relating to voluntary return and enforced return, the approach towards reintegration measures and sustainability of return, capacity building of competent administrative and judicial authorities and the cooperation with other Member States related to the above;	(a) a description of the current situation in the Member State as regards the principle of integrated return management, the cooperation with consular authorities and immigration services of third countries, the measures and policies relating to voluntary return and enforced return, ***with disaggregated data, insofar as they are available, between voluntary and forced returns,*** the approach towards reintegration measures and sustainability of return, capacity building of competent administrative and judicial authorities and the cooperation with other Member States related to the above;
(b) analysis of requirements in the Member State in question in terms of the cooperation with consular authorities and immigration services of third countries, the measures and policies relating to voluntary return and enforced return, the approach towards reintegration measures and sustainability of return, capacity building of competent administrative and judicial authorities and the cooperation with other Member States related to the above and an indication of operational objectives designed to meet these requirements during the period covered by the multiannual programme;	(b) an analysis of requirements in the Member State in question in terms of the cooperation with consular authorities and immigration services of third-countries, the measures and policies relating to voluntary return and enforced return, the approach towards reintegration measures and sustainability of return, capacity building of competent administrative and judicial authorities and the cooperation with other Member States related to the above and the indication of operational objectives designed to meet the requirements during the period covered by the multi-annual programme;
(c) 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;
(d) 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;
(e) 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 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;
	(f) a description of the approach chosen for the implementation of the principle of partnership laid down in Article 13
(f) 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; ***[same as point f) of the Cion proposal]***
(g) implementing provisions for the multiannual programme, including:	***(h)*** implementing provisions for the multi-annual programme, including:
- designation by the Member State of all the entities stipulated in Article 25;	• 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 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;	• a definition of the procedures for the mobilisation and circulation of financial flows in order to ensure their transparency;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
- the provisions laid down to ensure that the multiannual programme is publicised.	• the provisions laid down to ensure that the multi-annual programme is publicised. ***[same as point g) of the Cion proposal]***
2. The Member States shall establish each multiannual programme in close cooperation with the partners referred to in Article 13.	
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 multi-annual programme no later than four months after the Commission has provided the strategic guidelines. ***[similar to par. 3 of the Cion proposal]***
	3. In order to approve the draft multi-annual programme, the Commission shall examine:
	(a) its consistency with the objectives of the Fund and the strategic guidelines defined in Article 19;
	(b) the relevance of the actions envisaged in the draft in the 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;
	(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. [similar to par. 4 of the Cion proposal]
4. The Commission shall appraise the proposed multiannual programme in light of the following:	***4. Where the Commission considers that a draft multi-annual 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.***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(a) its consistency with the objectives of the Fund and the strategic guidelines defined in Article 19,	
(b) the relevance, appropriateness and expected results of the strategy and operational priority themes proposed by the Member State;	
(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, 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.	***deleted***
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 multi-annual programme within three months following its formal submission, in accordance with the procedure referred to in Article 52(2).
Article 21 Revision of multiannual ***programmes*** 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***, particularly in the light of Council conclusions***. ***Multiannual*** programmes may be re-examined in the light of evaluations and / or following implementation difficulties.	Article 21 Revision of ***the*** multi-annual ***programme*** 1. At the initiative of the Member State in question or the Commission, ***the*** multi-annual 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. ***Multi-annual*** programmes may be re-examined in the light of evaluations and/or following implementation difficulties.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 multi-annual programme as soon as possible after the formal submission of a request by the Member State concerned. ***The revision of the multi-annual programme shall be done in accordance with the procedure referred to in Article 52(2).***
Article 22 Annual programmes 1. The multiannual programmes approved by the Commission shall be implemented by means of annual work programmes.	Article 22 Annual programmes 1. The multi-annual programme approved by the Commission shall be implemented by means of annual work programmes.
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 15.	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 15.
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***:	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;	(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 18 for the purpose of implementing the annual programme.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 financing decision from the Fund*** 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.	***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 multi-annual programme, the Commission shall invite the Member State to provide all necessary information and, where appropriate, to revise the proposed programme accordingly.*** ***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 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 22A ***Mid-term review of the multi-annual programme*** ***1. The Commission shall review the strategic 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 State shall re-examine its multi-annual programme and where appropriate, revise it.
	3. The rules in Article 20 on the preparation and approval of national multi-annual programmes shall apply mutatis mutandis for the preparation and approval of revised multi-annual programmes.
	4. The revised strategic guidelines shall be adopted in accordance with the procedure referred to in Article 52(3).
	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

COMMISSION PROPOSAL	*COMPROMISE TEXT*
The management and control systems of multiannual programmes set up by Member States shall provide for:	The management and control systems of multi-annual 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;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(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 multi-annual programmes;***
(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 1. For ***each*** multiannual programme the Member State shall designate the following:	Article 25 Designation of authorities 1. For ***implementing its*** multi-annual 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;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(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.
(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 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, point b), ***control and certification functions may be carried out by the same body or department***.	3. Subject to Article 24, point (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 29 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 body 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.***	***1.*** The responsible authority ***shall meet the following minimum conditions. It shall:***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	(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;
	(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 management rules;
	(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 for administrative work in an international environment. ***[same as par. 2 of the Cion proposal]***
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;	
(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;	
(d) be in a position to apply Community fund management rules;	
(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.	
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 2007-2013.	***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. ***[same as par. 3 of the Cion proposal]***
	(3 a) The Commission may assist the Member States in the training of staff, in particular as regards the correct application of Chapters V-IX of this Decision.
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:	Article 27 Tasks of the responsible authority 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 13***;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(b) submit to the Commission proposals for multiannual and annual programmes defined in Articles 20 and 22 ;	(b) submit to the Commission proposals for multi-annual and annual programmes defined in Articles 20 and 22;
(c) organise and advertise calls for tenders and ***calls for*** 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;
(f) ensure consistency and complementarity between co-financing under the Fund and from other relevant national and Community financial instruments;	(f) ensure consistency and complementarity between co-financing under the Fund and from other relevant national and Community financial instruments;
(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 Community and national rules;	(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 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 ***48*** 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;

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 ;
(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) co-operate 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 ***18***.	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 1. Where all or some of the responsible authority's tasks are delegated to a delegated authority, the responsible authority shall define precisely 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.	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.
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 1. The certifying authority ***of a multiannual programme*** shall:	Article 29 Certifying authority 1. The certifying authority shall:
(a) certify that:	(a) certify that*:*
i. the ***statement*** of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents,	**-** the ***declaration*** of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents,

COMMISSION PROPOSAL	*COMPROMISE TEXT*
ii. 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;	**-** 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 referred to in Article 18, provided that the prerogatives of this authority as described in Article ***24*** are respected.	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 Article 18, provided that the prerogatives of this authority as described in Article ***25*** are respected.
Article 30 Audit authority 1. The audit authority ***of a multiannual programme*** shall:	Article 30 Audit authority 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;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(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 cofinancing 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 s***ubparagraphs*** (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 …… [23], or where common systems apply to two or more of these Funds, a single combined audit strategy may be submitted under paragraph 1 point 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 point (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 control of the programme.	(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 the programme.

[23] References will be inserted to the decisions establishing the European Refugee Fund, the External Borders Fund and the Integration Fund.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(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 18, provided that the prerogatives of this authority as described in Article 24 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 18, provided that the prerogatives of this authority as described in Article 24 are respected***.***
	CHAPTER VI CONTROLS
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.	Article 31 Responsibilities of the Member States 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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. 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.	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 ***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 15.	***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). ***[same as par. 6 of the Cion proposal]***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 the systems function effectively throughout the programming period.	Article 32 Management and control systems 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 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 multi-annual 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, the Member States shall submit a report 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. The 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.	***3. The Commission shall review the application of this provision in the context of the preparation of the report for the period 2008-2010 set out in Article 50(3).***
4. The detailed rules for implementing paragraphs 1 to 3 shall be adopted in accordance with the procedure referred to in Article 52(2).	

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 ***32*** that the 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 ***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 ***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 an on-the-spot check to verify the 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.	3. The Commission may require ***a*** Member State to carry out on-the-spot checks to verify the 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.
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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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***.	Article 34 Cooperation with the control bodies of the Member States 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	2. In determining its own audit strategy, the Commission shall identify those ***annual*** programmes ***which it considers satisfactory on the basis of its existing knowledge of the management and control systems***. ***For those programmes, the Commission may conclude that it can rely principally on the audit evidence provided by the Member States and that it will carry out its own on the spot audits only if there is evidence to suggest shortcomings in the systems.***
(a) which comply with the system established under Article 32 without reservations or for which reservations have been withdrawn following corrective measures; and	

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(b) for which the audit strategy of the audit authority under Article 30 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. ***For those programmes, the Commission may inform the Member States concerned that it will rely principally on the opinion of the audit authority as to the correctness, legality and regularity of expenditure declared and will carry out its own on-the-spot audits only in exceptional circumstances.***	
	CHAPTER VII FINANCIAL MANAGEMENT
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.	Article 35 Eligibility – declarations of expenditure 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 22(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 22(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 :***	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).***
– ***VAT;***	
– ***interest on debt;***	
– ***the purchase of land for an amount exceeding 10% of the total eligible expenditure for the operation concerned;***	
– ***housing.***	
5. The rules governing eligibility of expenditure within the framework of actions co-financed by the Fund in the Member States under Article 4 shall be adopted in accordance with the procedure provided for by Article 52(2).	

COMMISSION PROPOSAL	*COMPROMISE TEXT*
Article 36 ***Wholeness*** 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.	Article 36 ***Completeness*** of payment to 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.***
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 20 and 22, certified declarations of expenditure, requests for payments referred to in Article 26(1), point (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 22(4), commitments and payments shall be denominated and carried out in euro.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	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 financing decision referred to in Article 22(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 22(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.
3. A pre-financing payment representing 50% of the amount allocated in the ***Commission's*** financing decision shall be made to the Member State within sixty days following the adoption of ***the 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,*** point 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)*** point (a) and 35 accounting for at least ***60%***[24] 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***	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***

[24] ***DELETED:*** scrutiny reservation.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
declared in the final statement of expenditure..	***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 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***:	Article 40 Payment of balance 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***:

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(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***, point a) and 35;	(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)***, point a) and 35;
(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;
(c) the audit report, opinion and declaration provided for in Article ***30(2)***. 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.	(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 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 6 months. Within 3 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 3 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 42. The period shall start to run again from the date when the Commission decision referred to in Article 40(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 42. The period shall start to run again from the date when the Commission decision referred to in Article 40(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 arising from the difference between final recognised expenditure and the sums already paid to the Member States.	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 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 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 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.*** ***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.***	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***
	(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,
	(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 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.***	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.***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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:
(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 Articles 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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. ***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.*** 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.	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)***. ***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.
	CHAPTER VIII FINANCIAL CORRECTIONS
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.	Article 44 Financial corrections established by the Member States 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
2. The Member State 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 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 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.	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 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 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 Articles 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.
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:	Article 46 Criteria for the corrections 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	(a) there is a serious deficiency in the management and control system of the programme which has put at

COMMISSION PROPOSAL	*COMPROMISE TEXT*
risk the Community contribution already paid to the programme;	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;	(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. The Commission shall decide after having taken into account any comments made by the Member State.	(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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 the Article 30(3), point 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), point 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 Article 32, the reports of notified irregularities and any replies from the Member State.	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 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 the Council Regulation (EC,Euratom) N° 1605/2002[25]. 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.[26] This due date shall be the last day of the second month following the issuing of the order.

[25] OJ L 351, 28.12.2002.
[26] OJ L 248, 16.9.2002.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 A financial correction by the Commission shall not prejudice the Member State's obligation to pursue recoveries under Article 46.	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.
	CHAPTER IX ***MONITORING, EVALUATION AND REPORTS***
Article 49 Monitoring and evaluation 1. The Commission shall carry out regular monitoring on the Fund in cooperation with the Member States.	Article 49 Monitoring and evaluation 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 objectives 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).***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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 referred to in Article 39(4)***.
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***

COMMISSION PROPOSAL	*COMPROMISE TEXT*
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: ***(a)*** no later than 30 June ***2010, an evaluation report on the implementation of actions cofinanced by the Fund;***[27] ***(b***) 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 European Economic and Social Committee and the Committee of the Regions:	***3.*** The Commission shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:

[27] Alignment of this provision with the corresponding provisions of the three other Funds.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(a) no later than 30 June 2010, a report on the application of the criteria set out in Article 15 for the annual breakdown of resources between Member States; together with proposals for amendments if deemed necessary;	(a) no later than 30 June 2010, a report on the application of the criteria set out in Article 15 for the annual breakdown of resources between Member States; together with proposals for amendments if deemed necessary ;
(b) no later than 31 December 2010, an intermediate report on the results achieved and on qualitative and quantitative aspects of implementation of the Fund, together with a proposal on the Fund's future development;	(b) no later than 31 December 2010, an intermediate report on the results achieved and on qualitative and quantitative aspects of implementation of the Fund, together with a proposal on the Fund's future development;
(c) no later than 31 December 2012 (for the period 2008-2010) and 31December 2015 (for the period 2011-2013) respectively, an ex post evaluation report.	(c) no later than 31 December 2012 (for the period 2008-2010) and 31December 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;

COMMISSION PROPOSAL	*COMPROMISE TEXT*
(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 impacts for each priority***;	(b) the progress made implementing the multi-annual 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:	(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;	- monitoring and evaluation measures, including data collection arrangements;
– a summary of any significant problems encountered in implementing the operational programme and any measures taken;	- a summary of any significant problems encountered in implementing the operational programme and any measures taken;
– the use made of technical assistance;	- the use made of technical assistance.
– the measures taken to provide information on and to make public the annual and multiannual programmes.	***(d)*** the measures taken to provide information on and make public the annual and multi-annual 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 report~~s~~ 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.

COMMISSION PROPOSAL	*COMPROMISE TEXT*
	CHAPTER X FINAL PROVISIONS
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' ../… [28] ("the "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 …..)*** ("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 the 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.
	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 adopts its ***rules*** of ***procedure***.
Article 53 Review ***1.*** 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 Entry into force This Decision shall ***apply from*** 1 January 2008.	Article 54 Entry into force This Decision shall ***enter into force on*** ~~1 January 2008~~ *the day* ~~*(or "twenty days*~~ ***following its publication in the Official Journal***~~*") of the European Union*~~***.***
	This Decision shall apply from 1 January 2008, with the exception of Articles 15, 19, 20, 22, 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 55 Addressees This Decision is addressed to the Member States.	**Article 55** **Addressees** This Decision is addressed to the Member States.

[28] References will be inserted to the decisions establishing the European Refugee Fund, the External Borders Fund and the Integration Fund.