EUROPEAN PARLIAMENT

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Committee on Civil Liberties, Justice and Home Affairs

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2005/0049(COD)

7.2.2006

***I
DRAFT REPORT

on the proposal for a decision of the European Parliament and of the Council establishing the European Return Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows' (COM(2005)0123 – C6-0126/2005 – 2005/0049(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Barbara Kudrycka

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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on the proposal for a decision of the European Parliament and of the Council establishing the European Return Fund for the period 2008-2013 as part of the General programme 'Solidarity and Management of Migration Flows'
(COM(2005)0123 – C6-0126/2005 – 2005/0049(COD))

(Codecision procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0123)[1],

– having regard to Article 251(2) and Article 63(3)(b) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0126/2005),

– having regard to Rule 51 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs, the Committee on Development and the Committee on Budgets (A6-0000/2006),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission	Amendments by Parliament

Amendment 1
Recital 2 a (new)

	(2 a) This Decision respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

Justification

A reference to the Charter is necessary. The EU can not finance actions which do not respect human rights.

[1] OJ C ... / Not yet published in OJ.

Amendment 2
Recital 2 b (new)

(2 b) With respect to the treatment of persons falling within the scope of this Decision, Member States are bound by obligations under international law to which they are party and which prohibit discrimination.

Justification

This is a standard clause in legislation concerning migration and asylum

Amendment 3
Recital 2 c (new)

(2 c) The "best interests of the child" in compliance with the of the UN Convention on the Rights of the Child (CRC) should be a primary consideration of Member States when implementing this Decision.

Justification

This is a useful reference considering the special situation of children being subject to return actions.

Amendment 4
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.	(3) An effective Community return policy is ***complementary*** to ***the establishment of*** a credible legal immigration and asylum policy as well as an important component in the fight against illegal immigration. ***Return policy must always respect human rights and fundamental liberties.*** 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

Justification

There is no effective immigration and asylum policy in the European Union so far. It is an on-going process. The second part of the amendment is self-evident.

Amendment 5
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.	(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, ***in particular*** as established under ***Directive .../.../EC on common standards and procedures in Member States for returning illegally staying third-country nationals*** and future Community instruments relating to return. .

Justification

It is crucial to link this Fund with the Return Directive which will create a level playing field in the European Union on return. There is no added value to finance return actions in Member States without having a real EU return policy. Practices in Member States are too different. Minimum standards should be created before the utilisation of European money to finance return actions.

Amendment 6
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;***	(11) ***The fund will be available to Member States after the implementation of Directive.../EC "on common standards and procedures in Member States for returning illegally staying third-country nationals.***

Justification

It is crucial to link this Fund with the Return Directive which will create a level playing field in the European Union on return. There is no added value to finance return actions in Member States without having an effective EU return policy. Practices in Member States are too different. Minimum standards should be created before the utilisation of European money to finance return actions.

Amendment 7
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 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 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) The common standards concerned are ***also*** Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on expulsion of third country nationals 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 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 ;

Justification

Linked to amendment to recital 11.

Amendment 8
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.	(13) This concerns also future Community instruments, ***which like the Directive.../.../EC on common standards and procedures in Member States for returning illegally staying third-country nationals,*** 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.

Justification

Linked to amendment to recital 11.

Amendment 9
Recital 16

(16) This instrument is designed to form part of a coherent framework entitled the General programme 'Solidarity and Management in 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.	(16) This instrument is designed to form ***an indispensable*** part of a coherent framework entitled the General programme 'Solidarity and Management in 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. ***Consequently this instrument is adopted at the same time with Decision.../.../... establishing the European Refugee Fund for the period 2008-2013, with Decision .../.../...establishing the External Borders Fund for the period 2007-2013 and with Decision .../.../...establishing the European Fund for the Integration of Third-country nationals for the period 2007-2013.***

Justification

All the funds are part of a coherent package and will be adopted together.

Amendment 10
Recital 16 b (new)

	(16 b) In compliance with international obligations actions to return people who would risk their life or who are victims of other human rights violations in the country of return are not eligible under this fund.

Justification

It should be put somewhere in the text that European money should not be used in actions which would breech international obligations.

Amendment 11
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.	(18) To promote the voluntary return, 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. ***Voluntary return should encourage destination countries to expand their approaches and address root causes of irregular migration, working in partnership with countries of origin to find mutually beneficial solutions.***

Justification

A partnership with countries of origin is essential for the success of voluntary returns.

Amendment 12
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	(19) However, from a policy point of view voluntary and enforced return are ***inter-linked 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 ***allow the establishment of a common EU immigration policy and to maintain the integrity of the*** 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

freedom, security and justice. The instrument should therefore support actions of Member States to facilitate enforced return.	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.

Justification

See justification to recital 3.

Amendment 13
Recital 19 a (new)

	(19 a) This instrument should not support return policy which transfers the responsibility for repatriation to the transit countries. There is an obvious need to improve coordination between the EU institutions and Member States and the authorities in the third countries from which migrants come. In this context it is essential to ensure complementarities of this instrument with other Community assistance in the field of external policy.

Justification

The amendment is self-evident.

Amendment 14
Recital 21 a (new)

	(21 a) Readmission agreements feature is one key element of a successful return strategy and is complementary to an enhanced cooperation between the EU and both countries of origin and transit of irregular migrants.

Justification

The readmission agreements are a fundamental part of a successful return policy.

Amendment 15

Recital 24

(24) On the basis of the strategic guidelines adopted by the ***Commission***, each Member State should prepare a multiannual 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.	(24) On the basis of the strategic guidelines adopted by the ***Parliament and the Council***, each Member State should prepare a multiannual 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.

Justification

The guidelines will be adopted in co-decision by the European Parliament and the Council.

Amendment 16
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.***	(39) The measures necessary for the implementation of this Decision should be adopted in ***an identical procedure for all the funds financed under the General programme "Solidarity and Management of Migration Flows" and are defined in the text of each Decision.***

Justification

See justification to amendment to Article52, paragraph 1 a (new).

Amendment 17
Article 2, paragraph 1

1. The general objective of the Fund shall be to support the efforts made by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management, taking account of Community legislation in this field.	1. The general objective of the Fund shall be to 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***, international human right standards and strategies in the field of development policy***.

Justification

The development policy is complementary to the return policy.

Amendment 18
Article 4, paragraph 1, point (a)

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

Justification

Removals should be successful, not the "procedures".

Amendment 19
Article 4, paragraph 1, point (a) a (new)

	(a a) Individual counselling of "potential" returnees;

Justification

Target actions are important to succeed the return.

Amendment 20
Article 4, paragraph 1, point (c) a (new)

	(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.

Justification

The cooperation of these authorities is crucial for an effective integrated return management.

Amendment 21
Article 4, paragraph 2, point (a) a (new)

	(a a) cooperation in a pre-return information and counselling strategies to potential voluntary returnees;

Justification

Another crucial action is pre-return information.

Amendment 22
Article 4, paragraph 2, point (b)

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

Justification

Removals should be successful, not the "procedures".

Amendment 23
Article 4, paragraph 2, point (e)

(e) Exchange of information, support and advice in dealing with the return of particularly vulnerable groups;	(e) Exchange of information, ***best practice,*** support and advice in dealing with the return of particularly vulnerable groups;

Justification

The amendment is self evident.

Amendment 24
Article 4, paragraph 2, point (j)

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

the returnee.

Justification

It is fundamental to respect the right to privacy of the returnees.

Amendment 25
Article 4, paragraph 2, point (i) b (new)

(i b) application of a "Handbook of Best Practices".

Justification

Dissemination of best practices is a crucial action. See amendment to Article 6 paragraph 2

Amendment 26
Article 4, paragraph 3, point (d)

(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;

Justification

See justification to amendment to Article 4, paragraph 1, point (c) a (new)

Amendment 27
Article 4, paragraph 4

4. Actions provided for by paragraphs 1 to 3 shall, in particular, promote the implementation of the provisions of the relevant Community legislation in the field of the common European immigration and return policy.	4. Actions provided for by paragraphs 1 to 3 shall, in particular, promote the implementation of the provisions of the relevant Community legislation ***and international obligations*** in the field of the common European immigration and return policy.

Justification

The amendment is self-evident.

Amendment 28
Article 4, paragraph 5

5. ***Actions shall take account of the specific situation of vulnerable*** persons such as ***minors,*** unaccompanied ***minors***, disabled people, elderly people, pregnant women, single parents with ***minor*** children, ***and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.***	5. ***Actions relating to the forced return of vulnerable*** persons such as ***children***, unaccompanied ***children***, disabled people, elderly people, pregnant women, single parents with children, ***and victims of torture or rape or other serious forms of psychological, physical violence, victims of trafficking or forms of sexual abuse, individuals in need of special medical treatment are not eligible under this fund.***

Justification

European money should not be used to finance return of vulnerable people who are protected under other international and Community law, as Directive 2004/83/EC of April 2004 "on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who are otherwise need international protection".

Amendment 29
Article 5, indent 1

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

Justification

The first part of the amendment is self-evident. Vulnerable people are treated in a separate indent.

Amendment 30
Article 5, indent 1 a (new)

	– (a) additionally, specific assistance to vulnerable persons, as defined in Article 4.5, to allow a voluntary return and life in dignity in the country of origin;

Justification

Under the scope of this fund only voluntary return of vulnerable people will be covered.

Amendment 31
Article 5, indent 4

– 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;	– Additionally, 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;

Justification

This specification is superfluous. In any case Member States are preparing the annual programme with the actions foreseen under this programme.

Amendment 32
Article 5, indent 7

– 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.	– 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. ***Longer term sustainable reintegration measures***

	should be developed within a strategy that includes the whole community the returnees reintegrate to.

Justification

This is a key action for a successful return policy.

Amendment 33
Article 6, point (d)

(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 studying, disseminating and exchanging information ***on return management,*** the use of state of the art technology, ***in particular to encourage more comparative research relating to the impact of tried return programmes;***

Justification

This research is fundamental for a correct evaluation of the programme.

Amendment 34
Article 6, paragraph 2, point (d) a (new)

	(d a) disseminating comparable return data, disaggregated in terms of voluntary and forced return;

Justification

This action is also important to evaluate the effectiveness of the return policy.

Amendment 35
Article 6, paragraph 2, point (d) b (new)

	(d b) development of a "Handbook of Best Practices"

Justification

For all the four funds the Rapporteur asks for creating a Handbook, as already has been done by the Commission in the field of integration.

Amendment 36
Article 7, paragraph 1

1. For the purposes of this Decision the target groups shall comprise all third country nationals illegally residing in a Member State.	1. For the purposes of this Decision the target groups shall comprise all third country nationals illegally residing in a Member State***, in compliance with obligations under instruments of international law to which they are party, in particular the Geneva Convention***.

Justification

The EU can not finance actions which do not respect human rights.

Amendment 37
Article 15, paragraph 1

1. Each Member State shall receive a fixed amount of EUR ***300.000*** from the Fund's annual allocation.	1. Each Member State shall receive a fixed amount of EUR ***150.000*** from the Fund's annual allocation.

Justification

A decrease of the fixed amount seems necessary to guarantee a more balanced distribution of the fund.

Amendment 38
Article 15, paragraph 2, point (a)

(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) 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 ***two*** years;

Justification

Considering two years is more appropriate and closer to the real situation in Member States.

Amendment 39
Article 15, paragraph 2, point (b)

(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) 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 ***two*** years.

Justification

Considering two years is more appropriate and closer to the real situation in Member States.

Amendment 40
Article 15, paragraph 3, point (a)

(a) third country nationals who are refused entry in a transit zone by a Member State;	***Deleted***

Justification

The transit zone is a concept not defined at European level and can not be used in the context of this Decision.

Amendment 41
Article 19, paragraph 3

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 ***submit*** the strategic guidelines relating to the first multiannual programming period (2008-2010) on 31 ***December 2006*** at the latest, and those relating to the second multiannual programming period (2011-2013) on 31 ***December 2009 to the European Parliament and the Council.***

Justification

Parliament and Council need more time to adopt in co-decision the strategic guidelines. See amendment to Article 19, paragraph 4.

Amendment 42
Article 19, paragraph 4

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 procedure referred to in article ***251 of the Treaty***.

Justification

This decision is just the skeleton of the programme. The strategic guidelines are fundamental for the correct implementing of the fund and therefore should be adopted under the co-decision procedure.

Amendment 43
Article 20, paragraph 1, point (a)

(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 and costs between voluntary and forced 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;

Justification

These data are crucial for the evaluation of the programme.

Amendment 44
Article 20, paragraph 1, point (b)

(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	(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 ***and the***

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;	***establishment of a mechanism to monitor the effectiveness of the return programmes***, 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;

Justification

It is important to know not only how many people have been returned, but also if the return has been effective.

Amendment 45
Article 21, paragraph 1

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.	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 ***and resolutions of the European Parliament***. Multiannual programmes may be re-examined in the light of evaluations and / or following implementation difficulties.

Justification

We are in co-decision. Parliament and Council are on the same position.

Amendment 46
Article 26, paragraph 3 a (new)

	(3 a) The Commission shall assist the Member States in the training of staff, in particular as regards the correct application of Chapters V-IX of this Decision.

Justification

The implementation of this programme will be heavy and the staff in Member States need training.

Amendment 47
Article 31, paragraph 1

1. Member States shall be responsible for ensuring sound financial management of multiannual and annual programmes and the legality and regularity of underlying transactions.	1. Member States shall be responsible for ensuring sound financial management of multiannual and annual programmes and the legality and regularity of underlying transactions. ***Each Member State shall give together with the final annual report referred to in Article 51 for each annual work programme a formal ex-post declaration of assurance. The Commission shall suspend payments in the event of non-compliance with this obligation.***

Justification

In those cases in which the Member States are responsible for implementing the Union budget they should also assume the political responsibility that the appropriations are spend correctly.

Amendment 48
Article 35, paragraph 5 a (new)

	(5. a) Member States should guarantee that all expenditure are legal, regular and respect the principle of sound financial management.

Justification

This is a basic rule for a correct financial management.

Amendment 49
Article 39, paragraph 4

A second pre-financing payment shall be made no more than three months after the Commission has approved a progress	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.	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 ***50%*** 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.

Justification

In order to guarantee more fluency and continuity of the projects it is more suitable to make second pre-financing available after expenditure of 50% instead of 70%.

Amendment 50
Article 50, paragraph 3

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.	3. The Member States shall submit to the Commission no later than ***four years after the entry into force of the Decision*** (for the period ***of the three first years***) and ***no later than seven years after the entry into force of the Decision*** (for the period ***of the four latest years***) respectively, an evaluation report on the results and impact of actions co-financed by the Fund. ***The reports should include a clear distinction on the financing of voluntary and forced returns.***

Justification

The entry into force is linked to the Directive on return, so we can not fix already a specific date.

Amendment 51
Article 50, paragraph 4, point (a)

(a) no later than ***30 June 2010***, a report on	(a) no later ***than two years after the entry***

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 ;	***into force of the Decision***, a report ***to evaluate the equity of the sharing of responsibilities between Member States and*** 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 ***and, if it the case, to take into account different criteria of evaluation like being border States, the size of the Member State, the general reception capacities, etc,...***;

Justification

It is important that if the evaluation shows that the criteria under article 15 are not effective, it is foreseen the possibility to modify them under the mid term revision.

Amendment 52
Article 50, paragraph 4, point (b)

(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 ***two years after the entry into force of the Decision***, 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;

Justification

See amendment to article 50, paragraph 3.

Amendment 53
Article 50, paragraph 4, point (c)

(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 ***four years after the entry into force of the Decision*** (for the period ***of the three first years***) and ***no later than seven years after the entry into force of the Decision*** (for the period of ***the four latest years***) respectively, an ex post evaluation report.

Justification

See amendment to article 50, paragraph 3.

Amendment 54
Article 51, paragraph 1, point (c), indent 2 a (new)

- (a) monitoring the safety, protection and well-being of repatriated persons;

Justification

This is another important criteria of evaluation.

Amendment 55
Article 52, paragraph 1 a (new)

(1 a) The "Committee". It shall be composed of the representatives of the Member States and chaired by the representative of the Commission.

Justification

The right of the Council, as legislator, to partly delegate its implementing powers to the Commission, has been recognized by the European Court of Justice since 1970 (decision Koster 25/70). The Court of Justice decision also required that such a delegation should specify the principles as well as the conditions for its exercise (as setting-up Committees of Member States' representatives to assist the Commission) and eventually the power 'to callback' the delegation.
These principles have been inserted in Article 202 TEC. The Council however 'forgot' in implementing the Article 202 (in the Comitology Decision 1999/468) to recognize the same right of 'call-back' in acts decided by codecision for the European Parliament.
In order to have the benefit of this right, the European Parliament would have to insert it in the initial decision foreseeing the delegation of implementing powers. This is the purpose of the amendments to Article 39. Instead of making reference to the Articles of the Decision 1999/468, the amendments reproduce their content when it comes to the role of the Council, and propose similar prerogatives for the European Parliament (including the power to 'call back').

Amendment 56
Article 52, paragraph 2

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.	***Deleted***

Justification

See justification to amendment to Article 52, paragraph 1 a (new).

Amendment 57
Article 52, paragraph 2 a (new)

(2. a) Where this Decision imposes procedural requirements for the adoption of implementing measures, the representative of the Commission shall submit a draft of those measures to the Committee and to the European Parliament. The Committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter which shall not be less than one month. The opinion shall be delivered by the majority laid down in Article 205(2) of the Treaty. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

Justification

See justification to amendment to Article 52, paragraph 1 a (new).

Amendment 58
Article 52, paragraph 2 b (new)

(2. b) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee and if no objection has been raised in the meantime by the competent committee of the European Parliament.

Justification

See justification to amendment to Article 52, paragraph 1 a (new).

Amendment 59
Article 52, paragraph 2 c (new)

(2. c) Where the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, or an objection has been raised by the competent committee of the European Parliament, the Commission shall, without delay, submit to the Council and to the European Parliament a proposal relating to the measures to be taken.

Justification

See justification to amendment to Article 52, paragraph 1 a (new).

Amendment 60
Article 52, paragraph 2 d (new)

(2. d) If, within a period which may not exceed three months from the referral, the proposal has not been rejected either by the European Parliament, by an absolute majority of its members, or by the Council, acting by qualified majority, it shall be adopted by the Commission. Otherwise the Commission shall submit an amended proposal or present a legislative proposal on the basis of the Treaty.

Justification

See justification to amendment to Article 52, paragraph 1 a (new).

Amendment 61
Article 52, paragraph 2 e (new)

(2. e) Without prejudice to any implementing measures already adopted, application of the provisions of this Regulation which provide for the adoption of technical rules and decisions shall cease four years after the entry into force of this Decision.

Justification

See justification to amendment to Article 52, paragraph 1 a (new).

Amendment 62
Article 52 a (new)

Publication of projects

Member States shall publish every year the list of projects financed under this programme with a short description of each project.

Justification

This is important for transparency reasons.

Amendment 63
Article 52 b (new)

Acknowledgement of Funding

Any institution, association or activity receiving a grant from this programme has the obligation to acknowledge the support received by the European Union. To this end the Commission shall lay down detailed visibility guidelines.

Justification

Financial support from the EU should always be acknowledged. This is a matter of transparency as well as an important tool to communicate the Union's efforts. The Commission has already elaborated detailed visibility guidelines for external aid (http://europa.eu.int/comm/europeaid/visibility/index_en.htm) that could be used as a general model.

Amendment 64
Article 54, title

Entry into force	Entry into force ***and date of application***

Justification

See justification to recital 10.

Amendment 65
Article 54, paragraph 1

This Decision shall apply ***from 1 January 2008***.	***1.*** This Decision shall apply ***only once the Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals has entered into force.***

Justification

See justification to the amendment to recital 10.